



2018/0106(COD)

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AMENDMENTS

66 - 303

Draft report

Virginie Rozière

(PE623.965v01-00)

Protection of persons reporting on breaches of Union law

Proposal for a directive

(COM(2018)0218 – C8-0159/2018 – 2018/0106(COD))

Amendment 66

Pascal Durand, Julia Reda, Max Andersson

Proposal for a directive

Citation 1

Text proposed by the Commission

Having regard to Article 294(2) and Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207 and 325(4) of the Treaty on the Functioning of the European Union and Article 31 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, **19 (2)**, 33, 43, 50, 53(1), 62, **77 (2), 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 67

Kostas Chrysogonos, Jiří Maštálka

Proposal for a directive

Citation 1

Text proposed by the Commission

Having regard to Article 294(2) and Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207 and 325(4) of the Treaty on the Functioning of the European Union and Article 31 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, **153(1)(a) and (b)**, 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 68

Evelyn Regner, Sylvia-Yvonne Kaufmann

Proposal for a directive

Citation 1

Text proposed by the Commission

Having regard to Article 294(2) and Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207 and 325(4) of the Treaty on the Functioning of the European Union and Article 31 thereof,

Amendment

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, **153, 154**, 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 69

Virginie Rozière, Jytte Guteland

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, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, **153(1),(a),(b),(e)**, 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 70

Laura Ferrara, Fabio Massimo Castaldo

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

Amendment

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,

particular Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207, 325(4) **and 352** thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

Or. it

Justification

Inclusion of Article 352 TFEU in the legal basis (the 'flexibility clause') can make the directive more comprehensive, facilitating a global rather than sectoral approach and ensuring a high level of general protection.

Amendment 71 **Daniel Buda**

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 **a public or private** organisation or are in contact with it in the context of their work-related activities are often the first to know about **illegal activities or inadmissible practices that could result in** threats or **even** 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 actions harmful to the public interest, as well as** safeguarding the welfare of society **as a whole**. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. ***In this connection, the importance of providing balanced and effective whistleblower protection in order to safeguard the public interest is increasingly acknowledged both at European and international level.***

Or. ro

Amendment 72

Pascal Durand, Julia Reda, Max Andersson

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.

Or. en

Amendment 73

Răzvan Popa

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

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 ***actions harmful to the public interest and*** breaches of the law and in safeguarding the

whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation.

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

Or. ro

Amendment 74

Gilles Lebreton, Marie-Christine Boutonnet

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

Or. fr

Amendment 75

Kostas Chrysogonos, Jiří Maštálka

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

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 ***or the general*** interest which arise in this context. By ‘blowing the whistle’ they play a key role in

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.

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. en

Amendment 76
Geoffroy Didier

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 *may* play a key role in exposing and preventing breaches of the law and in safeguarding the welfare of society. However, potential whistleblowers are *sometimes* discouraged from reporting their concerns or suspicions for fear of retaliation.

Or. fr

Amendment 77
Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The present Directive aims at enhancing the exercise of freedom of expression and the freedom of the media enshrined in Article 11 of the Charter of

Fundamental Rights of the European Union by setting up protection measures for persons reporting breaches of EU law. It should be highlighted that these freedoms are the cornerstone of the investigative journalism and the principle of the confidentiality of sources of information.

Or. en

Amendment 78
Helga Stevens

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Too broad a definition of whistleblowers risks jeopardizing their effective protection;

Or. en

Amendment 79
Kostas Chrysogonos, Jiří Maštálka

Proposal for a directive
Recital 2

Text proposed by the Commission

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

(2) At Union level, reports ***and disclosures*** 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.

Or. en

Amendment 80
Kostas Chrysogonos, Jiří Maštálka

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 **or general** 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, **independent** reporting channels.

Or. en

Amendment 81
Geoffroy Didier

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 ensuring effective protection of whistleblowers from retaliation and **establishing a system of gradually escalating disclosure which uses a series of** effective reporting channels.

Or. fr

Amendment 82

Laura Ferrara, Fabio Massimo Castaldo

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 introducing effective reporting channels.

Or. it

Amendment 83

Răzvan Popa

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 ***major*** 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.

Or. ro

Amendment 84

Pascal Durand, Julia Reda, Max Andersson

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 85

Gilles Lebreton, Marie-Christine Boutonnet

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 ***to*** 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.

Or. fr

Amendment 86
Daniel Buda

Proposal for a directive
Recital 4

Text proposed by the Commission

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

Amendment

(4) Whistleblower protection currently provided in the European Union is fragmented across Member States and uneven across policy areas. 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. ***The absence of adequate and balanced protection for potential informants results in inadequate disclosure, making it impossible to prevent infringements of Union law, which could prove highly detrimental to the general interest.***

Or. ro

Amendment 87
Angel Dzhambazki

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***

Amendment

(4) Whistleblower protection currently provided in the European Union is ***diverse*** across Member States, ***depending on the national provisions already in place or the overall national legislative structure***. The consequences of breaches of Union law with cross-border dimension uncovered by whistleblowers ***highlight the challenges***

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.

with regard to the effective implementation of EU policies and the need for improving cross-border cooperation mechanisms where needed.

Or. en

Amendment 88

Kostas Chrysogonos, Jiří Maštálka

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 *all* acts and policy areas of *the European Union, which by their very nature constitute a public and general interest.*

Or. en

Amendment 89

Angel Dzhambazki

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, *a set of* common minimum standards, *unanimously agreed by all EU Member States*, 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.

Or. en

Amendment 90
Daniel Buda

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 **and balanced** whistleblower protection should apply in those acts and policy areas **that have a manifest European dimension** where i) there is a need to strengthen enforcement; there is a need to enhance 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. ro

Amendment 91
Laura Ferrara, Fabio Massimo Castaldo

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, **adopting a global and organic approach**, should apply in **particular to those** policy areas where i) there is a need to strengthen enforcement; ii) under-reporting by whistleblowers is a key factor affecting enforcement, and iii) breaches of Union law cause harm to the public interest.

Justification

A comprehensive approach could be facilitated by incorporation in the legal basis of Article 352 TFEU, which, in line with the principle of implicit Union powers established by the CJEU, makes it possible to extend the Union's remit to achieve treaty objectives even in the absence of specific provisions to this effect.

Amendment 92**Răzvan Popa****Proposal for a directive****Recital 5***Text proposed by the Commission*

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

Amendment

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

Or. ro

Amendment 93**Pascal Durand, Julia Reda, Max Andersson****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

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

interest.

law *undermine* to the public interest.

Or. en

Amendment 94
Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Such minimum standards for whistle-blower protection shall be developed with regard to the Charter of Fundamental Rights of the European Union, in particular Article 11 thereof, and to the European Convention on Human Rights, notably Article 10 thereof.

Or. en

Amendment 95
Daniel Buda

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Furthermore, the establishment of a set of common minimum standards at Union level for the protection of whistleblowers should ensure a balanced approach between, on the one hand, freedom of expression and information (enshrined in Article 11 of the Charter of Fundamental Rights of the European Union) and, on the other hand, guaranteed presumption of innocence and the right of defence (Article 48 of the Charter), focusing on the importance of guaranteed right to privacy and protection of personal data of both whistleblowers and those targeted in the reports.

Amendment 96**Pascal Durand, Julia Reda, Max Andersson****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 and enforcement of the Maritime Labour Convention (OJ L 329, p. 1), Directive 2009/16/EC of the European Parliament and of the Council, of 23 April 2009, on port State control (OJ L 131, p. 57).

Amendment

(9) 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 **and expand upon** 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 and enforcement of the Maritime Labour Convention (OJ L 329, p. 1), Directive 2009/16/EC of the European Parliament and of the Council, of 23 April 2009, on port State control (OJ L 131, p. 57).

Amendment 97**Pascal Durand, Julia Reda, Max Andersson****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).

Amendment 98**Kostas Chrysogonos, Jiří Maštálka****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 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 *or general 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 99 Răzvan Popa

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

Amendment

(10) Evidence-gathering, detecting and addressing environmental crimes and unlawful conduct against the protection of the environment remain a challenge and need to be reinforced as acknowledged in the Commission Communication "EU

actions to improve environmental compliance and governance" of 18 January 2018⁴⁰. Whilst whistleblower protection rules⁴¹ exist at present only in one sectorial instrument on environmental protection, 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).

actions to improve environmental compliance and governance" of 18 January 2018⁴⁰. Whilst whistleblower protection rules⁴¹ exist at present only in one sectorial instrument on environmental protection, the introduction of such protection appears necessary to ensure effective enforcement of the Union environmental acquis, whose breaches can cause *major* 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. ro

Amendment 100

Pascal Durand, Julia Reda, Max Andersson

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) Enhancing the protection of whistleblowers would also favour preventing and deterring breaches of Euratom rules on nuclear safety, radiation protection and responsible and safe management of spent fuel and radioactive and would *be* reinforce the enforcement of existing provisions of the revised Nuclear Safety Directive⁴⁴ on the effective nuclear safety culture and, in particular, Article 8 b (2) (a), which requires, inter alia, that the competent regulatory authority establishes management systems which give due priority to nuclear safety and promote, at all levels of staff and management, the ability to question the effective delivery of

Amendment

(12) Enhancing the protection of whistleblowers would also favour preventing and deterring breaches of Euratom rules on nuclear safety, radiation protection and responsible and safe management of spent fuel and radioactive *waste* and would reinforce the enforcement of existing provisions of the revised Nuclear Safety Directive⁴⁴ on the effective nuclear safety culture and, in particular, Article 8 b (2) (a), which requires, inter alia, that the competent regulatory authority establishes management systems which give due priority to nuclear safety and promote, at all levels of staff and management, the ability to question the

relevant safety principles and practices and to report in a timely manner on safety issues.

effective delivery of relevant safety principles and practices and to report in a timely manner on safety issues.

⁴⁴ Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).

⁴⁴ Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).

Or. en

Amendment 101 **Răzvan Popa**

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 ***the safety and health of*** consumers. Whistleblower protection should therefore be introduced in relation to relevant Union rules adopted pursuant to Articles 114, 168 and 169 TFEU.

Or. ro

Amendment 102 **Pascal Durand**

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 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 103

Kostas Chrysogonos, Jiří Maštálka

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

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 **or general** 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.

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.

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 104

Răzvan Popa

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

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 *cause major* harm *to* 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.

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

Or. ro

Amendment 105
Geoffroy Didier

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 ***may help*** 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.

Or. fr

Amendment 106

Pascal Durand

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 107

Geoffroy Didier

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Reporting by whistleblowers is necessary to enhance the detection and prevention of infringements of Union competition law. This would serve to protect the efficient functioning of markets in the Union, allow a level playing field for business and deliver benefits to consumers. The protection of whistleblowers **would** enhance Union competition law enforcement, including State aid. As regards competition rules applying to undertakings, the importance of insider reporting in detecting competition law infringements has already been recognised in the EU leniency policy as well as with the recent introduction of an anonymous whistleblower tool by the European Commission⁴⁶. The introduction of whistleblower protection at Member State level would increase the ability of the European Commission as well as the competent authorities in the Member States to detect and bring to an end infringements of Union competition law. With respect to State aid, whistleblowers can play a significant role in reporting unlawfully granted aid and informing when aid is misused, both at national, regional and local levels.

⁴⁶ Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ C 298/17, 8.12.2006); [rhttp://europa.eu/rapid/press-release IP-17-591_fr.htm](http://europa.eu/rapid/press-release_IP-17-591_fr.htm)

Amendment

(15) Reporting by whistleblowers is necessary to enhance the detection and prevention of infringements of Union competition law. This would serve to protect the efficient functioning of markets in the Union, allow a level playing field for business and deliver benefits to consumers. The protection of whistleblowers **might** enhance Union competition law enforcement, including State aid. As regards competition rules applying to undertakings, the importance of insider reporting in detecting competition law infringements has already been recognised in the EU leniency policy as well as with the recent introduction of an anonymous whistleblower tool by the European Commission⁴⁶. The introduction of whistleblower protection at Member State level would increase the ability of the European Commission as well as the competent authorities in the Member States to detect and bring to an end infringements of Union competition law. With respect to State aid, whistleblowers can play a significant role in reporting unlawfully granted aid and informing when aid is misused, both at national, regional and local levels.

⁴⁶ Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ C 298/17, 8.12.2006); [rhttp://europa.eu/rapid/press-release IP-17-591_fr.htm](http://europa.eu/rapid/press-release_IP-17-591_fr.htm)

Or. fr

Amendment 108

Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The protection of the financial interests of the Union, which relates to the fight against fraud, corruption and any other illegal activity affecting the use of Union expenditures, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union also encompasses implementation of the Union budget related to expenditures made on the basis of the Treaty establishing the European Atomic Energy Community. Lack of effective enforcement in the area of the financial interests of the Union, including fraud and corruption at national level, causes a decrease of the Union revenues and a misuse of EU funds, which can distort public investments and growth and undermine citizens' trust in EU action. Whistleblower protection is necessary to facilitate the detection, prevention and deterrence of relevant fraud and illegal activities.

Amendment

(16) The protection of the financial interests of the Union, which relates to the fight against fraud, corruption, ***breaches of legal requirements, abuse of power*** and any other illegal activity affecting the use of Union expenditures, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union also encompasses implementation of the Union budget related to expenditures made on the basis of the Treaty establishing the European Atomic Energy Community. Lack of effective enforcement in the area of the financial interests of the Union, including fraud and corruption at national level, causes a decrease of the Union revenues and a misuse of EU funds, which can distort public investments and growth and undermine citizens' trust in EU action. Whistleblower protection is necessary to facilitate the detection, prevention and deterrence of relevant fraud and illegal activities.

Or. it

Amendment 109

Daniel Buda

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

Amendment

(19) Each time a new Union act for which whistleblower protection is ***essential*** and can ***have a major impact in terms of*** more effective enforcement is adopted, consideration should be given to whether to amend the Annex to the present

place it under its scope.

Directive in order to place it under its scope.

Or. ro

Amendment 110
Pascal Durand

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 111
Virginie Rozière

Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In certain situations, infringements of EU labour-law provisions can be the subject of effective individual procedures to secure redress. On the other hand, where such infringements are systematic, they undermine the public interest and there is therefore a need to provide for the protection of those who report such infringements. In certain fields, difficulties with the implementation of European legislation have been observed, for example unacceptable resort to precarious employment. Improving the

protection of whistleblowers in the field of labour law would thus improve the application of the law and ensure a high level of protection of workers in the internal market while ensuring fair competition between economic operators, avoiding recourse to social dumping strategies and ensuring that workers are not unfairly compelled to compete amongst themselves.

Or. fr

Amendment 112
Pascal Durand

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 should ***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 113
Pascal Durand

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 114
Kostas Chrysogonos, Jiří Maštálka

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Persons who report information about threats or harm to the public interest obtained in the context of their work-related activities make use of their right to freedom of expression. The right to freedom of expression, enshrined in Article 11 of the Charter of Fundamental Rights of the European Union ('the Charter') and in Article 10 of the European Convention on Human Rights (ECHR), encompasses media freedom and pluralism.

Amendment

(22) Persons who report information about threats or harm to the public interest **or the general interest** obtained, **inter alia** 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 **as well as the right to information**.

Amendment 115
Geoffroy Didier

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Persons who report information about threats or harm to the public interest obtained in the context of their work-related activities make use of their right to freedom of expression. The right to freedom of expression, enshrined in Article 11 of the Charter of Fundamental Rights of the European Union ('the Charter') and in Article 10 of the European Convention on Human Rights (ECHR), encompasses media freedom and pluralism.

Amendment

(22) Persons who report information about **serious** 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.

Or. fr

Amendment 116
Pascal Durand, Julia Reda, Max Andersson

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 117

Pascal Durand, Julia Reda, Max Andersson

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 information **and 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 118

Daniel Buda

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 **acting in good faith and from selfless motives** 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 loyalty). The underlying reason for providing them with protection is their position of economic vulnerability vis-à-vis the person on whom

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.

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.

Or. ro

Amendment 119

Kostas Chrysogonos, Jiří Maštálka

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 *especially* 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.

Or. en

Amendment 120

Pascal Durand

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

Amendment

(25) Effective enforcement of Union law requires that protection is granted to the broadest possible range of categories of

persons, who, irrespective of whether they are EU citizens or third-country nationals, **by virtue of work-related 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**.

persons, who, irrespective of whether they are EU citizens or third-country nationals, 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 **all** persons connected to the **report**.

Or. en

Amendment 121

Daniel Buda

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

Amendment

(25) **More** effective enforcement of Union law requires that protection is granted to the broadest possible range of categories of persons **acting in good faith**, 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 **acting in good faith** connected

occurred.

in a broad sense to the organisation where the breach has occurred.

Or. ro

Amendment 122

Kostas Chrysogonos, Jiří Maštálka

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, **especially** 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.

Or. en

Amendment 123

Kostas Chrysogonos, Jiří Maštálka

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) Protection should, firstly, apply to

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.

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

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. ***In accordance with the Court's case law, the notion of "worker" should be interpreted broadly, including for example civil servants.*** Protection should thus also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply.

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

Or. en

Amendment 124

Daniel Buda

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,

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.

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.

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 and ***those in precarious employment or with cross-border status***, 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. ro

Amendment 125

Kostas Chrysogonos, Jiří Maštálka

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

Amendment

(27) Protection should also extend to ***people facilitating the reporting, such as intermediaries and investigative journalists, who disclose potential or occurred breach, as well as*** 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 or social or political-related*** activities. For instance, in areas such as product safety, suppliers are much closer to

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.

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 126

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

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

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 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.

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 ***persons whose work-based relationship ended, 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 127
Jytte Guteland

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Protection should also extend to

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Amendment

(27) Protection should also extend to

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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.

further categories of natural or legal persons, who, whilst not being 'workers' within the meaning of ***national law or in accordance with*** 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

Justification

The directive should respect the definition of the concept of worker is a national matter for some Member states.

Amendment 128
Pascal Durand

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.

Amendment 129**Pascal Durand****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 130**Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto****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

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 ***paid or*** 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

reputation.

damaging their reputation.

Or. en

Amendment 131

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Persons who facilitate the reporting and investigative journalists could play a crucial role in exposing breaches of EU law and potentially suffer from retaliation measures. Therefore, they should also be entitled to enjoy the protection measures provided for in this Directive.

Or. en

Amendment 132

Kostas Chrysogonos, Jiří Maštálka

Proposal for a directive

Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Effective whistleblower protection should also include any individual who has evidence of such acts in the public or private sector without being necessary to have witnessed such acts first hand.

Or. en

Amendment 133

Gilles Lebreton, Marie-Christine Boutonnet

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 ***and, more generally, any act of wrongdoing that is prejudicial to the public interest.***

Or. fr

Amendment 134

Pascal Durand

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 135

Geoffroy Didier

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 ***abuses, because any person abuses his rights who, among various ways of exercising his rights, deliberately opts for the one that is most damaging to others and defeats*** the object or the purpose of the law.

Or. fr

Amendment 136
Pascal Durand

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. ***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 137

Daniel Buda

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 ***adequate and balanced*** protection is also granted to persons ***acting in good faith and for selfless motives*** who provide information about potential breaches, which have not yet materialised, but are likely to be committed ***and could be detrimental to the general interest***. For the same reasons, protection is, ***under certain conditions***, warranted also for persons who do not provide ***sufficient*** positive evidence but raise reasonable concerns or suspicions. ***However***, protection should not apply to the reporting of information which is already in the public domain or of unsubstantiated rumours and hearsay.

Or. ro

Amendment 138

Laura Ferrara, Fabio Massimo Castaldo

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***

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.

information which is already in the public domain or of unsubstantiated rumours and hearsay.

Or. it

Justification

This provision is superfluous since the text already establishes that protection is only accorded where the informant is acting in good faith.

Amendment 139

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

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 ***well-grounded*** 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.

Or. en

Amendment 140

Geoffroy Didier

Proposal for a directive

Recital 30

Text proposed by the Commission

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 information which is already in the public domain or of unsubstantiated rumours and hearsay.

(30) Effective prevention of breaches of Union law requires that protection is also granted to persons who provide information about breaches which are *very* 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.

Or. fr

Amendment 141

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) However, in order to prevent unjustified reputational damages a clear distinction should also be made between deliberate false accusations, intended to harm the reported person or entity, and the reporting of information for which the person had reasonable grounds to believe that it was true. The Directive is without prejudice to national laws applicable in the first case, such as defamation.

Or. en

Amendment 142

Geoffroy Didier

Proposal for a directive

Recital 31

Text proposed by the Commission

(31) Retaliation expresses the close (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment.

Amendment

(31) Retaliation expresses the close (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment.

Whistleblowers are generally required to use the appropriate channels under a system of gradually escalating disclosure. This requirement is necessary to ensure that the information reaches people who can help to quickly and effectively eliminate risks to the public interest, as well as to prevent unjustified damage to a reputation due to public disclosure.

Or. fr

Amendment 143

Gilles Lebreton, Marie-Christine Boutonnet

Proposal for a directive

Recital 31

Text proposed by the Commission

(31) Retaliation expresses the close (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment.

Amendment

(31) Retaliation expresses the close (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment, ***although this definition is not restrictive or***

exhaustive.

Or. fr

Amendment 144
Kostas Chrysogonos, Jiří Maštálka

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) Retaliation expresses the close (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment.

Amendment

(31) Retaliation expresses the close (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring *especially* in the work-related context which causes them detriment.

Or. en

Amendment 145
Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) Retaliation expresses the *close* (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission

Amendment

(31) Retaliation expresses the (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission

occurring in the work-related context
which causes them detriment.

occurring in the work-related context
which causes them detriment.

Or. it

Justification

It might be too difficult for the informant to provide evidence of a 'close' connection.

Amendment 146
Daniel Buda

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) Protection from retaliation as a means of safeguarding freedom of expression and media freedom should be provided both to persons who report information about acts or omissions within an organisation (internal reporting) or to an outside authority (external reporting) and to persons who disclose such information to the public domain (for instance, directly to the public via web platforms or social media, or to the media, elected officials, civil society organisations, trade unions or professional/business organisations).

Amendment

(32) Protection from retaliation as a means of safeguarding freedom of expression and media freedom should be provided both to persons ***acting in good faith*** who report information about acts or omissions within an organisation (internal reporting) or to an outside authority (external reporting) and to persons who, ***in compliance with the provisions of this directive***, disclose such information to the public domain (for instance, directly to the public via web platforms or social media, or to the media, elected officials, civil society organisations, trade unions or professional/business organisations).

Or. ro

Amendment 147
Geoffroy Didier

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) Protection from retaliation as a

Amendment

(32) Protection from retaliation as a

means of safeguarding freedom of expression and media freedom should be provided both to persons who report information about acts or omissions within an organisation (internal reporting) or to an outside authority (external reporting) and to persons who disclose such information to the public domain (for instance, directly to the public via web platforms or social media, or to the media, elected officials, civil society organisations, trade unions or professional/business organisations).

means of safeguarding freedom of expression and media freedom should be provided both to persons who report information about acts or omissions within an organisation (internal reporting) or to an outside authority (external reporting) and to persons who disclose such information to the public domain (for instance, directly to the public via web platforms or social media, or to the media, elected officials, civil society organisations, trade unions or professional/business organisations), ***abiding by the successive stages of escalating disclosure.***

Or. fr

Amendment 148

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Recital 33

Text proposed by the Commission

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

Amendment

(33) Whistleblowers are, in particular, important sources for investigative journalists. Providing effective protection to whistleblowers from retaliation increases the legal certainty of (potential) whistleblowers and thereby encourages and facilitates whistleblowing also to the media. In this respect, protection of whistleblowers as journalistic sources is crucial for safeguarding the ‘watchdog’ role of investigative journalism in democratic societies. ***In view of the variety of situations, this Directive does not establish an order of priority between the different channels of reporting and disclosure. It is for the reporting person to determine the most appropriate channel, taking into account the rights and legitimate interests of concerned persons. Due to their importance for the freedom of expression and the right to receive information, public disclosures, including***

through the media, should be encouraged.

Or. en

Amendment 149

Geoffroy Didier

Proposal for a directive

Recital 33

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 150

Daniel Buda

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

Amendment

(34) It is for the Member States to identify the authorities competent to receive and give appropriate ***and proportionate*** 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

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.

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 ***that is proportional to the gravity of the reported offence*** in accordance with their mandate ***and their statutory terms of reference. The Commission shall encourage cooperation and exchanges of good practice between the Member State authorities with a view to ensuring proper and balanced implementation of the uniform whistleblower protection rules.***

Or. ro

Amendment 151

Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive

Recital 34

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 152
Kostas Chrysogonos, Stelios Kouloglou

Proposal for a directive
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) The Commission should set up the Whistleblower Protection Office (OPLA). OPLA shall be the independent European authority for reports and for whistleblower protection that is responsible for receiving and providing appropriate follow up on reports on breaches falling within the scope of this Directive, and for ensuring the protection of whistleblowers. OPLA shall be accessible through a point of contact in each Member State, as well as via a secure online platform. It shall be a point of contact and information for whistleblowers or potential whistleblowers, to assess the accuracy of information and/or allegations made in the report and process those breaches reported, specifically by launching an investigation and by consulting one of the competent bodies of the European Union upon concluding its investigation (the European Anti-Fraud Office, the European Public Prosecutor's Office, the Court of Justice of the European Union, etc.). It shall also be a point of contact for national authorities, journalists and civil society organisations involved in whistleblower protection. While fully independent, it will be able to work closely with the competent EU bodies (the European Anti-Fraud Office, the European Public Prosecutor's Office, the Court of Justice of the European Union, etc.).

Or. en

Amendment 153

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) The designated competent authorities should provide accurate information and appropriate advice to any person, reporting or reported, requesting such an information or advice for example on the protection measures, the appropriateness of the reporting channels and the scope of the Directive.

Or. en

Amendment 154

Kostas Chrysogonos, Stelios Kouloglou

Proposal for a directive

Recital 34 b (new)

Text proposed by the Commission

Amendment

(34b) OPLA should also have adequate protection procedures for the processing of reports on breaches 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 person referred to in the report (e.g. witnesses or colleagues) is protected at every stage of the procedure. This obligation should be without prejudice to the necessity and proportionality of the obligation to disclose information where this is required by Union or national law, and subject to appropriate safeguards under those 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 155
Kostas Chrysogonos, Stelios Kouloglou

Proposal for a directive
Recital 34 c (new)

Text proposed by the Commission

Amendment

(34c) Procedures for external reporting must allow national authorities and OPLA to receive reports and to investigate, in full confidentiality, any reports provided by any whistleblower.

Or. en

Amendment 156
Daniel Buda

Proposal for a directive
Recital 37

Text proposed by the Commission

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 and following-up on reports.

(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 ***and proportionate*** internal procedures ***governed by the principles of independence and impartiality*** for receiving and following-up on reports. ***Measures taken under these internal procedures shall provide adequate guarantees regarding confidentiality, data protection and privacy.***

Amendment 157

Angelika Niebler, Markus Ferber, Markus Pieper, Sven Schulze

Proposal for a directive**Recital 38***Text proposed by the Commission*

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

⁵⁶ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment

(38) For legal entities in the private sector, the obligation to establish internal channels is commensurate with their size and the level of risk their activities pose to the public interest. As a general rule small, micro ***and medium-sized*** undertakings, as defined in the Commission Recommendation of 6 May 2003, as amended⁵⁶, should be exempted from the obligation to establish internal channels.

⁵⁶ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment 158

Jytte Guteland

Proposal for a directive**Recital 38**

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

(38) For legal entities in the private sector, the obligation to establish internal channels is commensurate with their size and the level of risk their activities pose to the public interest. It should apply to all medium-sized and large entities irrespective of the nature of their activities, based on their obligation to collect VAT. As a general rule small and micro undertakings, as defined in Article 2 of the Annex of the Commission Recommendation of 6 May 2003, as amended⁵⁶, should be exempted from the obligation to establish internal channels. However, following an appropriate risk assessment, Member States **shall ensure that employer, and other legal entities in the private and public sector, to the extent the activities requires it, either makes sure that there are routines for such** internal reporting **referred to in this Directive on the protection of workers such as reporting on breaches or take other measures that facilitate such reporting**.

⁵⁶ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

⁵⁶ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Or. en

Amendment 159

Angelika Niebler, Markus Ferber, Markus Pieper, Sven Schulze

Proposal for a directive

Recital 39

(39) The exemption of small and micro undertakings from the obligation to establish internal reporting channels should not apply to private undertakings

deleted

*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.*

Or. de

Amendment 160
Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive
Recital 40

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 161
Kostas Chrysogonos, Stelios Kouloglou

Proposal for a directive
Recital 40

Text proposed by the Commission

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

Amendment

(40) *In any case,* reporting persons should be able to report directly externally to the *national authority or OPLA (hereinafter 'competent authorities'), and to exercise their right to disclose,* and such persons should enjoy the protection against retaliation provided by this Directive.

Or. en

Amendment 162

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

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 163

Pascal Durand

Proposal for a directive

Recital 43

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 164

Pascal Durand

Proposal for a directive

Recital 44

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 165

Kostas Chrysogonos, Stelios Kouloglou

Proposal for a directive

Recital 44

Text proposed by the Commission

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

Amendment

(44) Internal reporting procedures should enable private legal entities to receive and investigate in full confidentiality 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 ***especially*** through his/her work-related activities with the entity and the group.

Or. en

Amendment 166
Gilles Lebreton, Marie-Christine Boutonnet

Proposal for a directive
Recital 44 a (new)

Text proposed by the Commission

Amendment

(44a) Keeping whistleblowers' identity confidential is essential in order to avoid self-censorship. This principle of confidentiality can only be waived in exceptional circumstances in which disclosure of information about a whistleblower's identity is a necessary and proportionate obligation under Union or national law in the context of investigations or subsequent or current judicial proceedings, to safeguard a right, such as the right of defence of the person concerned. Appropriate sanctions should be instituted which are to be applied in the event of a breach of the principle of confidentiality concerning the whistleblower's identity.

Or. fr

Amendment 167
Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive
Recital 45

Text proposed by the Commission

Amendment

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case, their function should ensure absence of conflict of interest and independence. In smaller entities, this function could be a dual function held by a company officer

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case, their function should ensure absence of conflict of interest and independence. ***A set of rules regarding civil liability in the event of wilful misconduct or gross***

well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

negligence on the part of such entities should be provided for. In smaller entities, this function could be a dual function held by a company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

Or. it

Amendment 168

Răzvan Popa

Proposal for a directive

Recital 45

Text proposed by the Commission

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case, their function should ensure absence of conflict of interest and independence. In smaller entities, this function could be a dual function held by **a** company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

Amendment

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case, their function should ensure absence of conflict of interest and independence. In smaller entities, this function could be a dual function held by **one** company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

Or. ro

Amendment 169

Geoffroy Didier

Proposal for a directive

Recital 46

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 170

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Recital 47

Text proposed by the Commission

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

Amendment

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

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

whether, how and when to report. ***To this end, they should be able to consult and seek advice from the national authority or OPLA, which is a first point of information and contact. They should also be able to consult civil society organisations involved in the protection of whistleblowers.*** Private and public entities having in place internal reporting procedures shall provide information on these procedures as well as on procedures to report externally to relevant competent authorities. ***They should also provide information on rights guaranteed to whistleblowers, particularly their right to disclosure guaranteed by this Directive, and their right to turn to civil society organisations involved in whistleblower protection to this end, specifically those who provide strategic and legal advice to whistleblowers, as well as to journalists.*** 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 ***especially*** 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 171
Pascal Durand

Proposal for a directive
Recital 47

Text proposed by the Commission

(47) Persons who are considering reporting breaches of Union law should be

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.

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. ***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.***

Or. en

Amendment 172
Pascal Durand

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,

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

where possible.

possible.

Or. en

Amendment 173
Pascal Durand

Proposal for a directive
Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) In all cases, the reporting person should be informed of the investigation's progress and should be able to access the draft report at least once so as to be able to revise it, comment on it and correct it if necessary, albeit with no obligation to do so. These comments must be incorporated and taken into account in the monitoring of the investigation. The reporting person should be informed of the investigation's outcome and should be able to revise and comment on the final report of the investigation. These comments must be included in the final report.

Or. en

Amendment 174
Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive
Recital 52

Text proposed by the Commission

Amendment

(52) In order to allow for effective communication with their dedicated staff, it is necessary that the competent authorities have in place and use specific channels, separate from their normal public complaints systems, that should be user-friendly and allow for written and oral, as well as electronic and non-electronic

(52) In order to allow for effective communication with their dedicated staff, it is necessary that the competent authorities have in place and use specific channels, separate from their normal public complaints systems, that should be user-friendly, ***confidential*** and allow for written and oral, as well as electronic and non-

reporting.

electronic reporting.

Or. en

Amendment 175

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 53

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 176

Geoffroy Didier

Proposal for a directive

Recital 54

Text proposed by the Commission

(54) Persons intending to report should be able to make an informed decision on whether, how and when to report. Competent authorities should therefore publicly disclose and make easily accessible information about the available reporting channels with competent authorities, about the applicable procedures and about the dedicated staff members within these authorities. All information regarding reports should be transparent, easily understandable and reliable in order

Amendment

(54) Persons intending to report should be able to make an informed decision on whether, how and when to report. Competent authorities should therefore publicly disclose and make easily accessible information about the available reporting channels, ***in circumstances where outside whistleblowing is possible,*** with competent authorities, about the applicable procedures and about the dedicated staff members within these authorities. All information regarding

to promote and not deter reporting.

reports should be transparent, easily understandable and reliable in order to promote and not deter reporting.

Or. fr

Amendment 177

Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive

Recital 57

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 178

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Recital 58

Text proposed by the Commission

(58) Protection of personal data of the reporting and concerned person is crucial in order to avoid unfair treatment or reputational damages due to disclosure of personal data, ***in particular data revealing the identity of a person concerned.*** Hence, in line with the requirements of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection

Amendment

(58) Protection of personal data of the reporting and concerned person, ***as well as confidentiality of information,*** is crucial in order to avoid unfair treatment, ***any harassment or intimidation,*** or reputational damages due to disclosure of personal data. Hence, ***Member States and OPLA shall ensure that,*** in line with the requirements of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data

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.

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 179
Pascal Durand

Proposal for a directive
Recital 58

Text proposed by the Commission

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

Amendment

(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, 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 180
Pascal Durand

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 181
Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive
Recital 60

Text proposed by the Commission

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

Amendment

(60) ***The reporting persons should enjoy the protection of this Directive when they turn to one of the internal or external reporting channels (either a national authority or OPLA), with no special conditions or hierarchy, or when they exercise their right to disclosure to a journalist or a civil society organisation involved in whistleblower protection. This should apply throughout the procedure, including once the procedure is over, unless there is proven to be no threat of retaliation.*** To enjoy protection, the reporting persons should reasonably believe, in light of the circumstances and the information available to them at the time of the reporting, that the matters reported by them are true. This reasonable belief should be presumed unless and until proven otherwise. This is an essential safeguard against malicious and frivolous

or abusive reports, ensuring that those who deliberately and knowingly report wrong or misleading information do not enjoy protection. At the same time, it ensures that protection is not lost where the reporting person made an inaccurate report in honest error. In a similar vein, reporting persons should be entitled to protection under this Directive if they have reasonable grounds to believe that the information reported falls within its scope.

Or. en

Amendment 182

Daniel Buda

Proposal for a directive

Recital 60

Text proposed by the Commission

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

Amendment

(60) To enjoy protection, the reporting persons should ***be acting in good faith and for selfless motives. In other words, they should*** reasonably believe, in light of the circumstances and the information available to them at the time of the reporting, that the matters reported by them are true. This reasonable belief should be presumed unless and until proven otherwise. This is an essential safeguard against malicious and frivolous or abusive reports, ensuring that those who deliberately and knowingly report wrong or misleading information do not enjoy protection ***and may indeed be held accountable under the national laws of the Member States.*** At the same time, it ensures that protection is not lost where the reporting person made an inaccurate report in honest error. In a similar vein, reporting persons should be entitled to protection under this Directive if they have reasonable grounds to believe that the information reported falls within its scope.

Amendment 183
Geoffroy Didier

Proposal for a directive
Recital 60

Text proposed by the Commission

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

Amendment

(60) To enjoy protection, the reporting persons should reasonably believe, in light of the circumstances and the information available to them at the time of the reporting, that the matters reported by them are true. This is an essential safeguard against malicious and frivolous or abusive reports, ensuring that those who deliberately and knowingly report wrong or misleading information do not enjoy protection. At the same time, it ensures that protection is not lost where the reporting person made an inaccurate report in honest error. In a similar vein, reporting persons should be entitled to protection under this Directive if they have reasonable grounds to believe that the information reported falls within its scope.

Or. fr

Amendment 184
Pascal Durand

Proposal for a directive
Recital 61

Text proposed by the Commission

(61) ***The requirement of a tiered use of reporting channels, as a general rule, is necessary to ensure that the information gets to the persons who can contribute to***

Amendment

(61) It is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such

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.

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 185

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Recital 61

Text proposed by the Commission

(61) ***The requirement of a tiered use of reporting channels, as a general rule, is necessary*** to ensure that the information gets to the persons who can contribute to

Amendment

(61) ***It is necessary to ensure that all reporting channels whether internal or external are open to the reporting person so as*** to ensure that the information gets to

the early and effective resolution of risks to the public interest *as well as to prevent unjustified reputational damage from public disclosure. At the same time, some exceptions to its application are necessary*, allowing the reporting person to choose the most appropriate channel depending on the individual circumstances of the case. Moreover, it is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, *whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights*⁵⁷.

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.*

the persons *or entities* who can contribute to the early and effective resolution of risks to the public interest, *by* 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.

Or. en

Amendment 186
Geoffroy Didier

Proposal for a directive
Recital 61

Text proposed by the Commission

(61) The requirement of a tiered use of reporting channels, as a general rule, is necessary to ensure that the information

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;

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 *rules applicable*.

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 *legitimate* interest of employers to *protect the reputation of* their *organisation against malicious disclosures and unfounded accusations* 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;

Or. fr

Amendment 187

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

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 188

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Recital 62

Text proposed by the Commission

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

Amendment

(62) As a rule, reporting persons should **have** at their disposal **both internal and external reporting channels including media outlets** which **play an essential role in preserving democratic values**.

Or. en

Amendment 189

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 62

Text proposed by the Commission

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

Amendment

(62) As a rule, reporting persons should first use the internal ***and/or external*** channels at their disposal and report to their employer ***and/or to the competent authority. Moreover, protection is also to be granted in cases where Union legislation allows for the reporting person to report directly to the 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.***

Or. en

Amendment 190

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

Proposal for a directive

Recital 63

Text proposed by the Commission

(63) ***In other cases, internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; that their confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be***

Amendment

deleted

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.

Or. en

Amendment 191

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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 **deleted**

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.

Or. en

Amendment 192

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

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*

deleted

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.

Or. en

Amendment 193

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 64

Text proposed by the Commission

(64) Persons making a public disclosure directly should also qualify for protection in cases where a breach remains unaddressed (for example, it was not properly assessed or investigated or no remedial action was taken) despite having been reported internally and/or externally ***following a tiered use of available channels***; or in cases where reporting persons have valid reasons to believe that there is collusion between the perpetrator of the breach and the competent authority is reasonably suspected, that evidence may be concealed or destroyed, or that the effectiveness of investigative actions by competent authorities might be jeopardised; or in cases of imminent and manifest danger for the public interest, or where there is a risk of irreversible damage, including, inter alia, harm to

Amendment

(64) Persons making a public disclosure directly should also qualify for protection in cases where a breach remains unaddressed (for example, it was not properly assessed or investigated or no remedial action was taken) despite having been reported internally and/or externally; or in cases where reporting persons have valid reasons to believe that there is collusion between the perpetrator of the breach and the competent authority is reasonably suspected, that evidence may be concealed or destroyed, or that the effectiveness of investigative actions by competent authorities might be jeopardised; or in cases of imminent and manifest danger for the public interest, or where there is a risk of irreversible damage, including, inter alia, harm to

physical integrity.

physical integrity.

Or. en

Amendment 194
Geoffroy Didier

Proposal for a directive
Recital 64

Text proposed by the Commission

(64) Persons making a public disclosure **directly** should also qualify for protection in cases where a breach remains unaddressed (for example, it was not properly assessed or investigated or no remedial action was taken) despite having been reported internally and/or externally following a tiered use of available channels; or in cases where reporting persons have valid reasons to believe that there is collusion between the perpetrator of the breach and the competent authority is reasonably suspected, that evidence may be concealed or destroyed, or that the effectiveness of investigative actions by competent authorities might be jeopardised; or in cases of imminent and manifest danger for the public interest, or where there is a risk of irreversible damage, including, inter alia, harm to physical integrity.

Amendment

(64) Persons making a public disclosure should also qualify for protection in cases where a breach remains unaddressed (for example, it was not properly assessed or investigated or no remedial action was taken) despite having been reported internally and/or externally following a tiered use of available channels; or in cases where reporting persons have valid reasons to believe that there is collusion between the perpetrator of the breach and the competent authority is reasonably suspected, that evidence may be concealed or destroyed, or that the effectiveness of investigative actions by competent authorities might be jeopardised; or in cases of imminent and manifest danger for the public interest, or where there is a risk of irreversible damage, including, inter alia, harm to physical integrity.

Or. fr

Amendment 195
Pascal Durand

Proposal for a directive
Recital 65

Text proposed by the Commission

(65) Reporting persons should be

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.

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 196 **Angel Dzhambazki**

Proposal for a directive **Recital 66**

Text proposed by the Commission

(66) Where retaliation occurs undeterred and unpunished, it has a chilling effect on potential whistleblowers. A clear prohibition of retaliation in law **has** an important dissuasive effect, further strengthened by provisions for personal liability and penalties for the perpetrators

Amendment

(66) Where retaliation occurs undeterred and unpunished, it has a chilling effect on potential whistleblowers. A clear prohibition of retaliation in law **may among other possible instruments have** an important dissuasive effect, further strengthened by provisions for personal liability and penalties for the perpetrators

of retaliation.

of retaliation.

Or. en

Amendment 197

Pascal Durand

Proposal for a directive

Recital 67

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 198

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 67

Text proposed by the Commission

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

Amendment

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public. 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, ***notably through the competent authorities***, 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 199

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 69

Text proposed by the Commission

(69) It should not be possible to waive the rights and obligations established by this Directive by contractual means. Individuals' legal or contractual obligations, such as loyalty clauses in contracts or confidentiality/non-disclosure agreements, cannot be relied on to preclude workers from reporting, to deny protection or to penalise them for having done so. At the same time, this Directive should not affect the protection of legal and other professional privilege as provided for

Amendment

(69) It should not be possible to waive the rights and obligations established by this Directive by contractual means. Individuals' legal or contractual obligations, such as loyalty clauses in contracts or confidentiality/non-disclosure agreements, cannot be relied on to preclude workers from reporting, to deny protection or to penalise them for having done so. At the same time, this Directive should not affect the protection of legal and other professional privilege, ***such as***

under national law.

professional or medical secrecy, as provided for under national law.

Or. en

Amendment 200
Virginie Rozière

Proposal for a directive
Recital 71

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 201
Evelyn Regner, Sylvia-Yvonne Kaufmann

Proposal for a directive
Recital 71 a (new)

Text proposed by the Commission

Amendment

(71a) The Commission should develop instruments focusing on providing protection against economic sanctions, including the setting up of national funds or a European fund, financed in part from monies recovered or proceeds from fines, to give appropriate financial support to whistle-blowers in the EU;

Or. en

Amendment 202

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Recital 72

Text proposed by the Commission

(72) The types of legal action may vary between legal systems but they should ensure *as full and effective a remedy as possible. Remedies should not discourage potential future whistleblowers. For instance, allowing for compensation as an alternative to reinstatement in case of dismissal might give rise to a systematic practice in particular by larger organisations, thus having a dissuasive effect on future whistleblowers*

Amendment

(72) The types of legal action may vary between legal systems but they should ensure full and effective remedy.

Or. en

Amendment 203

Virginie Rozière

Proposal for a directive

Recital 72

Text proposed by the Commission

(72) The types of legal action may vary between legal systems but they should ensure *as full and effective a remedy as possible*. Remedies should not discourage

Amendment

(72) The types of legal action may vary between legal systems but they should ensure full *compensation for the damage suffered*. Remedies should not discourage

potential future whistleblowers. For instance, allowing for compensation as an alternative to reinstatement in case of dismissal might give rise to a systematic practice in particular by larger organisations, thus having a dissuasive effect on future whistleblowers.

potential future whistleblowers. For instance, allowing for compensation as an alternative to reinstatement in case of dismissal might give rise to a systematic practice in particular by larger organisations, thus having a dissuasive effect on future whistleblowers.

Or. fr

Amendment 204

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

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.

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).

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).

Or. en

Amendment 205 **Geoffroy Didier**

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. 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.

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. fr

Amendment 206
Pascal Durand

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 207
Geoffroy Didier

Proposal for a directive
Recital 76

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 208
Geoffroy Didier

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

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 such inaccurate or misleading report or disclosure was made deliberately and knowingly, ***whistleblowers should not***

be entitled to compensation in accordance with national law.

enjoy protection and the concerned persons should be entitled to compensation in accordance with national law.

Or. fr

Amendment 209

Pascal Durand

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 210

Laura Ferrara, Fabio Massimo Castaldo

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*

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.

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.

Or. it

Justification

Defamation is already an offence and the relevant provisions already act as a deterrent against malicious reporting of alleged wrongdoing, compounded by lack of protection in the event of claims for damages. Penalties for disclosure alone might prove to be too great a deterrent for prospective informants.

Amendment 211

Pascal Durand

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 212

Fabio Massimo Castaldo, Laura Ferrara

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 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. ***Member States may also offer commensurate rewards for information leading to the prevention of major financial losses or to the recovery of substantial amounts by the European Union.***

Or. it

Amendment 213
Jytte Guteland

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 to introduce or maintain more favourable provisions to the reporting person.

Or. en

Justification

The Directive should be a minimum directive without restrictions for the Member States to introduce or keep provisions that are more favourable to the reporting person.

Amendment 214
Pascal Durand

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 215
Virginie Rozière, Jytte Guteland

Proposal for a directive
Recital 80 a (new)

Text proposed by the Commission

Amendment

(80a) Some Member States have already implemented coherent and effective protections for reporting persons. When implementing this directive, attention should be paid to those Member State and this Directive should in no circumstances constitute valid grounds for reducing the general level of protection already afforded to reporting persons within those Member States and in the areas to which it applies.

Or. en

Amendment 216
Laura Ferrara, Fabio Massimo Castaldo

Proposal for a directive

Recital 82

Text proposed by the Commission

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

Amendment

(82) The material scope of this Directive is based on the identification of areas where the introduction of whistleblower protection appears justified and necessary on the basis of currently available evidence ***and is*** extended to ***all*** further areas or Union acts ***under Article 352 TFEU.***

Or. it

Amendment 217

Laura Ferrara, Fabio Massimo Castaldo

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

Amendment

(84) The objective of this Directive, namely to strengthen enforcement of Union law 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.

proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

Or. it

Amendment 218
Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive
Recital 85 a (new)

Text proposed by the Commission

Amendment

(85a) This Directive is without prejudice to Member States' freedom to introduce the same or similar rules for breaches of national law, thereby providing a coherent and comprehensive framework for the protection of persons reporting on breaches.

Or. en

Amendment 219
Geoffroy Didier

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

Text proposed by the Commission

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 ***the following*** unlawful activities or abuse of law:

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 or abuse of law ***which seriously threaten or damage the general interest as follows:***

Or. fr

Amendment 220

Virginie Rozière, Evelyn Regner, Sylvia-Yvonne Kaufmann

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 the individual protection of persons reporting breaches*** of Union law and policies in specific areas, this Directive lays down common minimum standards for the protection of persons reporting on the following unlawful activities or abuse of law:

Or. en

Amendment 221

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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. This Directive lays down common minimum standards for the protection of persons reporting on the following unlawful activities or abuse of law:

Or. en

Amendment 222

Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

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 ***the following*** unlawful activities ***or*** abuse of law:

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 223

Gilles Lebreton, Marie-Christine Boutonnet

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

(Does not affect the English version.)

Or. fr

Amendment 224

Laura Ferrara, Fabio Massimo Castaldo

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, this Directive lays down common minimum standards for the protection of persons reporting on unlawful activities or abuse of law:

Or. it

Amendment 225

Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze

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 the following unlawful activities:

Or. en

Justification

It is important to limit the scope on unlawful activities. "Abuses of law" or "wrongdoings" are too vague and would broaden the scope too much (see Art 3). Those wordings are also completely overstepping the objective of the Commission proposal to secure the adherence of European law. The result of those wordings would be that each doubtful behaviour - although legal - could allow the public disclosure of information. The result would be legal uncertainty across the European Union. Based on the ECtHR key decision 28274/08 headnote 5 (21 July 2011), the AM 2, 3, 4 and 29 proposed by the rapporteur are also very worrying as they are extending the scope and creating a situation, in which the 'public interest' has not be really affected anymore. A public interest would be present in almost every case. This situation reduces the balance of interest between 'public interest' and the 'interest of the affected persons' to absurdity - although the ECtHR strictly demanded to always find this balance in its key ruling.

Amendment 226

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Article 1 – paragraph 1 – point a – introductory part

Text proposed by the Commission

(a) breaches falling within the scope of the Union acts set out in the Annex (Part I and Part II) as regards the following areas:

Amendment

(a) **breaches of fundamental rights and principles of the EU, as well as** breaches falling within the scope of the Union acts set out in the Annex (Part I and

Part II) as regards the following areas:

Or. en

Amendment 227

Virginie Rozière

Proposal for a directive

Article 1 – paragraph 1 – point a – introductory part

Text proposed by the Commission

(a) breaches falling within the scope of the Union acts set out in the Annex (Part I and Part II) as regards the following areas:

Amendment

(a) breaches falling within the scope of the Union acts **and acts implementing them**, and especially those set out in the Annex (Part I and Part II) as regards the following areas:

Or. fr

Amendment 228

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Article 1 – paragraph 1 – point a – introductory part

Text proposed by the Commission

(a) breaches falling within the scope of the Union acts set out in the Annex (Part I and Part II) **as regards** the following areas:

Amendment

(a) breaches falling within the scope of the Union acts set out in the Annex (Part I and Part II) **including but not limited to** the following areas:

Or. en

Amendment 229

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

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 230

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ia) employment

Or. en

Amendment 231

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ib) trade

Or. en

Amendment 232

Pascal Durand

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;**

Amendment 233

Pascal Durand

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 234

Pascal Durand

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 235

Pascal Durand

Proposal for a directive

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

Text proposed by the Commission

Amendment

(xa) ***employment and working conditions;***

Amendment 236
Virginie Rozière

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

Text proposed by the Commission

Amendment

(xa) workers' right

Or. en

Amendment 237
Pascal Durand

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

Text proposed by the Commission

Amendment

**(xb) tax fraud, tax evasion and tax
optimisation;**

Or. en

Amendment 238
Pascal Durand

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

Text proposed by the Commission

Amendment

**(xc) violations of human rights or of
the rights enshrined in the European
Charter of Fundamental Rights;**

Or. en

Amendment 239

Pascal Durand

Proposal for a directive

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

Text proposed by the Commission

Amendment

(xd) company law;

Or. en

Amendment 240

Evelyn Regner, Sylvia-Yvonne Kaufmann

Proposal for a directive

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

Text proposed by the Commission

Amendment

**(aa) employment, social rights,
individual and collective workers' rights
as well as the rights of their
representatives;**

Or. en

Amendment 241

Pascal Durand

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 242

Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze

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, as regards acts which breach the rules of corporate tax law.

Or. en

Justification

The protection for whistle blower should be limited on clear violations against the standing tax law.

Amendment 243

Pascal Durand

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 244

Fabio Massimo Castaldo, Laura Ferrara

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) all other sectors in which the public interest has been undermined or Union law infringed

Or. it

Amendment 245

Virginie Rozière

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) any other act of wrongdoing that is prejudicial to the public interest protected by the law of the European Union.

Or. fr

Amendment 246

Pascal Durand

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

Amendment

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

2. Where 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 247
Geoffroy Didier

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

Text proposed by the Commission

Amendment

2a. This Directive shall be without prejudice to the protection of the confidentiality of national defence, medical confidentiality and the secrecy of relations between lawyers and their clients.

Or. fr

Amendment 248
Gilles Lebreton, Marie-Christine Boutonnet

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

Text proposed by the Commission

Amendment

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

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

Or. fr

Amendment 249
Daniel Buda

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 ***acting in good faith and for selfless motives*** working in the private or public sector who acquired information on breaches in a work-related context including, at least, the following:

Or. ro

Amendment 250
Răzvan Popa

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 collaborators*** working in the private or public sector who acquired information on breaches in a work-related context including, at least, the following:

Or. ro

Amendment 251
Geoffroy Didier

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 ***acting in good faith*** in the private or public sector who acquired information on breaches in a work-related context including, at least, the following:

Amendment 252

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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 working in the private or public sector who acquired information on breaches including, at least, the following:

Or. en

Amendment 253

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

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 254

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) persons having the status of worker,

Amendment

(a) persons having the status of worker

with the meaning of Article 45 TFEU;

or former workers, with the meaning of Article 45 TFEU, **including persons having the status of civil servants**;

Or. en

Amendment 255

Pascal Durand

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) persons having the status of worker, **or former workers**, with the meaning of Article 45 TFEU, **regardless of whether they are paid or unpaid**;

Or. en

Amendment 256

Jytte Guteland

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) persons having the status of worker, with the meaning of **national labour law and national practice or in accordance with** Article 45 TFEU;

Or. en

Justification

The directive should respect that the definition of the concept of worker is a national matter.

Amendment 257

Helga Stevens

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 ***employee;***

Or. en

Amendment 258
Pavel Svoboda

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

Text proposed by the Commission

c) shareholders and persons belonging to the management body of an undertaking, including non-executive members, as well as volunteers and unpaid trainees;

deleted

Amendment

Or. en

Amendment 259
Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze

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

Text proposed by the Commission

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

(c) volunteers and unpaid trainees;

Amendment

Or. en

Justification

Not covered by the purpose of the regulation as those are normally not employers of the company, who are afraid of reprisals.

Amendment 260

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 261

Virginie Rozière

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) shareholders and persons belonging to the management body of an undertaking, including non-executive members, as well as volunteers and ***paid or*** unpaid trainees;

Or. en

Amendment 262

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) shareholders and persons belonging

Amendment

(c) shareholders and persons belonging

to the management body of an undertaking, including non-executive members, as well as volunteers and unpaid trainees;

to the management body of an undertaking, including non-executive members, as well as volunteers and *paid or* unpaid trainees;

Or. en

Amendment 263

Pavel Svoboda

Proposal for a directive

Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

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

Or. en

Amendment 264

Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze

Proposal for a directive

Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

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

Or. en

Justification

Violates the principle of prior report within the company as this staff is not bound to the internal rules, which causes the risk of abuses. For instances, other companies could use it to damage the reputation of a competitor.

Amendment 265

Pascal Durand

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 266
Pavel Svoboda

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

deleted

Or. en

Amendment 267
Axel Voss, Markus Pieper, Angelika Niebler, Markus Ferber, Sven Schulze

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

Amendment

deleted

negotiation.

Or. en

Justification

The extension to applicants or even to former employees (as proposed by the rapporteur) would increase the chances of abuses immensely.

Amendment 268

Răzvan Popa

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, ***as well as to reporting persons whose working relationship has terminated.***

Or. ro

Amendment 269

Laura Ferrara, Fabio Massimo Castaldo

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, ***as well as to reporting persons whose work-based relationship has terminated.***

Justification

Reporting persons may suffer economic or other reprisals even after termination of their work-based relationship.

Amendment 270

Gilles Lebreton, Marie-Christine Boutonnet

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, as well as to reporting persons whose working relationship has ceased, ***as well as reporting persons whose employment has ceased.***

Amendment 271

Pascal Durand

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 .***

Amendment 272

Daniel Buda

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 ***acting in good faith and for selfless motives*** whose work-based relationship is yet to begin in cases where information concerning a breach has been acquired during the recruitment process or other pre-contractual negotiation.

Or. ro

Amendment 273

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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 ***has ended or*** is yet to begin in cases where information concerning a breach has been acquired during the recruitment process or other pre-contractual negotiation.

Or. en

Amendment 274

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

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

Or. en

Amendment 275

Pascal Durand

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. 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 276

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive shall apply to officials as well as to other employees and interns working at the institutions, agencies and bodies of the Union.

Amendment 277

Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze, Geoffroy Didier

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. However, this Directive should not affect the protection of legal and other professional privilege as provided for under national law.

Or. en

Justification

Although this is the last sentence of recital 69, it should be repeated in Article 2 in order to make sure that the obligation of confidentiality (e.g. lawyer -> client) is taken into account.

Amendment 278

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive

Article 2 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. This Directive shall apply to individuals falling within the definition laid out in Article 1 of private or public legal entities located within the Union, as well as to private or public European legal entities located outside Union territory.

Or. en

Amendment 279

Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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

Text proposed by the Commission

Amendment

2c. This Directive shall apply to individuals facilitating the reporting on breaches such as journalists or intermediaries between the reporting person and the person distributing the information.

Or. en

Amendment 280
Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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

Text proposed by the Commission

Amendment

2d. This Directive shall apply to any individual reporting on breaches of Union law who has evidence of such breaches in the public or private sector.

Or. en

Amendment 281
Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

Proposal for a directive
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Journalists and persons facilitating the reporting

This Directive shall apply to persons facilitating the reporting and to investigative journalists.

Amendment 282

Daniel Buda

Proposal for a directive

Article 3 – paragraph 1 – point 1

Text proposed by the Commission

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

Amendment

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

Or. ro

Amendment 283

Geoffroy Didier

Proposal for a directive

Article 3 – paragraph 1 – point 1

Text proposed by the Commission

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

Amendment

1. ‘breaches’ means actual unlawful activities or ***those that are very likely to be committed*** or abuse of law relating to the Union acts and areas falling within the scope referred to in Article 1 and in the Annex;

Or. fr

Amendment 284

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

Proposal for a directive

Article 3 – paragraph 1 – point 1

Text proposed by the Commission

Amendment

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

(1) ‘breaches’ means actual or potential unlawful activities, **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 285
Gilles Lebreton, Marie-Christine Boutonnet

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

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 286
Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

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

Text proposed by the Commission

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

Amendment

(1) ‘breaches’ means actual or potential unlawful activities, abuse of law **or activities detrimental to the public interest or the general interest of** the Union;

Or. en

Amendment 287
Pavel Svoboda

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

Text proposed by the Commission

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

Amendment

(1) ‘breaches’ means actual 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;

Or. en

Amendment 288

Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze, Geoffroy Didier

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

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

It is important to limit the scope on actual or likely (=Art 3 (5)) unlawful activities and not extend it to all "wrongdoings". Otherwise, each doubtful behaviour - although legal - could allow the public disclosure of information. The result would be legal uncertainty across the European Union. Based on the ECtHR key decision 28274/08 headnote 5 (21 July 2011), I also see AM 2, 3, 4 and 29 proposed by the rapporteur as very worrying as they extend the scope and create a situation, in which the 'public interest' has not be really affected anymore. A public interest would be present in almost every case. This reduce the balance of interest between 'public interest' and the 'interest of the affected persons' to absurdity - although the ECtHR strictly demanded this balance in its key ruling.

Amendment 289

Gilles Lebreton, Marie-Christine Boutonnet

Proposal for a directive
Article 3 – paragraph 1 – point 2

Text proposed by the Commission

Amendment

2. ‘unlawful activities’ means acts or omissions contrary to Union law;

(Does not affect the English version.)

Or. fr

Amendment 290
Kostas Chrysogonos, Jiří Maštálka, Stelios Kouloglou

Proposal for a directive
Article 3 – paragraph 1 – point 2

Text proposed by the Commission

Amendment

(2) ‘unlawful activities’ means acts or omissions contrary to **Union** law;

(2) ‘unlawful activities’ means acts or omissions contrary to law;

Or. en

Amendment 291
Axel Voss, Angelika Niebler, Markus Pieper, Markus Ferber, Sven Schulze

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

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

See comments for Article 1(1) and 3(1) of this directive.

Amendment 292

Pascal Durand, Julia Reda, Max Andersson, Heidi Hautala

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 293

Jean-Marie Cavada, Jens Rohde, António Marinho e Pinto

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 ***and which represent a risk of serious harm to the public interest;***

Or. en

Amendment 294

Gilles Lebreton, Marie-Christine Boutonnet

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 ***or a serious threat or damage to the public interest*** which do not appear to be unlawful in formal terms but defeat the object or the purpose pursued by the applicable rules;

Or. fr

Amendment 295
Geoffroy Didier

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 ***a right***’ ***is committed by any person who, among various ways of exercising his rights, deliberately opts for the one that is most damaging to others and defeats*** the object or the purpose ***of the law applicable.***

Or. fr

Amendment 296
Kostas Chrysogonos, Jiří Maštálka

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 which do not appear to be unlawful in formal terms but defeat the object or the purpose pursued by the applicable rules;

Or. en

Amendment 297

Pascal Durand

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 298

Kostas Chrysogonos, Jiří Maštálka

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;

Or. en

Amendment 299

Geoffroy Didier

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

Amendment

(5) ‘report’ means the provision *in good faith* of information relating to a

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;

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;

Or. fr

Amendment 300

Pascal Durand

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 human life, the environment and/or public health;***

Or. en

Amendment 301

Kostas Chrysogonos, Jiří Maštálka

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 acquired ***inter alia*** within the work-related context available to the public domain;

Or. en

Amendment 302

Geoffroy Didier

**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

(Does not affect the English version.)

Or. fr

**Amendment 303
Pascal Durand**

**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