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## New directive on the protection of whistle-blowers.

**Directive (EU) 2019/1937** of the European Parliament and of the Council of 23 October 2019 on the protection of persons reporting on breaches of Union law has now been published on 26 November 2019 in the Official Journal of the European Union (hereinafter the “**Directive**”).

### > Aim of the Directive

The European Commission and the European Parliament having acknowledged that the protection granted to whistle-blowers within the European Union varies across Member States and policy areas, the Directive aims at enhancing “*the enforcement of Union law and policies in specific areas by laying down common minimum standards providing for a high level of protection of persons reporting breaches of Union law*”.

### > Definition of whistle-blowers

The Directive provides a broad definition of whistle-blowers, encompassing (i) workers, (ii) self-employed, (iii) shareholders or persons belonging to the administrative, management or supervisory body of an undertaking, including non-executive members, as well as volunteers and paid or unpaid trainees, and (iv) any persons working under the supervision and direction of contractors, subcontractors and suppliers, reporting breaches of Union law that are harmful to the public interest.

### > Changes introduced by the Directive

Key elements include:

- **creation of reporting channels** within companies/administrations employing over 50 employees and municipalities of more than 10,000 inhabitants;
- **hierarchy of reporting channels**: whistle-blowers are encouraged to use internal channels first before turning to external channels which public authorities must set up. Whistle-blowers will however not lose their protection if they directly use external channels. A reporting made directly publicly (so outside internal and external channels) is still possible under certain circumstances;

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- **wide scope of areas** in respect of which protection will be offered to whistle-blowers reporting breaches, including public procurement, financial services, products and markets, prevention of money laundering, public health, environment, protection of privacy and personal data as well as security of network and information systems. Member States may choose to go beyond this list and extend it to violation of national legal provisions (the Luxembourg Minister of Justice already expressed his intent to do so);
- **introduction of a set of rules to ensure support and protection of whistle-blowers** such as protection against retaliation measures. Such protection is extended to third persons connected with the whistle-blower;
- **specific timeline for authorities and companies to provide feedback** following a report made by a whistle-blower (3 months with the possibility of extending it up to 6 months for external channels).

## >Timing

The Directive will enter into force on 16 December 2019 and must be implemented by the Member States within two years (i.e. on 17 December 2021 at the latest).

A more detailed analysis of the provisions of the Directive and their impact will be communicated shortly.

This publication is intended merely to highlight issues and not to be comprehensive, nor to provide legal advice. Should you have any questions on issues reported here or on other areas of law, please contact one of your regular contacts, or contact the editors.

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