

EU Whistleblower Protection



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Background

Whistleblowers are important players in national and global efforts to detect and prevent corruption and other malpractice. Their disclosures have exposed wrongdoing and fraud and have helped to save public funds and to avoid disasters for health and the environment. But reporting often comes at a high price: people who speak up risk their careers and sometimes their personal safety to expose wrongdoings that threaten the public interest. They need legal protection against retaliation, but also a supportive environment at the workplace itself and in society at large.

However, whistleblower protection legislation remains the exception rather than the rule in the EU. **Most Member States do not have dedicated legislation in place, and even in the few countries where such laws do exist, they usually leave significant loopholes and fall short of good practice.** As a result, European citizens remain largely unprotected in case they take the decision to speak up, facing the risk of retaliation, judicial proceedings and dismissal. This, in turn, leaves suspected cases of fraud, corruption and other malpractice unattended – a huge potential to fight such practices is lost.

Horizontal Whistleblower Protection Directive

It has been pointed out repeatedly by international institutions such as the [Organisation for Economic Co-operation and Development](#) (OECD), the [Council of Europe](#) and the [European Parliament](#), that effective protection of whistleblowers is a critical tool to address corruption and malpractice and to protect the financial interests of the European Union (EU).

The EU Commission is now assessing the scope for horizontal or further sectorial action at EU level to protect whistleblowers. The Commission recently published an Inception Impact Assessment which analyses the impact that a lack of whistleblower protection has on the EU market, on human rights and on the environment. The Commission has held a [public consultation](#) in the first half of 2017 and will conduct a full impact assessment to determine whether and how to propose whistleblowing legislation.

Recommendations

Transparency International believes that the European Commission should come forward with a proposal for a horizontal whistleblowing protection directive, based upon existing best practices and [Transparency International's international principles for whistleblowing legislation](#).

Such legislation should ensure that:

- Protection should have the broadest scope possible, including public and private employees, including individuals outside the traditional employee-employer relationship;
- Protection from retaliation and retribution should be guaranteed, with the burden of proof on the employer to demonstrate any measures taken against the employee were not connected to any disclosure;
- There should be several clearly defined reporting channels available to the whistleblower, with the option of reporting to external parties and/or the public in certain cases of urgent or grave public interest;
- A full range of remedies should be available to the whistleblower for any direct or indirect consequences of the disclosure, which would include such costs as compensation for lost wages, medical support, and/or legal assistance;
- Anonymity should be allowed and confidentiality should be guaranteed for the whistleblower, and that the identity of the whistleblower may not be disclosed without the individual's explicit consent;

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