Public consultation on whistleblower protection

Information on publication

* IMPORTANT NOTICE ON THE PUBLICATION OF CONTRIBUTIONS
Contributions received from this survey will be published on the European Commission’s website. Do you agree to the publication of your contribution?

For further information, please consult the privacy statement attached
- Yes, my contribution may be published under my name (or the name of my organisation)
- Yes, my contribution may be published but should be kept anonymous (with no mention of the person/organisation)

Identification

* In what capacity are you completing this questionnaire?
- In my own capacity
- On behalf of an organisation
* What is the nature of your organisation?

- Business/professional association
- Trade union/trade union association
- Enterprise (legal entity with an economic activity)
- Academic/research institution
- Law firm/notary
- Hospital
- Media
- Non-governmental organisation (NGO)
- Public authority/administration
- Independent surveillance authority (e.g. independent body dealing with consumer protection, competition, regulation of the energy sector, central banks, auditing bodies etc.)
- Judicial authorities and law enforcement structures
- Other
- Non Applicable

* What is the area of activity of your organisation?

- Manufacturing
- Retail
- Transport
- Health
- Education
- Energy
- Food safety
- Environment
- Security
- Bank/other financial services
- Financial or tax advice
- Legal advice
- Judiciary/law enforcement
- Consultancy
- Media
- Human rights
- Academic/research
- Other
Please specify

- Company trade union
- National trade union
- Trade union association

Is your organisation included in the EU Transparency Register?

It is not compulsory to register to reply to this consultation. We would however encourage you to register [here](#) as the Transparency Register provides citizens with direct and single access to information about who is engaged in activities aiming at influencing the EU decision-making process, which interests are being pursued and what level of resources are invested in these activities.

- Yes
- No

Please indicate your Register ID-number

27471236588-39
* Please indicate the place of establishment of your organisation

Main headquarters in case of multinational organisations

- [ ] Austria
- [ ] Belgium
- [ ] Bulgaria
- [ ] Croatia
- [ ] Cyprus
- [ ] Czech Republic
- [ ] Denmark
- [ ] Estonia
- [ ] Finland
- [ ] France
- [ ] Germany
- [ ] Greece
- [ ] Hungary
- [ ] Ireland
- [ ] Italy
- [ ] Latvia
- [ ] Lithuania
- [ ] Luxembourg
- [ ] Malta
- [ ] Netherlands
- [ ] Poland
- [ ] Portugal
- [ ] Romania
- [ ] Slovak Republic
- [ ] Slovenia
- [ ] Spain
- [ ] Sweden
- [ ] United Kingdom
- [ ] Other

From your **direct work experience**, do you have knowledge of whistleblower cases in the last ten years?

- [ ] Yes
- [ ] No
How did you obtain this knowledge:
- I was directly involved (as whistleblower or as witness to whistleblower cases, e.g. disclosure by a colleague)
- I was involved in investigating whistleblower cases
- I professionally collect information on whistleblower cases

What is the size of the organisation concerned (i.e. where the whistleblower cases occurred), including self-employed workers?
- 1 – 9 (micro)
- 10 – 49 (small)
- 50 – 249 (medium sized)
- 250 – 999 (large)
- 1000 or more (large)
- 5000 or more (large)
- Non applicable (the organisation concerned was a public administration)

What is the annual turnover of the organisation concerned?
- Less than EUR 200 thousand
- Between EUR 200 thousand and 2 million
- Between EUR 2 million and 10 million
- Between EUR 10 million and 50 million
- Above EUR 50 million
- Non applicable (the organisation concerned is a public administration)

Is the organisation concerned present:
- in one EU country only
- in more than one EU country
- also in countries outside the EU
- Non applicable (the organisation concerned was a public administration)

Perceptions and opinions on whistleblower protection

Do you think that whistleblowing should be protected?
- Yes
- No
- Don't know
To your mind, how often are workers reporting their concerns about threats or harm to the public interest?

- Very often
- Often
- Rarely
- Very rarely
- Don't know

To your mind, which of the following are the most important reasons why a person might decide not to blow the whistle?

Please rate importance, 1: very important, 2: important, 3: somewhat important, 4 not important.

<table>
<thead>
<tr>
<th>Reason</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't know</th>
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</thead>
<tbody>
<tr>
<td>Do not know how/where to report</td>
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<td>Threat or harm to the public interest difficult to prove</td>
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<td>No action will be taken to remedy the wrongdoing</td>
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<tr>
<td>Fear of legal consequences</td>
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<td>Fear of financial consequences</td>
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<td>It would be an act of disloyalty</td>
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<td>It would be a breach of professional privilege</td>
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<td>Negative attitudes towards whistleblowers</td>
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<td>Fear of bad reputation</td>
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<td>Other</td>
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</tbody>
</table>
A person might decide not to blow the whistle as the previous cases showed how difficult it is to deal with the consequences: losing job, bad reputation, reprisals, prosecution, legal costs, impact on the relatives...

To your mind, what are the BENEFITS of rules obliging public and private sector organisations to protect whistleblowers?

Please rate importance: 1: very important, 2: important, 3: somewhat important, 4 not important.

<table>
<thead>
<tr>
<th>Benefit</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don’t know</th>
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</thead>
<tbody>
<tr>
<td>Strengthen compliance with the law by public authorities and businesses</td>
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<td>Strengthen freedom of expression</td>
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<td>Help to improve companies’ economic performance</td>
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<td>Foster a workplace culture of transparency and accountability</td>
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<td>Increase workers’ motivation</td>
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<td>Enhance workers’ wellbeing</td>
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<td>Other benefit (please specify)</td>
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Please use the space below if you have further comments

Protecting whistleblowers will benefit in general to democracy and consequently to press freedom, freedom of expression and public’s right to know. As the LuxLeaks scandal showed, whistleblowers are potential sources for investigative journalists. Journalists’ work is much more difficult if their sources are criminalised.
To your mind, in which areas are rules on whistleblower protection beneficial?

Please rate importance: 1: very important, 2: important, 3: somewhat important, 4 not important.

<table>
<thead>
<tr>
<th>Area</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't know</th>
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</thead>
<tbody>
<tr>
<td>Contribute to the fight against fraud and corruption</td>
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<td>Contribute to the proper management of public (national and EU) funds</td>
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<td>Improve investors’ trust</td>
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<tr>
<td>Contribute to the fight against tax evasion and tax avoidance</td>
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<td>Enhance protection of public health and safety</td>
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<td>Enhance food safety</td>
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<td>Enhance the protection of the environment</td>
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<td>Encourage fair competition</td>
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<td>Other benefit (please specify)</td>
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Please use the space below if you have further comments

500 character(s) maximum

Rules on whistleblower protection will be beneficial for worker’s rights and working conditions.
Rules on whistleblower protection will be beneficial for press freedom, freedom of expression and protection of sources.
To your mind, what are the DRAWBACKS of rules obliging public and private sector organisations to protect whistleblowers?

Please rate importance, 1: very important, 2: important, 3: somewhat important, 4 not important.

<table>
<thead>
<tr>
<th>Drawback</th>
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<th>2</th>
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<th>Don't know</th>
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<tbody>
<tr>
<td>Encourage false reporting or over reporting</td>
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<td>Undermine the general public's confidence in public institutions if</td>
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<td>information considered secret or protected is divulged by civil servants</td>
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<td>(e.g. personal tax information)</td>
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<td>Undermine mutual trust in the workplace</td>
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<td>Imply significant administrative burdens /costs for the private sector</td>
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<tr>
<td>Imply significant administrative burdens /costs for the public sector</td>
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<tr>
<td>Undermine trust between companies /business partners</td>
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<td>Undermine trust between clients and service-providers (e.g. legal</td>
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<td>advisors, tax advisors, accountants, consultants)</td>
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<tr>
<td>Damage business reputation/trust in public institutions</td>
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<tr>
<td>Encourage the leaking of confidential know-how and business information</td>
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<tr>
<td>(trade secrets)</td>
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<tr>
<td>Other drawback (please specify)</td>
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</tbody>
</table>

Please use the space below if you have further comments

500 character(s) maximum
In your opinion, which of the following aspects that raise awareness of whistleblower rights and procedures are important for effective whistleblower protection?

Please rate importance, 1: very important, 2: important, 3: somewhat important, 4 not important.

<table>
<thead>
<tr>
<th>Aspect</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don’t know</th>
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</thead>
<tbody>
<tr>
<td>Clear definition in law of the threats to the public interest covered by whistleblower protection</td>
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<tr>
<td>Clear general information and awareness raising policies by the state (e.g. information campaigns) concerning rights of whistleblowers (including on advice and assistance) and applicable procedures</td>
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<td>Clear information by private or public sector organisations to their employees concerning rights of whistleblowers (including on advice and assistance) and relevant internal procedures</td>
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<tr>
<td>Clear information and awareness raising by trade unions concerning rights of whistleblowers (including on advice and assistance) and applicable procedures</td>
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<td>Other (please specify)</td>
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Please use the space below if you have further comments

500 character(s) maximum

In your opinion, which of the following aspects are important for effective whistleblower protection?

Please rate importance: 1: very important, 2: important, 3: somewhat important, 4 not important.
<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't Know</th>
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</thead>
<tbody>
<tr>
<td>Channels in organisations/businesses for internal reporting of wrongful doings</td>
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<td>Channels for reporting of wrongful doings to oversight institutions</td>
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<tr>
<td>Protection in case of disclosure to the public (e.g. media, web platforms, etc) where channels for internal reporting and for reporting to oversight institutions are not available, not functioning properly (or cannot reasonably be expected to function properly)</td>
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<tr>
<td>Proper investigation of the whistleblower reports or disclosures</td>
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<tr>
<td>Protection against retaliation at work</td>
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<tr>
<td>Protection of whistleblowers in administrative proceedings</td>
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<tr>
<td>Exemption of whistleblowers from criminal liability</td>
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<td>Immunity from civil action for damages</td>
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<td>Financial support covering the costs of legal proceedings</td>
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<td>Psychological support</td>
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<tr>
<td>Other (please specify)</td>
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</table>
Whistleblowers should not have to prove that they have exhausted all internal channels before going public. Whistleblowers should be able to disclose their information through the most appropriate channel – internally or externally – without any order of priority and with the possibility to remain anonymous.
In your opinion, which of the following aspects of protection against retaliation at work are important for effective whistleblower protection?

Please rate importance: 1: very important, 2: important, 3: somewhat important, 4 not important

| Protection of confidentiality of whistleblower’s data, including where latter is anonymous but identifiable | 1 | 2 | 3 | 4 | Don't know |
| Protection against dismissal, e.g. interim relief to suspend dismissal, right to reinstatement in the workplace, etc. |  |  |  |  |  |
| Protection against suspension |  |  |  |  |  |
| Protection against demotion |  |  |  |  |  |
| Protection against loss of promotion opportunities |  |  |  |  |  |
| Protection against punitive transfers |  |  |  |  |  |
| Protection against reductions in or deductions of wages |  |  |  |  |  |
| Protection against harassment by superiors and/or colleagues |  |  |  |  |  |
| Reversing the burden of proof so that, in a prima facie case of retaliation, the employer carries the burden to demonstrate that any measure taken against a whistleblower is not related to a whistle-blower’s disclosure |  |  |  |  |  |
| Protection against blacklisting |  |  |  |  |  |
| Financial support to cover costs of legal proceedings |  |  |  |  |  |
| Compensation for dismissal or financial loss |  |  |  |  |  |
| Other (please specify) |  |  |  |  |  |
In your opinion, which of the following protection measures for third parties are important in the context of whistleblowing?

Please rate importance: 1: very important, 2: important, 3: somewhat important, 4 not important

<table>
<thead>
<tr>
<th>Protection Measure</th>
<th>1</th>
<th>2</th>
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<th>Don’t know</th>
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</thead>
<tbody>
<tr>
<td>Requirement that the whistleblowers reasonably believe the information they disclose to be true</td>
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<tr>
<td>Requirement that the whistleblowers act in a disinterested way</td>
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<tr>
<td>Requirement that the disclosure concerns a matter of public interest</td>
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<tr>
<td>Protection of the rights of the person/business affected by the report (e.g. rights of dignity, personal data, business secrets and respect of the rights of defence) including protection against abusive/malicious reports</td>
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<td>3</td>
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<tr>
<td>Rules aimed at balancing the interest of employers to manage their organisations and to protect their interests with the right of the public to know when their interests are at risk</td>
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<tr>
<td>Rules aimed at balancing professional secrecy obligations with the right of the public to know when their interests are at risk</td>
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<tr>
<td>Other (please specify)</td>
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</table>
Companies' interests can't outweigh public interest. The interests of employers must be balanced with the public’s right to know when their interests are at risk, likely to be threatened or when the law is being broken. In addition, the 'public interest' requirement presupposes the good faith and the disinterested character of the whistleblower. The motive of the whistleblower should not prevail over the utility of the disclosure.

Existing rules and their impacts

*Do you know of rules in place in your country of residence (private citizens) or establishment (for organisations) on the protection of whistleblowers?

- [ ] Yes
- [x] No

Whistleblowers enjoy very different levels of protection across the various EU countries, and in some EU countries they enjoy limited or no protection at all. In your opinion, what are the negative impacts likely to result from the absence of - or the insufficient - whistleblower protection in some EU countries or other EU countries and the EU as a whole?

Please rate likelihood, 1: very likely, 2: likely, 3: somewhat likely; 4 unlikely.

<table>
<thead>
<tr>
<th>Negative impact on the protection of the public interest also of those Member States providing stronger whistleblower protection or of the public interest of the EU as a whole (in areas such as the fight against fraud and corruption, tax evasion and tax avoidance, misuse of personal data and market abuse, protection of public health and safety, food safety and the environment, protection of fair competition)</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't know</th>
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<td>Negative impact on the protection of the financial interests of the EU (both as regards EU expenditures, for example fraud to EU grants, as well as EU revenues, for example fraud to customs duties)</td>
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<tr>
<td>Negative impact on the well-being of workers whose companies move from a Member State offering a higher level of whistleblower protection to a Member State with lower or no protection</td>
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<tr>
<td>Negative impact on the cross-border mobility of workers who would be reluctant to move from a Member State with a higher level of whistleblower protection to one with lower or no protection</td>
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<tr>
<td>Negative impact on the freedom of establishment of companies which would be reluctant to move from a Member State offering a higher level of whistleblower protection to a Member State with lower or no protection (resulting in a weaker culture of integrity and accountability and lower investors’ trust)</td>
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<tr>
<td>Negative impact on the freedom of establishment of companies which would be reluctant to move to a Member State offering a higher level of protection of whistleblowers (e.g. where the introduction of relevant arrangements may imply significant administrative costs due to necessary changes in the business model)</td>
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<tr>
<td>Negative impact on the free movement of capital, because investors would be reluctant to invest in companies established in a Member State with low or no protection</td>
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<tr>
<td>Negative impact on the free movement of capital, because investors would only invest in companies established in a Member State with low or no whistleblower protection (e.g. where the introduction of relevant arrangements may imply significant administrative costs)</td>
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<td>Distortion of competition at EU level resulting from the lower level of legal compliance with relevant rules, and of integrity and accountability in Member States where there is lower or no whistleblower protection</td>
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<td>Other negative cross-border impact (please specify)</td>
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<tr>
<td>There are no such negative impacts</td>
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Please use the space below if you have further comments

500 character(s) maximum
In your opinion, what are the positive impacts likely to result from the absence of whistleblower protection in some EU countries for other EU countries and the EU as a whole?

Please rate the likelihood: 1. very likely, 2. likely; 3. somewhat likely; 4. unlikely

<table>
<thead>
<tr>
<th>Positive impact on the protection of the public interest also of those Member States providing weaker or no whistleblower protection or of the public interest of the EU as a whole (because of spill-over effects, e.g. incentive for Member States to compete)</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't know</th>
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<table>
<thead>
<tr>
<th>Positive impact on the well-being of workers whose companies move from a Member State offering a lower level of whistleblower protection to a Member State with higher level of protection</th>
<th>1</th>
<th>2</th>
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<th>Don't know</th>
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<thead>
<tr>
<th>Positive impact on the cross-border mobility of workers who would be incentivised to move from a Member State with a lower level of whistleblower protection to one with higher level of protection</th>
<th>1</th>
<th>2</th>
<th>3</th>
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<th>Don't know</th>
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<thead>
<tr>
<th>Positive impact on the freedom of establishment of companies which would be incentivised to move from a Member State offering a higher level of whistleblower protection to a Member State with lower or no protection (e.g. due to administrative burden and costs).</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't know</th>
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<thead>
<tr>
<th>Positive impact on the free movement of capital, because investors would invest in companies established in a Member State with low or no protection (e.g. less administrative burden or costs)</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Don't know</th>
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<thead>
<tr>
<th>Other positive cross-border impact (please specify)</th>
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<th>2</th>
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<th>Don't know</th>
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<thead>
<tr>
<th>There are no such positive impacts</th>
<th>1</th>
<th>2</th>
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<th>4</th>
<th>Don't know</th>
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Please use the space below if you have further comments

500 character(s) maximum
Need for minimum standards

Considering what you have indicated as important aspects for effective whistleblower protection, in your opinion who should establish legally binding minimum standards on these aspects?

- No legal obligation needed
- Solely national legislation
- EU legislation (in conjunction with national legislation)
- No opinion

In which area should the EU offer (more) support to the Member States to provide whistleblower protection:

<table>
<thead>
<tr>
<th>Area</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly disagree</th>
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</thead>
<tbody>
<tr>
<td>Protection of public health and safety</td>
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<td>Protection of food safety</td>
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<td>Protection of environment</td>
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<td>Protection of energy supply</td>
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<tr>
<td>Fight against tax evasion and tax avoidance</td>
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<tr>
<td>Fight against anti-competitive practices (cartels etc.)</td>
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<tr>
<td>Increase of accountability and transparency in industry and business</td>
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<tr>
<td>Fight against fraud and corruption</td>
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<td>Good management of public (national and EU) funds</td>
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<tr>
<td>Other (please specify)</td>
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</table>
Please indicate, for which of the minimum standards within any potential EU legislation you would consider horizontal, generally applicable, whistleblower protection and/or sectorial legal provisions more effective. EU sectorial legal provisions refer to the areas in which the EU should offer support to the Member States, as indicated in the previous question.

<table>
<thead>
<tr>
<th>Channels in an organisation/business for reporting of wrongdoing</th>
<th>EU horizontal legal provisions</th>
<th>EU sectorial legal provisions</th>
<th>A combination of EU and sectorial legal provisions</th>
<th>A combination of EU and national legal provisions</th>
<th>No opinion</th>
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</thead>
<tbody>
<tr>
<td>Channels for reporting to relevant public regulatory bodies (i.e. regulatory agencies in specific sector)</td>
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<tr>
<td>Channels for reporting to horizontal independent body (e.g. ombudsman)</td>
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<table>
<thead>
<tr>
<th>Channels for reporting to sectorial independent body (e.g. concerning financial services, energy, taxation, etc.)</th>
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<tbody>
<tr>
<td>Channels for reporting to law enforcement (e.g. police, prosecution)</td>
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<tr>
<td>Protection in case of disclosure to the public (media, web platforms, etc) where internal reporting and reporting to oversight institutions are not available, not functioning properly or cannot reasonably expected to function properly.</td>
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<tr>
<td>Right of workers to be informed on the whistleblowing provisions and procedures applicable at the specific workplace</td>
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<td>Procedure that grants whistleblowers an official status (with rights of information)</td>
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<tr>
<td>Procedure to inform whistleblowers on regular basis about the status of the follow-up to their report</td>
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<tr>
<td>Rules for contact of whistleblowers with the investigation authority before, during and after an investigation</td>
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<td>Rules on whistleblowers' access to the file or to documents in the file</td>
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<tr>
<td>Proper investigation of the relevant reports and disclosures</td>
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<tr>
<td>Protection of the confidentiality of the whistleblower's data</td>
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<td>Protection of the rights and interests of third parties implicated</td>
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<tr>
<td>Protection of whistleblowers against retaliation at work</td>
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<td>Protection of whistleblowers in administrative proceedings</td>
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<td>Immunity from civil action for damages</td>
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<td>Exemption of whistleblowers from criminal liability</td>
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<td>Financial support covering the costs of legal proceedings</td>
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<td>Financial or other types of rewards</td>
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<tr>
<td>Psychological support</td>
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<tr>
<td>Other minimum standard (please specify)</td>
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</table>
An EU-wide horizontal whistleblower protection should be established through a directive, providing a minimum level of protection throughout all member states and without sectoral boundaries. This would allow for national transposition through building on already established law in member states that offer protection and improving the situation where the protection is poor.