

PROTECTING WHISTLEBLOWERS

Council of Europe
Recommendation CM/Rec(2014)7

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What is whistleblowing?

Whistleblowing is about bringing into the open information on activities that have harmed or threaten the public interest. People blow the whistle because they believe that these activities should be stopped and remedial action taken. In many cases it is simply about informing employers about irregular activities they were unaware of and which they are quick to correct. In other situations whistleblowers may consider it necessary to contact the appropriate regulatory, supervisory or enforcement agencies. Occasionally, they will want to make the wrongdoing public, typically via Internet and other media, or by contacting public interest groups or members of parliament.

Why it matters

Whistleblowing is about protecting human rights and the rule of law in a democratic society. It is about making Europe a safer and better place.

All organisations, in the public and private sectors, run the risk of something going badly wrong or of unwittingly harbouring malpractice. We all rely on the services and products that governments and business provide. Whether it is customer safety, environmental damage, professional misconduct, child abuse, financial embezzlement or corruption, people working in organisations are often the first to notice. They may be best placed to speak up before damage is done, but they often fear they have the most to lose by doing so. If they are not able to safely and easily speak up about their concerns early enough for a problem to be addressed, the danger is that nothing will be done until it is too late.

What the recommendation says

Recommendation CM/Rec(2014)7 of the Committee of Ministers on the protection of whistleblowers is addressed to Council of Europe member states. It explains what public-interest whistleblowing is and its value in deterring and preventing wrongdoing and malpractice. It also explains why we cannot rely on the status quo and describes what a robust framework for facilitating whistleblowing and protecting whistleblowers should look like, setting out a number of key principles to ensure that:

- ▶ laws to protect whistleblowers cover a broad range of information that is in the public interest;
- ▶ people have access to more than one channel to report and disclose such information;
- ▶ mechanisms are in place to ensure reports and disclosures are acted on promptly;
- ▶ all forms of retaliation are prohibited as long as the individual whistleblower has reasonable grounds to believe in the accuracy of the information;
- ▶ whistleblowers are entitled to have their identities kept confidential by those to whom they report, unless they agree otherwise (subject to fair trial guarantees).

A multi-disciplinary approach

Member states are encouraged to have a national framework that facilitates whistleblowing and protects whistleblowers. This requires a multi-disciplinary approach involving national institutions, judicial systems and laws and policies that work together coherently. This will make sure that people at work who discover some harm or threat to the public interest can properly raise their concerns with those responsible for addressing such issues – and not suffer unfairly for doing so.

Background

■ In its 2009 report on the protection on whistleblowers, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe found that whistleblowers across Europe had often sounded the alarm and revealed a number of issues that were not identified or resolved through other means. In many of these cases, even though their concerns were justified and they were ultimately vindicated, the whistleblowers suffered negative consequences for their efforts, at work and in law. The fear of reprisals is clearly one of the main reasons people stay silent, but the Parliamentary Assembly also identified another and potentially stronger reason for silence: the belief that nothing will be done.

■ Recommendation CM/Rec(2014)7 sets out principles encouraging member states to take action, including legislative change, to protect whistleblowers and provides guidance on the minimum standards to be implemented. The effective protection of whistleblowers against retaliation is also considered a crucial element of anti-corruption policies, as noted by the Commission of the European Union and the OECD.

Make a difference

■ There are many ways to make it easier for information to get to the right people at the right time and to ensure matters of public interest are properly examined and addressed. The role of trade unions, civil society and the wider public in supporting individuals who speak up in the public interest cannot be overestimated or understated. They are all important in creating positive attitudes towards whistleblowing.

■ We all know why we want the whistle to be blown: to protect the well-being of a loved one or safeguard our life savings, for example. But if we want others to speak up for us, then we need to support those who speak up in the interests of others – even if that means that sometimes our own authority is challenged.

■ Europeans have the right to engage in the responsible running of their societies – and in making a difference – and should exercise that right. Promoting whistleblowing and protecting whistleblowers is one important way of ensuring that this is done properly.

Council of Europe recommendations – what are they?

■ A recommendation is a legal instrument adopted by the decision-making body of the Council of Europe (the Committee of Ministers) and addressed to its member states. It represents an agreement of “common policy” across Europe and seeks to promote laws and practices that meet high standards of democratic accountability and human rights. While a recommendation is not binding on governments of member states, it is of strong persuasive value. Recommendation CM/Rec(2014)7 on the protection of whistleblowers was adopted on 30 April 2014.

**Council of Europe
Directorate General for Human Rights
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Justice and Legal Co-operation
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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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