Protection of persons reporting on breaches of Union law

2018/0106(COD) - 27/11/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Virginie ROZIÈRE (S&D, FR) on the proposal for a directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law.

The Committee on Economy and Monetary Affairs, exercising its prerogative as an associated committee in accordance with Article 54 of the Rules of Procedure, also gave its opinion on the report.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Purpose: the purpose of the proposed Directive is to enhance the protection of persons reporting breaches of Union law and to enhance the enforcement of the latter in order to safeguard the public interest, by laying down common minimum standards for the protection of persons reporting on unlawful activities or abuses of law.

Material scope: the amended text stipulates the proposed Directive seeks to lay down common minimum standards for the protection of persons reporting on unlawful activities or abuse of law including breaches of Union acts that relate, *inter alia*, to employment, working conditions, workers' rights and the principle of equal opportunities and treatment between men and women at work.

Personal scope: the Directive shall apply to reporting persons and **facilitators, acting in good faith**, working in the **private or public sector** and who acquired information on breaches in a work-related context including persons having the status of worker, including civil servants.

The Directive shall also apply to reporting persons acting in good faith whose work-based relationship is yet to begin in cases where information concerning a breach has been acquired during the recruitment process or other pre-contractual negotiation, as well as to reporting persons whose work-based relationship has **ceased**.

Obligation to establish internal channels and procedures for reporting and follow-up of reports: Member States shall ensure that employers and other legal entities in the private and in the public sector establish internal channels and procedures for reporting and following up on reports, following consultation and in agreement with the social partners.

Member States may **exclude** from the legal entities in the private sector the following private legal entities:

- private legal entities with fewer than 250 employees;
- private legal entities with an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

Procedures for internal reporting and follow-up of reports: the procedures for reporting and following-up of reports shall include the following:

- a **confidential** acknowledgment of receipt of the report to the reporting person within no more than **seven days** of that receipt;
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- the designation of an impartial person or independent department competent for following up on the reports;
- diligent follow up as regards anonymous reporting;
- a reasonable timeframe, **not exceeding two months** from the acknowledgment of receipt of the report, to provide feedback to the reporting person about the follow-up to the report. That timeframe may be extended to four months, where necessary due to the specific circumstances of the case;
- the possibility for the reporting person to be consulted and to present comments during the course of the investigation and the possibility for those comments to be taken into account where deemed relevant by the person or department concerned.

Record-keeping of reports received: Member States shall ensure that competent authorities keep records of every report received, in compliance with the confidentiality requirements provided for in this Directive. The reports shall be stored for no longer than is necessary and proportionate in view of the reporting procedure and shall be deleted as soon as the reporting procedure has been completed.

Duty of maintaining the confidentiality of the identity of reporting persons: Members stressed that the identity of a reporting person may not be disclosed without the reporting person's explicit consent. This confidentiality requirement shall also apply to information that may be used to discover the identity of the reporting person.

Remedial measures: Member States shall take the necessary measures to ensure remedies and full compensation for damages suffered by reporting persons. Such remedial measures may take the following forms: (i) reintegration; (ii) restoration of a cancelled permit, licence or contract; (iii) compensation for actual or future financial losses; (iv) compensation for other economic damages or non-material damages.

Penalties: Member States shall ensure that effective, proportionate and dissuasive penalties are applicable to reporting persons making reports or disclosures demonstrated to be knowingly false, and that measures are in place for compensating persons who have suffered damage from such false reports or disclosures.