

PUBLIC CONSULTATION on 'Whistleblower Protection'

In the course of their work, individuals may come across information about acts or omissions which represent a threat or harm to the public interest (such as fraud, corruption, tax evasion, threats to public health and safety, to food safety and to the environment, mismanagement of public funds, misuse of personal data, unlawful use of private or inside information, money laundering, etc.). By reporting or disclosing such acts or omissions ("whistleblowing") they can help to prevent harm to the public interest.

Whilst malicious or abusive reporting should be prevented, individuals who have genuine concerns about a threat or harm to the public interest should feel safe to raise these concerns: by reporting internally within the organisation, so that the employer has the opportunity to address the issue, or to an oversight institution where the employer does not or cannot be reasonably expected to act on the report, or even to the public, where other appropriate reporting channels do not exist or have proven unsuccessful.

The Commission fully supports the objective of whistleblower protection against retaliation. Fear of retaliation can have a chilling effect on potential whistleblowers. Protection of whistleblowers against retaliation can thus contribute to safeguarding the public interest and strengthening the rule of law as well as freedom of expression, enshrined in Article 11 of the EU Charter of Fundamental Rights.

The EU plays an important role in helping Member States to protect the licit economy against organised crime, financial and tax fraud, money laundering and corruption, which hamper economic development and competitiveness and damage the rule of law. In its [Communication](#) of 5 July 2016, on further measures to enhance transparency and the fight against tax evasion and avoidance, the Commission underlined that the protection of whistleblowers in the public and the private sector contributes to addressing mismanagement and irregularities, including cross-border corruption relating to national or EU financial interests. It stressed the need for effective measures to protect those who report or disclose information on threats or harm to the public interest, thus contributing to increased detection of fraud and tax evasion and avoidance. EU law already contains rules protecting whistleblowers from certain forms of retaliation in different areas, ranging from audit and money laundering to trade secrets, market abuse, capital requirements and other instruments regulating financial services.

Discussions at the [2016 Annual Colloquium on Fundamental Rights](#) on "Media pluralism and Democracy" and the related public consultation revealed strong concerns about the lack of effective whistleblower protection across the EU and its negative effect on freedom of expression and on the public's right to access information. Investigative journalism relies on whistleblowers as a source, and, in turn, whistleblowers need protection in order to feel safe to disclose to journalists information in the public interest. Whistleblower protection therefore supports investigative journalists' 'watchdog' role in democratic societies.

In the perspective of strengthening whistleblower protection, the Commission will assess the scope for horizontal or further sectorial action at EU level, while respecting the principle of subsidiarity.

The present public consultation is intended to feed this assessment — without, however, either prejudging any action by the European Union or prejudging the legal feasibility of an EU action with regards to the limits of the Union's competence.

The objective is to gather input from a broad range of interested stakeholders, including public authorities, judges, prosecutors, ombudspersons, EU institutions and agencies, international

organisations, private companies, professional and business associations, trade unions and trade union associations, journalists, media representatives, civil society, academics and the general public.

The questions asked will enable to collect information, views and experiences on the benefits and drawbacks of whistleblower protection; on the elements that are important for effective whistleblower protection; on problems arising both at national and EU level from gaps and weaknesses of existing whistleblower protection and from the divergences of protection across the EU, as well as on the need for minimum standards of protection.

Should you wish to provide additional information (e.g. a short position paper) or raise specific points not covered by the questionnaire, you can upload your additional document at the end of the survey. Please note that the uploaded document will be published alongside your response to the questionnaire. The questionnaire is the essential input to this open public consultation. The optional document will serve only as additional background reading to better understand your position.

Please note:

- *Responding to the questionnaire will not take you much time and your input will be very much valued.*
- *Only the fields marked with * are mandatory*
- *You can save your draft answers and come back to them later.*

Definitions

For the purpose of this questionnaire:

"Whistleblower" means any person who reports or discloses information on a threat or harm to the public interest in the context of their work-based relationship, whether in the public or private sector.

"Whistleblower reports" cover reporting within the organisation and to an oversight institution. They also cover disclosure to the public (for example, through the media, the Internet, public interest groups or members of parliament).

"Wrongdoing" encompasses acts or omissions that represent a threat or harm to the public interest. These include - but are not limited to - fraud, corruption, tax evasion, mismanagement of public funds, risks to public health and safety, to food safety and the environment, to personal data protection and data security, to market regulation, to labour and social law.