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European Parliament demands protection for whistleblowers across Europe

Whistleblower protection

The European Parliament's Legal Affairs Committee is calling on the Commission to propose legislation to protect whistleblowers across Europe, no matter how they came across the information or which channel of reporting they use to sound the alarm.

The report takes on board Greens/EFA demands that protection should be afforded to all those who reveal information that is in the public interest including information which reveals wrongdoing or other irregularities.

Another key demand, reflected in the report adopted today, is the need to ensure that protection extends to both the private and public sectors. To this end, the Commission is called upon to present, before the end of the year, draft legislation to protect whistleblowers which is as wide and comprehensive (or "horizontal") as possible, and in the report the Legal Affairs Committee has highlighted the possibility of using several legal bases in tandem in order to achieve a strong result.

The report, which was adopted on 2 October 2017 in the JURI committee and will be put to a plenary vote on 23rd October, calls for protection for whistleblowers - as well as people who assist them - against reprisal, including exempting them from civil and criminal proceedings, from unjustified legal prosecutions, from economic sanctions and from discrimination.

The JURI committee has proposed to reverse the burden of proof so that it is up to the employer to demonstrate that any actions taken against an employee are unrelated to their role as a whistleblower, and it calls for sanctions to be introduced in case of attacks on whistleblowers or attempts to prevent them from speaking up.

Importantly, the report emphasised the need to ensure that the substance of a whistleblower alert is duly investigated and that the whistleblower is kept informed throughout the process. It recommends that whistleblowers should be able to clarify their complaint and provide additional information or evidence if needed, which was a key demand put forward to the Greens/EFA group [during our public consultation](#) on our [draft Directive for whistleblower protection](#) published in May 2016.

One of our key battles during this report was to ensure that the focus of whistleblower protection is on the actual information revealed, rather than obsessing about the intentions of the whistleblower, because this

leads to unnecessary stigmatisation and character judgement. Whistleblowers are of course required to believe that the information they reported is true at the time of reporting it.

The report calls for psychological support, legal aid and social and financial aid where necessary, as well as compensation in case whistleblowers suffer as a result of their disclosures. It emphasises that anonymous reporting should be permitted, though it states that it should be clear “exactly in which cases means of reporting anonymously apply”. Finally, it calls for criminal penalties and sanctions to be put in place if the identity of a whistleblower is revealed without their consent.

It is worth highlighting that the report calls on the Commission to protect individuals who are outside the traditional employee-employer relationship, such as consultant, contractors, trainees, volunteers, students workers, temporary workers, former employees.

Last but not least, the report recommends the establishment of independent bodies in the EU Member States, with sufficient budgetary resources and sufficient powers, that would collect whistleblower reports, verify them, ensure a follow-up is given, guide whistleblowers and publish annual reports on whistleblower protection.

At EU level, a similar body is recommended, though a suggestion is made that the European Ombudsman might be able to take on the role, which includes coordinating Member State activities, particularly in cross-border cases, and also collecting whistleblower reports, issuing binding recommendations and guiding whistleblowers when the response given by the Member State or national bodies is obviously not appropriate.

What next?

For its part, the European Commission is due to publish the results of its impact assessment and public consultation on whistleblower protection, and it has now promised to make a proposal in the area of whistleblower protection early next year. The European Parliament should adopt the report on 23rd October, pending further amendments.

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