

Social dialogue committee for central government administration's statement on the EU directive on whistleblowers' protection

Brussels, 8 February 2023

As part of their 2020-2022 work programme's item on prevention of conflict of interest, EU social partners for central government administrations discussed the transposition into domestic law of the EU directive on the protection of persons who report breaches of European Union law, which applies to both the public and private sectors.

They are convinced that:

- An efficient, transparent and high-quality public administration is essential for sustainable social and economic development, is of common interest to governments, their employees and citizens and is central to the EU fundamental right to good administration.
- Corruption and other forms of wrongdoing impact public administration because they distort government budgets, leading to inefficient provision of public services, reduced public investment and inequality in the distribution of socio-economic benefits.
- Corruption and other forms of wrongdoing undermine citizens' trust in public institutions which is necessary for decent work, social justice and sustainable companies. Ensuring trust, creating a work environment where employees feel safe and are provided with high level of confidentiality require a genuine effort to establish a workplace with a speak-up and listen-up culture.
- Central/federal government administration workers have both the duty to protect the confidentiality of the information they access and have the ability to report or, if the conditions are met, to publicly disclose a wrongdoing in the public interest. They must therefore be protected and not face any kind of retaliation.
- To be effective, the protection of whistle-blowers must be part of a wider framework to fight wrongdoing in the public sector which includes, among others: good governance, rule of law, an independent judiciary, freedom

of expression, a culture of transparency and trust, and the protection of human rights defenders, media, workers' organizations, and civil society.

They wish to:

- Emphasize that whistleblower's protection contributes to prevent and determine the causes of wrongdoing.
- Remind that internal reporting channels must be established for reporting persons, with confidentiality guarantees, following consultation and in agreement with the social partners at the workplace (employers and trade unions/staff representatives) when provided for by national law.
- Call for each administration to provide clear and easily accessible information on procedures for reporting and protection measures. When provided for by national law, remedies and easy to access advice should be available free of charge, as well as financial assistance and adapted support, including psychological support, for reporting persons in the framework of legal proceedings.
- Call for each body in charge of dealing with external reports to dedicate staff members, specifically trained to receive the reports, and who must diligently follow up and provide feedback to the whistleblower within a reasonable timeframe (not more than 3 months, which can be extended to 6 months in duly justified cases).
- Recall that, within the scope of the directive, protection is granted to those persons assisting the whistleblower in a work-related context, when reporting, including where those persons are workers' or union representatives.
- Commit to ensuring that central government employees will benefit from the highest standard reporting channels, protection and legal certainty on their employment status and other issues and become a role model in this regard.
- Recall that adequate remedies must be put in place in case of retaliation including reversal of burden of proof and interim relief. Conversely effective and proportionate sanctions to dissuade malicious or abusive reports must also be put in place.
- Commit to fostering a shared culture of transparency, trust, freedom of expression and respect of rule of law, which will ease cross-border

mobility of civil servants and employees and cooperation between administrations.

- Recall that the directive shall not affect the exercise of the worker's right to consult their representatives or trade unions, on protection against any unjustified detrimental measure prompted by such consultations and on the autonomy of the social partners and their right to enter into collective agreements.
- Commit to following-up, in close cooperation with the Commission and EU Ombudsman, a good implementation of the directive and encourage national social partners to cooperate on the matter in the civil service;
- Underline that the directive can serve as a point of reference for the follow-up to the ILO conclusions on potential measures that can be implemented and improved in the protection of whistleblowers in public services.