Better protection of whistle-blowers: new EU-wide rules to kick in in 2021

The EU is to guarantee a high level protection to whistle-blowers across a wide range of sectors including public procurement, financial services, money laundering, product and transport safety, nuclear safety, public health, consumer and data protection.

Today the Council formally adopted new rules on whistle-blowers protection. The new rules will require the creation of safe channels for reporting both within an organisation - private or public - and to public authorities. It will also provide a high level of protection to whistle-blowers against retaliation, and require national authorities to adequately inform citizens and train public officials on how to deal with whistle-blowing.

The legislation will now be formally signed and published in the Official journal. Member states will have two years to transpose the new rules into their national law.

The main elements of the compromise include:

- **Creation of channels of reporting within companies/administrations:** there is an obligation to create effective and efficient reporting channels in companies of over 50 employees or municipalities of more than 10 000 inhabitants. This will contribute to the development of a healthy corporate culture;
- **Hierarchy of reporting channels:** whistle-blowers are encouraged to use internal channels within their organisation first, before turning to external channels which public authorities are obliged to set up. In any event, whistle-blowers will not lose their protection if they decide to use external channels in the first place;
- **A large number of profiles protected by the new rules:** Persons protected include those with a range of profiles who could acquire information on breaches in a work-related context. e.g. employees, including civil servants at national/local level, volunteers and trainees, non executive members, shareholders, etc.
- **A wide scope of application:** the new rules will cover areas such as public procurement, financial services, prevention of money laundering, public health, etc. For legal certainty, a list of all EU legislative instruments covered is included in an annex to the directive. Member states may go beyond this list when implementing the new rules.
- **Support and protection measures for whistleblowers:** the rules introduces safeguards to protect whistle-blowers from retaliation, such as being suspended, demoted and intimidated. Those assisting whistle-blowers, such as colleagues and relatives are also protected. The directive also includes a list of support measures which will be put in place for whistleblowers.
- **Feedback obligations for authorities and companies:** the rules create an obligation to respond and follow-up to the whistleblowers’ reports within 3 months (with the possibility of extending this to 6 months for external channels in duly justified cases);

Background

Whistle-blowers are people speaking up when they encounter, in the context of their work, wrongdoing that can harm the public interest, for instance by damaging the environment, public health and consumer safety and public finances.

Whistle-blower protection is currently covered in a fragmented manner. At the moment, only 10 EU countries have a comprehensive law protecting whistleblowers. At EU level, there is legislation in only a limited number of sectors (mostly in the areas of financial services) which include measures to protect whistleblowers.

A 2017 study carried out for the Commission estimated the loss of potential benefits due to a lack of whistle-blower protection, in public procurement alone, to be in the range of €5.8 to €9.6 billion each year for the EU as a whole.

Anna-Maja Henriksson, Finland’s Minister of Justice

The EU is committed to having a well functioning democratic system based on the rule of law. That includes providing a high level of protection across the Union to those whistle-blowers who have the courage to speak up. No one should risk their reputation or job for exposing illegal behaviours.

Press office - General Secretariat of the Council