

European Ombudsman
1 avenue du Président Robert Schuman
CS 30403
F - 67001 Strasbourg Cedex
France

2 September 2014

Dear Ms O'Reilly,

Subject: Transparency International EU Office submission to the consultation on the Ombudsman's draft internal rules on whistle-blowing

The Transparency International EU Office (TI-EU) welcomes the decision of the European Ombudsman to adopt internal whistleblowing rules, and the opportunity to contribute to a public consultation on the draft rules.

Whistle-blowers play a crucial role in identifying potentially fraudulent, illegal or corrupt activity, often at potentially serious personal or professional risk. With EU civil servants subject to a legal obligation under Article 22a of the EU Staff Regulations to report wrongdoing, comprehensive whistle-blowing rules are therefore an important component in ensuring they are supported in fulfilling this duty, and provided with adequate protection when doing so. Such rules thereby contribute directly to underpinning the integrity of the EU's institutions and its staff.

The value of such internal rules is indeed reflected in the Staff Regulations, via the requirements for all institutions laid down in Article 22c. The absence of such rules in almost all EU institutions, including within the Secretariat General (SG) of the European Ombudsman, was highlighted by TI-EU in its recent EU Integrity System (EUIS) report.¹ In that report, we noted the particular importance of systematic integrity mechanisms as a bulwark against the potential unequal treatment of staff at the SG – mechanisms that would include specific procedures on whistle-blowing. Clear whistleblowing guidance may indeed be of particular importance to institutions such as the European Ombudsman that comprise a relatively small staff body.²

As such, the present move by the Ombudsman to introduce internal rules is a positive step forward, but it is critical that these rules are comprehensive in nature. This entails that they include clear guidance on, most importantly:

- all internal and external channels available for reporting misconduct; how to make a report; and how reports are handled;
- how the confidentiality of the identity of whistle-blowers, and of the information they provide, is ensured;
- the protections provided to whistle-blowers against all forms of retaliatory actions (including definition of what actions could potentially be considered as retaliatory);

¹ The launch of the Ombudsman's own-initiative inquiry (OI/1/2014/PMC) into EU institutions' internal whistleblowing rules is an additional, welcome step towards ensuring robust protection for EU whistle-blowers.

² As highlighted in the British Standards Institute Whistleblowing Arrangements Code of Practice. See <http://shop.bsigroup.com/forms/PASs/PAS-1998/>

- the avenues available for recourse should whistle-blowers suffer reprisals for speaking up;
- the scope of issues that could necessitate a whistleblowing report, and the difference between such reports and personal complaints or grievances
- the roles of individuals receiving reports.

It is welcome to note that many of these elements have been included in the draft rules, including provisions to promote positively the exercise of staff whistle-blowing duties. Nevertheless, TI-EU is providing, in annex, a number of proposed changes to the current draft of the rules, drawing on existing best practice regarding internal whistle-blowing arrangements.³ We encourage the Ombudsman to take on board these changes, to ensure that the finalised rules serve their purpose to enable staff to fulfil their reporting obligations in full confidence that they will not suffer reprisals and the information they provide will be adequately acted upon. In such a way, the ultimate aim of the obligations laid down in the Staff Regulations, to safeguard the public interest and minimise the risks of fraud, corruption and low standards of integrity within the EU civil service, can be met.

We remain available to discuss the submission further and look forward to the adoption of the finalised rules.

Thank you.

Yours sincerely,



Carl Dolan
Director

³ Ibid