

WHISTLEBLOWERS

Council of the European Union adopts its position on the Directive on the Protection of Whistleblowers

Following the steps that the EU has been taking towards a greater harmonization of European law concerning whistleblowers protection, the Council of the European Union has adopted its position on the Directive on that topic on the 25th of January 2019.

The new rules are based on three main objectives:

- 1) The creation of safe channels for reporting within an organization, either private or public (if employing over 50 people), or directly to public authorities;
- 2) Ensuring a high level of protection to whistleblowers against retaliation;
- 3) Require adequate information to be provided by national authorities to citizens and suitable training to be given to public officials on how to deal with whistleblowing.

The Council's position has brought greater clarity to the text of the Directive, enhancing its precision and strengthening the links between the new rules and the pre-existing law. It includes the following aspects:

- Concerning **reporting systems**, whistleblowers are to be able to follow internal channels of the organizations they work for before recurring to public authorities and, lastly, to public denounce. There are exceptions to this rule: for instance, when manifest of imminent danger for the public interest is at stake.
- In respect to the **persons protected by the new rules**, the aspects proposed by the Commission were kept, which includes a large number of profiles recognised as being in a position to acquire information on breaches.
- Regarding **feedback obligations for authorities and companies**, a time period of three months was defined to respond to whistleblowers reports – a period which can be extended up to six months for external channels, if dully justified.
- In relation to **public disclosures**, an article was introduced which sets out the conditions to be fulfilled by a person in order to qualify to whistleblower's protection on the terms of the Directive.
- Lastly, the Council has maintained the Commission's position regarding the **scope of application** of the Directive, which is to be wide, covering areas spanning from public procurement or financial services to public health.

Negotiations will now start at the European Parliament.

Source: <https://www.consilium.europa.eu/en/press/press-releases/2019/01/25/better-protection-of-whistleblowers-council-adopts-its-position/pdf>