



TEXTS ADOPTED

P8_TA(2017)0402

Legitimate measures to protect whistle-blowers acting in the public interest

European Parliament resolution of 24 October 2017 on legitimate measures to protect whistle-blowers acting in the public interest when disclosing the confidential information of companies and public bodies (2016/2224(INI))

The European Parliament,

- having regard to the Treaty on European Union, in particular Article 2 thereof,
- having regard to the Charter of Fundamental Rights of the European Union, in particular Article 11 thereof,
- having regard to the European Convention on Human Rights (ECHR), in particular Article 10 thereof,
- having regard to Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure,
- having regard to Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC,
- having regard to Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC,
- having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC,
- having regard to its resolution of 25 November 2015 on tax rulings and other measures

similar in nature or effect¹,

- having regard to its resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect (TAXE 2)²,
- having regard to its resolution of 23 October 2013 on organised crime, corruption and money laundering: recommendations on action and initiatives to be taken³,
- having regard to Resolution 1729 (2010) of the Parliamentary Assembly of the Council of Europe on the protection of ‘whistle-blowers’,
- having regard to Resolution 2060 (2015) of the Parliamentary Assembly of the Council of Europe on improving the protection of whistle-blowers,
- having regard to its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union⁴,
- having regard to the Commission communication of 6 June 2011 on fighting corruption in the EU (COM(2011)0308),
- having regard to the Commission communication of 5 July 2016 on further measures to enhance transparency and the fight against tax evasion and avoidance (COM(2016)0451),
- having regard to the G20 Anti-Corruption Action Plan, in particular its guiding principles for legislation on the protection of whistle-blowers,
- having regard to the OECD report of March 2016 entitled ‘Committing to Effective Whistleblower Protection’,
- having regard to the Decision of the European Ombudsman closing her own-initiative inquiry OI/1/2014/PMC concerning whistle-blowing,
- having regard to the Recommendation CM/Rec(2014)7 of 30 April 2014 of the Committee of Ministers of the Council of Europe on the protection of whistle-blowers, as well to its relevant brief guide for implementing a national framework of January 2015,
- having regard to Resolution 2171 (2017) of the Parliamentary Assembly of the Council of Europe of 27 June 2017 calling on the national parliaments to recognise the ‘right to blow the whistle’,
- having regard to Principle 4 of the OECD Recommendation on Improving Ethical Conduct in the Public Service,
- having regard to the Convention on Combating Bribery of Foreign Public Officials in

¹ Texts adopted of that date, P8_TA(2015)0408.

² Texts adopted of that date, P8_TA(2016)0310.

³ OJ C 208, 10.6.2016, p. 89.

⁴ Texts adopted of that date, P8_TA(2015)0457.

International Business Transactions,

- having regard to its resolution of 14 February 2017 on the role of whistle-blowers in the protection of EU’s financial interests¹,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Budgetary Control, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Culture and Education, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Constitutional Affairs (A8-0295/2017),
- A. whereas the EU set itself the objective of upholding democracy and the rule of law and thus guarantees its citizens freedom of expression; whereas whistle-blowing is a fundamental aspect of the freedom of expression and information, as enshrined in the Charter of Fundamental Rights of the European Union, compliance with and application of which are guaranteed by the EU; whereas the EU promotes workers’ protection and the improvement of working conditions;
- B. whereas the European Union is helping to consolidate international cooperation in the fight against corruption, in full compliance with the principles of international law, human rights and the rule of law, as well as the sovereignty of each country;
- C. whereas under Article 67(2) of the Treaty on the Functioning of the European Union (TFEU) the European Union is competent to deal with matters relating to the European common asylum policy;
- D. whereas transparency and citizen participation are among the developments and challenges to be addressed by democracies in the 21st century;
- E. whereas, since the economic and financial crisis and the debt crisis, we have seen a wave of action against international tax avoidance and evasion; whereas more transparency in the financial services sphere is needed in order to discourage malpractice, and some Member States have already experience with central repositories for reporting actual or possible breaches of financial prudential rules; whereas the United Nations adopted its Convention against Corruption in 2003²; whereas Parliament established two special committees and one committee of inquiry following these revelations; whereas it has already called for protection of whistle-blowers in several resolutions³; whereas the initiatives already agreed upon to strengthen international information exchange in tax matters have been helpful, and whereas the various tax-related leaks have revealed large amounts of important information on malpractices that would otherwise not have surfaced;

¹ Texts adopted of that date, P8_TA(2017)0022.

² https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50027_F.pdf

³ See, for example, its resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect and its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union.

- F. whereas whistle-blowers play an important role in reporting unlawful or improper conduct which undermines the public interest and the functioning of our societies, and, in order to do so, they expose to their employer, public authorities or directly to the public, information on such conduct which undermines the public interest;
- G. whereas, in so doing, they help Member States, the major EU institutions and other EU bodies to prevent and tackle, in particular, any breach of the principle of integrity or any misuse of power that threatens or violates public health and safety, financial integrity, the economy, human rights, the environment or the rule of law, or which increases unemployment, limits or distorts fair competition or undermines citizens' trust in democratic institutions and processes at national and EU levels;
- H. whereas corruption is a serious problem facing the European Union today, as it can result in the failure of governments to protect the population, workers, the rule of law and the economy, in a deterioration of public institutions and services, economic growth and competitiveness in various fields, and in a loss of trust in the transparency and democratic accountability of public and private institutions and industries; whereas corruption is estimated to cost the EU economy EUR 120 billion annually or 1 % of EU GDP;
- I. whereas, while global anti-corruption efforts have thus far been focused predominantly on public sector wrongdoings, recent leaks have highlighted the role of financial institutions, advisers and other private companies in facilitating corruption;
- J. whereas a number of publicised whistle-blowing cases have shown that whistle-blowing brings information of public interest, such as unlawful or improper conduct or other serious wrongdoing in the private and public sectors, to the attention of the public and of political authorities; whereas some of these acts have therefore been subject to corrective measures;
- K. whereas the safeguarding of confidentiality contributes to the creation of more effective channels for reporting fraud, corruption or other infringements, and whereas, given the sensitivity of the information, mismanagement of confidentiality may lead to the unauthorised dissemination of information and a violation of the public interest of the Union and the Member States;
- L. whereas the introduction of public beneficial ownership registries for company trusts, and similar legal arrangements and other transparency measures for investment vehicles, may act as a counter-deterrent against the wrongdoings that whistle-blowers typically address;
- M. whereas safeguarding the confidentiality of whistle-blowers' identities and of the information they disclose contributes to the creation of more effective channels for reporting fraud, corruption, wrongdoing, misconduct and other serious infringements, and whereas, given the sensitivity of the information, mismanagement of confidentiality may lead to undesired information leaks and a violation of the public interest within the Union; whereas, in the public sector, protecting whistle-blowers can make it easier to detect the misuse of public funds, fraud and other forms of cross-border corruption linked to national or EU interests;
- N. whereas it is regrettable that the existing channels for making formal complaints about

misconduct by multinational companies rarely result in any concrete punishments for wrongdoings;

- O. whereas whistle-blowing has proved useful in a number of areas, in both the public and private sectors, such as public health, taxation, the environment, consumer protection, combating corruption and discrimination and upholding social rights;
- P. whereas such cases must be clearly defined, in the light of the duties performed by whistle-blowers, the seriousness of the facts reported or the nature of the dangers revealed;
- Q. whereas it is essential that the line between whistle-blowing and informing should not be crossed; whereas it is not a matter of knowing everything about everyone, but rather of identifying instances of a failure to address threats to democracy;
- R. whereas, in a number of cases, whistle-blowers are subject to retaliatory action, intimidation and pressure with the intention of preventing or deterring them from whistle-blowing or punishing them for having done so, and whereas such pressure is particularly often exercised in the workplace where whistle-blowers who have discovered information in the public interest in the context their working relationship may find themselves in a weaker position vis-à-vis employers;
- S. whereas serious concerns have often been raised that whistle-blowers acting in the public interest can face hostility, harassment, intimidation and exclusion at their place of work, impediments to future employment, loss of livelihood and often also serious threats to their family members and colleagues; whereas fears of retaliation can have a deterrent effect on whistle-blowers, thereby endangering the public interest;
- T. whereas the protection of whistle-blowers should be guaranteed by law and reinforced throughout the EU, in both the public and private sectors, provided they are acting on reasonable grounds; whereas such protection mechanisms should be balanced and guarantee full respect of the fundamental and legal rights of the persons against whom the reports are made; whereas such protection mechanisms should apply to investigative journalists, who remain vulnerable in the context of the disclosure of sensitive information and protect whistle-blowers in the name of the confidentiality of their sources;
- U. whereas the protection of whistle-blowers is not adequately guaranteed in a number of Member States, while many others have introduced advanced programmes to protect them, often, however, lacking in consistency and therefore offering an insufficient degree of protection; whereas the result of that is fragmented protection of whistle-blowers in Europe, which makes it difficult for them to find out their rights, and how to whistle-blow, and creates legal insecurity especially in cross-border scenarios;
- V. whereas the office of the European Ombudsman has a clear competence in relation to the investigation of EU citizens' complaints about maladministration in the EU institutions, but in itself plays no role in the protection of whistle-blowers;
- W. whereas whistle-blowing is very often not restricted to economic and financial matters; whereas the lack of adequate protection could dissuade potential whistle-blowers from reporting misconduct in order to avoid the risk of reprisal and/or retaliation; whereas the

OECD has reported that in 2015, 86 % of companies had a mechanism to report suspected instances of serious corporate misconduct, but over one-third of them did not have a written policy on protecting whistle-blowers from reprisals, or did not know if such a policy existed; whereas several whistle-blowers exposing economic and financial wrongdoings, misconducts or illegal activities have been subject to prosecution; whereas persons who report or disclose information in the public interest often suffer reprisals, as do family members and colleagues, resulting, for example, in the loss of their careers; whereas the European Court of Human Rights has a well-established case law regarding whistle-blowers, but the protection of whistle-blowers should be guaranteed by law; whereas the Charter of Fundamental Rights of the European Union ensures the freedom of expression and the right to good administration;

- X. whereas the protection of whistle-blowers in the European Union should not be limited to European cases alone, but should also apply to international cases;
- Y. whereas workplaces need to cultivate a working environment within which people feel confident in raising concerns about potential wrongdoings such as failings, misconduct, mismanagement, fraud or illegal actions; whereas it is extremely important to foster the right culture that allows people to feel able to raise issues without fear of reprisals that might affect their current and future employment situation;
- Z. whereas in many jurisdictions, and particularly in the private sector, employees are subject to duties of confidentiality with respect to certain information, with the possible consequence that whistle-blowers might encounter disciplinary action for reporting outside of their working relationship;
- AA. whereas, according to an OECD study, more than one third of organisations with a reporting mechanism do not have or do not know of a written policy on protecting whistle-blowers from reprisals;
- AB. whereas EU law already provides for certain rules protecting whistle-blowers from certain forms of retaliation in different areas, the Commission has not yet proposed adequate legislative measures for the effective and uniform protection of whistle-blowers and their rights in the EU;
- AC. whereas all EU institutions have been obliged since 1 January 2014 to introduce internal rules protecting whistle-blowers who are officials of EU institutions, in accordance with Articles 22a, 22b and 22c of the Staff Regulations;
- AD. whereas Parliament has repeatedly called for the horizontal protection of whistle-blowers in the EU;
- AE. whereas, in its resolutions of 23 October 2013 on organised crime, corruption and money laundering: recommendations on action and initiatives to be taken; of 25 November 2015 on tax rulings and other measures similar in nature or effect; of 16 December 2015 on bringing transparency, coordination and convergence to corporate tax policies; and of 14 February 2017 on the role of whistle-blowers in the protection of the EU's financial interests, Parliament called on the Commission to submit a legislative proposal establishing an effective and comprehensive European whistle-blower protection programme protecting those who report suspected fraud or

illegal activity affecting the public interest or the financial interests of the European Union;

- AF. whereas any third-country national recognised as a whistle-blower by the European Union or one of its Member States must be entitled to all the relevant protection measures if, whether in the course of his or her duties or otherwise, he or she has come into the possession of and disclosed information about illegal conduct or acts of espionage, committed either by a third country or by a domestic or multinational company, which are prejudicial to a State, a nation or Union citizens and jeopardise, without their knowledge, the integrity of a government, national security or collective or individual freedoms;
- AG. whereas since 1 July 2014 almost all European institutions and agencies have, as is mandatory, incorporated measures to protect whistle-blowers into their internal rules of procedure, in accordance with Articles 22(b) and (c) of the Staff Regulations;
- AH. whereas international organisations such as the Council of Europe and the OECD have already laid down principles which are now well established and the case-law of the European Court of Human Rights is consistent on that matter;
- AI. whereas the importance of the protection of whistle-blowers has been recognised by all major international instruments concerning corruption, and whistle-blowing standards have been set out by the United Nations Convention against Corruption (UNCAC), Council of Europe Recommendation CM/Rec(2014)7 and the 2009 OECD Anti-Bribery Recommendation;
- AJ. whereas it is vital for a horizontal, comprehensive framework to be established as a matter of urgency, which, by laying down rights and obligations, protects whistle-blowers effectively throughout the Member States of the EU, as well as in the EU institutions, authorities and organisations;

Role of whistle-blowers and the need to protect them

1. Calls on the Commission, after carrying out an assessment of the appropriate legal base enabling the EU to take further action, to present before the end of this year a horizontal legislative proposal establishing a comprehensive common regulatory framework which will guarantee a high level of protection across the board, in both the public and private sectors as well as in national and European institutions, including relevant national and European bodies, offices and agencies, for whistle-blowers in the EU, taking into account the national context and without limiting the possibility for Member States to take further measures; stresses that there are at present a number of possibilities for legal bases enabling the EU to take action on the matter; calls on the Commission to consider them with the aim of proposing a broad, coherent and effective mechanism; reminds the Commission of the doctrine elaborated by the CJEU, through long-standing case-law, on the concept of implied competences of the Union, which allows the use of several legal bases;
2. Emphasises the unreasonable and worrying fact that citizens and journalists are being subject to prosecution rather than legal protection when disclosing information in the public interest, including information on suspected misconduct, wrongdoing, fraud or illegal activity, particularly when it comes to conduct violating fundamental principles

of the EU, such as tax avoidance, tax evasion and money laundering;

3. Suggests that international agreements pertaining to financial services, taxation and competition should include provisions on the protection of whistle-blowers;
4. Highlights the need for legal certainty regarding the protective provisions afforded to whistle-blowers, as a continued lack of clarity and a fragmented approach deters potential whistle-blowers from coming forward; points out, therefore, that relevant EU legislation should establish a clear procedure for properly handling disclosures and effectively protecting whistle-blowers;
5. Recalls that any future normative framework should take into account the rules, rights and duties that govern and impact on employment; further emphasises that this should be done in consultation with the social partners and in compliance with collective bargaining agreements;
6. Calls for such legislation to ensure that companies that take fully verified retaliatory action against whistle-blowers may not receive EU funds nor enter into contracts with public bodies;
7. Encourages the Member States to develop benchmarks and indicators on whistle-blower policies in both the public and private sector;
8. Calls on the Member States to take into consideration Article 33 of the UN Convention against Corruption, underlining the role of whistle-blowers in the prevention of, and fight against, corruption;
9. Deplores the fact that only a few Member States have introduced sufficiently advanced whistle-blower protection systems; calls on those Member States which have not yet adopted such systems, or relevant principles in national law, to do so as soon as possible;
10. Stresses the need for more attention to business ethics in the educational curricula of business studies and related disciplines;
11. Encourages the Member States and the EU institutions to promote a culture of acknowledgement of the important role played by whistle-blowers in society, including through awareness-raising campaigns; calls on the Commission, in particular, to come up with a comprehensive plan on this issue; considers it necessary to foster an ethical culture in the public sector and in workplaces, so as to highlight the importance of raising employees' awareness of existing legal frameworks regarding whistle-blowing, in cooperation with trade union organisations;
12. Urges the Commission to monitor Member States' provisions on whistle-blowers with a view to facilitating the exchange of best practices, which will help to ensure more efficient protection for whistle-blowers at national level;
13. Calls on the Commission to provide a comprehensive plan to discourage asset transfers to countries outside the EU where the anonymity of corrupt persons can be maintained;
14. Takes 'whistle-blower' to mean anybody who reports on or reveals information in the public interest, including the European public interest, such as an unlawful or wrongful

act, or an act which represents a threat or involves harm, which undermines or endangers the public interest, usually but not only in the context of his or her working relationship, be it in the public or private sector, of a contractual relationship, or of his or her trade union or association activities; stresses that this includes individuals who are outside the traditional employee-employer relationship, such as consultants, contractors, trainees, volunteers, student workers, temporary workers and former employees, who have evidence of such acts with reasonable grounds to believe that the information reported is true;

15. Considers that individuals who are outside the traditional employee-employer relationship, such as consultants, contractors, trainees, volunteers, student workers, temporary workers and former employees, as well as citizens, should also be given access to reporting channels and appropriate protection when they reveal information on an unlawful or wrongful act or an act which undermines the public interest;
16. States that a clear solution for whistle-blowers working in EU-registered companies but based outside the EU is needed;
17. Considers that a breach of the public interest includes, but is not limited to, acts of corruption, criminal offences, breaches of legal obligations, miscarriages of justice, abuse of authority, conflicts of interest, unlawful use of public funds, misuse of powers, illicit financial flows, threats to the environment, health, public safety, national and global security, privacy and personal data protection, tax avoidance, consumers' rights, attacks on workers' rights and other social rights and attacks on human rights and fundamental freedoms as well as on the rule of law, and acts to cover up any of these breaches;
18. Considers that the general public interest should take precedence over the private or economic value of the information revealed, and that it should be possible to reveal information on serious threats to the public interest even when it is legally protected; takes the view, however, that special procedures should apply for information involving respect for professional ethics and classified information related to national security and defence; considers that in such cases, the report should be made to a competent authority;
19. Stresses that whistle-blowers must always be guaranteed effective protection, even if the disclosures do not concern unlawful acts, if the information is made available with the aim of ensuring that the public interest is not undermined;
20. Stresses the need for the Member States to comply with the Council of Europe Recommendation on the protection of whistle-blowers;
21. Stresses that the role of whistle-blowers in revealing serious attacks on the public interest has proved its significance on many occasions over a number of years and that whistle-blowers contribute to democracy, the transparency of politics and the economy and public information, and that they should be recognised as necessary to prevent illegitimate action; underlines that whistle-blowers have proved to be a crucial resource for investigative journalism and for an independent press; points out that guaranteeing the confidentiality of sources is fundamental to freedom of the press; calls on the Member States to ensure that the right of journalists not to reveal a source's identity is effectively protected; takes the view that journalists are also vulnerable and should

therefore benefit from legal protection;

22. Notes the fact that in recent years some Member States have taken steps to strengthen whistle-blowers' rights; deplures, however, the fact that whistle-blowers continue to be subject to civil and criminal proceedings in a number of Member States, especially where the existing means to defend, support and protect them are absent, insufficient or ineffective; notes that, in addition, the disparities between Member States lead to legal insecurity, forum shopping and the risk of unequal treatment;
23. Believes that the lack of adequate whistle-blower protection has a negative impact on the protection of the EU's financial interest;
24. Considers that the implementation of comprehensive legal regulations on the protection of whistle-blowers encourages a 'speak up' culture and that whistle-blowing should be promoted as an act of good citizenship; urges the Member States and the EU institutions, therefore, to promote the positive role that whistle-blowers play, as well the serious concerns regarding their often vulnerable and defenceless position, in particular through awareness-raising and protection campaigns, communication and training efforts; recommends to the Commission, in particular, that a comprehensive plan on this issue be presented; calls, in this context, for a website to be launched where useful information on the protection of whistle-blowers should be provided, and through which complaints can be submitted; stresses that this website should be easily accessible to the public and should keep their data anonymous;
25. Calls for action to change the public perception of whistle-blowers, particularly by politicians, employers and the media, by highlighting their positive role as an early-warning mechanism and a deterrent, enabling the detection and prevention of abuses and corruption, and as an accountability mechanism enabling public scrutiny of governments and companies;
26. Encourages Member States to be proactive in promoting an open culture within the workplace, whether public or private, which enables organisations to operate to high ethical standards, gives employees the confidence to speak up, and therefore enables action to be taken to prevent or remedy any threats or harm;
27. Encourages Member States to evaluate regularly the effectiveness of the measures they implement, taking account of public opinion on attitudes towards the act of whistle-blowing and whistle-blowers, cross-sectoral surveys of senior managers responsible for receiving and handling reports, and independent research studies on whistle-blowing across workplaces;
28. Encourages those Member States that have not yet adopted legislation on whistle-blowing to do so in the near future, and calls on the Commission to consider creating a platform for exchanging best practices in this area between Member States and also with third countries;
29. Highlights the importance of research and the exchange of best practices to encourage better protection for whistle-blowers at European level;
30. Urges the European Court of Auditors and the Office of the European Ombudsman to publish by the end of 2017: (1) special reports containing statistics and a clear track

record of whistle-blowing cases identified in the European institutions and in businesses, associations, organisations and other bodies registered in the Union; (2) the follow-up by the institutions concerned in relation to the cases revealed, on the basis of the current Commission guidelines and rules; (3) the outcome of each investigation opened as a result of the information received from whistle-blowers; (4) the measures envisaged in every case for the whistle-blowers' protection;

Reporting mechanism

31. Notes that the absence of clearly identified means of protection and of safe reporting, as well as the potential absence of follow-up, constitutes a barrier to whistle-blowers' activities, can dissuade them from whistle-blowing and can lead a number of whistle-blowers to remain silent; expresses its concern about retaliation and pressures which whistle-blowers face when they address the wrong person or party within their organisation;
32. Considers that it is necessary to establish a consistent, credible and reliable system which enables reports to be delivered inside the organisation, to competent authorities and outside the organisation; believes that such a system would facilitate the assessment of the credibility and validity of a report made within its framework;
33. Calls on the Commission to study a system which would enable whistle-blowing inside and outside the organisation; stresses that, to do so, clear, fair and equitable procedures should be established, ensuring full respect for the fundamental and legal rights of both the whistle-blower and the alleged wrongdoer; believes that employers should be encouraged to introduce internal reporting procedures and that one independent and impartial person or entity should be responsible for collecting reports in each organisation; considers that employee representatives should be involved in the assignment of that role; underlines that the recipient of the alert should give appropriate follow-up to each report received and keep the whistle-blower informed of that follow-up in a reasonable time frame;
34. Believes that each organisation should set up clear reporting channels allowing the whistle-blower to blow the whistle inside his or her organisation; underlines that each employee should be informed of the relevant reporting procedure, which should guarantee confidentiality and a treatment of the alert within a reasonable time frame; underlines that the whistle-blower must remain able to turn to the appropriate public authorities, non-governmental organisations or the media, especially in the absence of a favourable response from the organisation, or if reporting internally or to the competent authorities would obviously compromise the efficiency of the alert, if the whistle-blower is at risk or urgently needs to report information;
35. Highlights the right of the public to be informed of any wrongdoing that undermines the public interest; underlines, in that respect, that it should always be possible for a whistle-blower publicly to disclose information on an unlawful or wrongful act or an act which undermines the public interest;
36. Points out that its resolution of 14 February 2017 on the role of whistle-blowers in the protection of EU's financial interests also calls for the EU institutions, in co-operation with all relevant national authorities, to introduce and take all necessary measures to protect the confidentiality of information sources, and calls therefore for the creation of

a controlled website where complaints can be submitted in a strictly confidential manner;

37. Believes that reporting outside the organisation, including directly to the public without first going through an internal step, is not grounds to invalidate a report, file a lawsuit or refuse to give protection; believes that this protection should be granted independently of the chosen reporting channel and on grounds of the information revealed and the fact that the whistle-blower had reasonable grounds to believe that it was true;

Protection given to whistle-blowers

38. Expresses its concerns about the risks run by whistle-blowers at their place of work, in particular the risks of direct or indirect retaliation by the employer and by those working for or acting on behalf of the employer; stresses that retaliation usually takes the form of suspending, slowing down or stopping career progression, or even of dismissal, along with psychological harassment; stresses that retaliation is a barrier to whistle-blowers' activities; believes that it is necessary to introduce protective measures against retaliation; takes the view that retaliation should be penalised and sanctioned effectively; stresses that, once someone is recognised as a whistle-blower, measures should be taken to protect him or her, to bring to an end any retaliation measures taken against him or her, and to grant the whistle-blower full compensation for the prejudice and damage incurred; is of the opinion that these provisions should be included in the Commission's proposal for a horizontal whistle-blower protection directive;
39. Considers that whistle-blowers should have the option of lodging an application for interim relief to prevent retaliation, such as dismissal, until there is an official outcome of any administrative, judicial or other proceedings;
40. Emphasises that no employment relationship should restrict someone's right of freedom of expression and that no one should be discriminated against in the event of exercising that right;
41. Points out that any future normative framework should take into account the rules, rights and duties that govern and impact on employment; emphasises, furthermore, that this should be done with the involvement of the social partners and in compliance with collective bargaining agreements;
42. Stresses that whistle-blowers and their family members, as well as anyone who assists them and whose lives or safety are in jeopardy, must be entitled to proper and effective protection of their physical, moral and social integrity and their livelihoods by being granted the highest possible level of confidentiality;
43. Emphasises that protection should also be provided if a whistle-blower draws attention to conduct involving a Member State;
44. Notes that investigative journalists and members of the independent press pursue a profession that is often solitary and in the course of which they face many kinds of pressure, and therefore that it is essential they be protected against all attempts at intimidation;
45. Suggests that interim relief pending the outcome of civil proceedings should be available for persons who have been the victim of retaliation for having made a public

interest report or disclosure, particularly in cases of loss of employment;

46. Condemns the practice of gagging orders, which involve filing or threatening to file lawsuits against the whistle-blower not in an effort to seek justice but in an effort to bring about self-censorship or financial, mental or psychological exhaustion; believes that such abuse of process should be subject to criminal penalties and sanctions;
47. Points out the risk that whistle-blowers run of having legal and civil proceedings brought against them; stresses that they are often the weaker party in trials; considers, therefore, that in the case of alleged retaliatory actions taken against the whistle-blower, the employer shall provide evidence that these actions are unrelated to the report made by the whistle-blower; considers that the protection of the whistle-blower should be granted on the basis of the information exposed and not on the intention of the whistle-blower; stresses, however, that the whistle-blower must have reported information that he or she believed to be true; takes the view that confidentiality should be guaranteed throughout the proceedings and that the identity of the whistle-blower shall not be revealed without his or her consent; underlines that a breach of the confidentiality of identity without the whistle-blower's consent should be subject to criminal penalties and sanctions;
48. Takes the view that whistle-blowers should not be liable for prosecution, civil legal action or administrative or disciplinary penalties because they have made a report;
49. Believes that the option to report anonymously could encourage whistle-blowers to share information which they would not share otherwise; stresses, in that regard, that clearly regulated means of reporting anonymously, to the national or European independent body responsible for collecting reports, verifying their credibility, following up on the response given and providing guidance to whistle-blowers, including in the digital environment, should be introduced, setting out exactly the cases in which the means of reporting anonymously apply; stresses that the identity of the whistle-blower and any information allowing his or her identification should not be revealed without his or her consent; considers that any breach of anonymity should be subject to sanctions;
50. Stresses that nobody should lose the benefit of protection on the sole grounds that he or she has misjudged the facts or that the perceived threat to the public interest did not materialise, provided that, at the time of reporting, he or she had reasonable grounds to believe them to be true; recalls that, in the event of false accusations, those responsible should be held accountable and not benefit from the protection granted to whistle-blowers; stresses that any person who is prejudiced, whether directly or indirectly, by the reporting or disclosure of inaccurate or misleading information should be afforded the right to seek effective remedies against malicious or abusive reporting;
51. Recalls the importance of devising instruments to ban any form of retaliation, whether this is passive dismissal or passive measures; urges the Member States to refrain from criminalising the actions of whistle-blowers in disclosing information on unlawful or wrongful acts or acts which undermine or endanger the public interest;
52. Recalls that in the meantime, current EU law must be applied properly by both the EU institutions and the Member States, and that it should be interpreted in such a way as to offer whistle-blowers acting in the public interest the best possible protection; stresses

that whistle-blower protection has already been recognised as an important mechanism for ensuring the effective application of EU legislation; calls, therefore, on the Member States to refrain from criminalising the actions of whistle-blowers who disclose information in the public interest;

Supporting whistle-blowers

53. Stresses the role that public authorities, trade unions and civil society organisations play in supporting and helping whistle-blowers in their dealings within their organisation;
54. Stresses that, in addition to the professional risks, whistle-blowers, as well as people who assist them, also face personal, psychological, social and financial risks; believes that, where applicable, psychological support should be provided, that specialised legal aid should be given to whistle-blowers who ask for it and lack sufficient resources, that social and financial aid should be given to those who express a duly justified need for it, and as a protective measure if civil or judicial proceedings are brought against a whistle-blower, in accordance with national law and practices; adds that compensation should be granted, irrespective of the nature of the damage suffered by the whistle-blower as a result of making a report;
55. Refers, in this respect, to the fact that the European Ombudsman has indicated in Parliament that she is willing to examine the possibility of creating such a body within the Ombudsman's Office, and urges the Commission to look into the feasibility of entrusting the European Ombudsman, which already has a competence to investigate complaints of malpractices within the EU institutions, with these tasks;
56. Calls on Member States and EU institutions, in cooperation with all relevant authorities, to introduce and take all possible necessary measures to protect the confidentiality of the information sources in order to prevent any discriminatory actions or threats, as well as to establish transparent channels for information disclosure, to set up independent national and EU authorities to protect whistle-blowers, and to consider providing those authorities with specific support funds; calls also for the establishment of a centralised European authority for the effective protection of whistle-blowers and people who assist their acts based on the model of national privacy watchdogs;
57. Calls on the Commission, in order for these measures to be effective, to develop instruments focusing on providing protection against unjustified legal prosecutions, economic sanctions and discrimination;
58. Calls on the Member States to establish independent bodies, with sufficient budgetary resources, adequate competence and appropriate specialists, responsible for collecting reports, verifying their credibility, following up on the response given and providing guidance to whistle-blowers, particularly in the absence of a positive response from their organisation, as well as orienting them towards appropriate financial help, especially in cross-border situations or in cases directly involving Member States or the EU institutions; suggests that the latter publish an annual report on the alerts received and their treatment, while respecting the confidentiality requirement of potentially ongoing investigations;
59. Stresses that consideration should be given to making access to information and confidential advice free of charge for individuals contemplating making a public interest

report or disclosure on unlawful or wrongful acts which undermine or endanger the public interest; notes that structures able to provide such information and advice should be identified and their details made available to the general public;

60. Emphasises that, in addition to all the protection measures afforded to whistle-blowers in general, these whistle-blowers in particular must be guaranteed proper reception arrangements, accommodation and safety in a Member State which does not have an extradition agreement with the country which committed the acts in question; in cases where the European Union has an extradition agreement with the third country involved, calls on the Commission, pursuant to Article 67(2) TFEU on European asylum policy, to use its powers to take all the measures required to protect these whistle-blowers, who are particularly vulnerable to severe reprisals in the country whose illegal or fraudulent practices they brought to public attention;
61. Calls on the Commission to propose the establishment of a similar body at EU level, with sufficient budgetary resources, adequate competence and appropriate specialists, responsible for coordinating Member State activities, particularly in cross-border cases; believes that that European body should also be able to collect reports, verify their credibility, issue binding recommendations and guide whistle-blowers when the response given by the Member State or national bodies is obviously not appropriate; suggests that the latter publish an annual report on the alerts received and their treatment, while respecting the confidentiality requirement of potentially ongoing investigations; considers that the European Ombudsman's mandate could be extended to serve that purpose;
62. Believes that, once an alert has been recognised as serious, it should lead to proper investigation and be followed by appropriate measures; underlines that, during the investigation, the whistle-blower should be allowed to clarify his or her complaint and provide additional information or evidence;
63. Encourages the Member States to develop data, benchmarks and indicators on whistle-blower policies in the public and private sectors;
64. Calls on the EU institutions to address the Ombudsman's own initiative report of 24 July 2014, in compliance with Article 22(c) of the new Staff Regulations, inviting all EU bodies to adopt ethical alert mechanisms and whistle-blowing legal frameworks directly based on the internal rules of the Ombudsman's office; reiterates its determination to take such action;
65. Considers that whistle-blowers should also have the right to review and comment on the outcome of the investigation related to their disclosure;
66. Calls on the EU institutions and other EU bodies to lead by example by applying, without delay, the European Ombudsman's guidelines; calls on the Commission to implement in full, both for itself and for EU agencies, its own guidelines protecting whistle-blowers in accordance with its 2012 staff regulations; calls on the Commission effectively to cooperate and coordinate efforts with other institutions, including the European Public Prosecutor's Office, to protect whistle-blowers;
67. Points to the need for a better system for reporting corporate malpractices, one that complements and seeks to improve the efficiency of the current National Contact Points

for the OECD Guidelines for Multinational Enterprises;

68. Stresses that investigations into the issues raised by whistle-blowers should be conducted independently and within the shortest time frame possible, protecting too the rights of individuals potentially implicated by a disclosure; underlines that both the whistle-blower and any person implicated by a disclosure should be able to provide additional arguments and evidence throughout the investigation, and that they should be kept informed of the handling of the disclosure;
69. Welcomes the fact that the Commission has finally introduced a channel for whistle-blowers to report or disclose information on competition and cartel agreements, but stresses the need for simplifying procedures and insists that there should not be an excessive number of channels;

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70. Instructs its President to forward this resolution to the Council and the Commission.