**CHAPTER I**

***PURPOSE,* SCOPE AND DEFINITIONS**

*Compromise amendment on Article -1 and Article 1*

*Compromise amendement covering amendments 30 (Raporteur), 31 (Rapporteur), 32 (Rapporteur), 33 (Rapporteur), 67 (Chrysogonos), 68 (Regner), 69 (Rozière), 25 (ENVI), 219 (Didier), 220 (Rapporteur), 221 (Chrysogonos), 222 (Durand), 224 (Ferrara), 225 (Voss), 226 (Chrysogonos), 227 (Rapporteur), 228 (Chrysgonos), 229 (Durand), 230 (Chrysogonos), 236 (Rapporteur),238 (Durand), 240 (Regner), 244 (Castaldo), 246 (Durand)*

***Article -1 supported by Rapporteur, EPP, ECR, ALDE, Greens, GUE, EFDD***

***Purpose***

***The purpose of this Directive is to enhance the individual protection of persons reporting breaches*** ***of*** ***Union law and policies and to enhance the enforcement of the latter in order to safeguard the public interest, by laying down common minimum standards for the protection of persons reporting on unlawful activities or abuses of law in the areas specified in Article 1***

**Article 1 *supported by Rapporteur, EPP, ECR, ALDE, Greens, GUE, EFDD***

**Material scope**

1. **~~With a view to enhancing the enforcement of Union law and policies in specific areas~~**~~,~~ This Directive lays down common minimum standards for the protection of persons reporting on the following unlawful activities or abuse of law.

a) ***breaches of Union acts, which include, inter alia, the acts set out in the Annex (Part I and Part II) and the acts implementing them, that relate to the following areas:***:

(i) public procurement;

(ii) financial services, prevention of money laundering and terrorist financing;

(iii) product safety;

(iv) transport safety;

(v) protection of the environment;

(vi) nuclear safety;

(vii) food and feed safety, animal health and welfare;

(viii) public health;

(ix) consumer protection;

(x) protection of privacy and personal data, and security of network and information systems.

***(xa)*** ***employment, working conditions,workers' rights and the principle of equal opportunities and treatment between men and women at work.***

b) breaches of Articles 101, 102, 106, 107 and 108 TFEU and breaches falling within the scope of Council Regulation (EC) No 1/2003 and Council Regulation (EU) No 2015/1589;

c) breaches affecting the financial interests of the Union as defined by Article 325 TFEU and as further specified, in particular, in Directive (EU) 2017/1371 and Regulation (EU, Euratom) No 883/2013;

d) breaches relating to the internal market, as referred to in Article 26(2) TFEU, as regards acts which breach the rules of corporate tax or arrangements whose purpose is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law.

2. Where specific rules on the reporting of breaches are provided for in sector-specific Union acts listed in Part 2 of the Annex, those rules shall apply. The provisions of this Directive shall be applicable for all matters relating to the protection of reporting persons not regulated in those sector-specific Union acts.

**Corresponding citation and recital**

*Compromise amendment on citation 1*

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, ***153 (1), (a), (b), and (e), 157(3),***168, 169, 192, 207 and 325(4) thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

*Compromise amendment on recital 1*

*Covering amendment 1 (Rapporteur), 71 (Buda), 72 (Durand), 73 (Popa), 75( Chrysogonos), 77 (Cavada)*

(1) Persons who work for ***a public or private*** organisation or are in contact with it in the context of their work-related activities are often the first to know about threats or harm to the public ***or the general*** interest which arise in this context. By ‘blowing the whistle’ they play a key role in exposing and preventing breaches of the law ***harmful to the public ~~or general~~ interest*** and in safeguarding the welfare of society. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. ***In this context, the importance of providing balanced and effective whistleblowers protection is increasingly acknowledged both at European and international level. The purpose of this Directive is therefore to create a climate of trust that enables whistleblowers to report observed or suspected breaches of lawand threats to the public interest and*** ***to enhance the exercise of freedom of expression and the freedom of the media enshrined in Article 11 of the Charter of Fundamental Rights of the European Union. It should be highlighted that these freedoms are the cornerstone of the investigative journalism and the principle of the confidentiality of sources of information.***

*Compromise amendment on new recital 19*

*Covering amendment 109 (Buda), 110 (Durand)*

(19) Each time a new Union act for which whistleblower protection is relevantand can **~~contribute to more~~** ***have a impact in terms of*** more effective enforcement is adopted, **~~consideration~~** ***it*** should **~~be given to whether to amend~~** ***added to*** the Annex to the present Directive in order to place it under its scope.

*Compromise amendment on new recital 19a (new)*

*Covering amendment 9 (EMPL), 14 (LIBE), 111 (Rapporteur)*

(19a) In certain situations, infringements of Union law regarding workers’ protection, employment and working conditions, social, individual and collective workers' rights can be the subject of effective individual procedures to secure redress. On the other hand, where such infringements are systematic, they undermine the public interest and there is therefore a need to provide for the protection of those who report such infringements. In certain fields, difficulties with the implementation of European legislation have been observed, for example unacceptable resort to precarious employment. Effective enforcement of Union law is also required and improving the protection of whistleblowers in the field of labour law would thus improve the application of the law and ensure a high level of protection of workers in the internal market while ensuring fair competition between economic operators.

*New compromise amendment on the Annex I – part I – point J a (new)*

*Covering amendments 573 (Chrysogonos), 574 (Rapporteur)*

Annex I – part I – point J a (new)

J a Article 1 (a) (xa) - employment, working conditions, workers' rights and the principle of equal opportunities and treatment between men and women at work.

1. Employment legislation of the European Union, as regulated in particular by:

(i) Council Directive91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L288, 18.10.1991, p. 32);

(ii) Council Directive91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (OJ L 206, 29.7.1991, p.19);

(iii) Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994,p. 12);

(iv) Council Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies (OJ L 225, 12.8.1998, p. 16);

(v) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16);

(vi) Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82,22.3.2001, p. 16);

(vii) Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ L 80, 23.3.2002, p. 29–34)

(viii) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, p. 9);

(ix) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23);

(x) Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (OJ L 283,28.10.2008, p. 36);

(xi)Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9–14 )

(xii) Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 122, 16.5.2009, p. 28–44)

(xiii) Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (OJ L180, 15.7.2010, p. 1);

(xiv) Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) (OJ L 159, 28.5.2014, p. 11);

(xv) Regulation (EC) No 450/2003 of the European Parliament and of the Council of 27 February 2003 concerning the labour cost index (OJ L 69, 13.3.2003, p. 1);

(xvi) Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19);

2. Working conditions, as regulated in particular by:

(i) all individual Directives within the meaning of Article 16(1) of Directive 89/391/EEC;

(ii) Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 260, 3.10.2009, p. 5);

(iii) Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work(OJ L 330, 16.12.2009, p. 28);

(iv) Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

*Compromise amendement on Article 2*

*Covering amendments 34 (Rapporteur), 36 (Rapporteur), 249 (Buda), 250 (Popa), 251 (Didier), 252 (Chrysogonos), 253 (Durand), 254 (Chrysognos), 255 (Durand), 256 (Guteland), 257 (Stevens), 258 (Svoboda), 259 (Voss), 260 (Chrysogonos), 261 (Rozière), 262 (Cavada), 263 (Svoboda), 264 (Voss), 265 (Durand), 266 (Svoboda), 267 (Voss), 268 (Popa), 269 (Ferrara), 271 (Durand), 272 (Buda), 273 (Chrysogonos), 274 (Cavada), 272 (Voss), 279 (Chrysogonos), 281 (Cavada)*

**Personal scope**

1. This Directive shall apply to reporting persons ***and facilitators*** working in the private or public sector ***acting in good faith*** who acquired information on breaches in a work-related context including, at least, the following:

a) persons having the status of worker, with ***the meaning of*** ***national law and national practice*** or with the meaning of Article 45 TFEU, ***including persons having the status of civil servants***;

b) persons having the status of self-employed, with the meaning of Article 49 TFEU;

c) shareholders and persons belonging to the management body of an undertaking, including non-executive members, as well as volunteers and ***paid or*** unpaid trainees;

d) any persons working under the supervision and direction of contractors, subcontractors***, service providers*** and suppliers.

2. This Directive shall also apply to reporting persons ***acting in good faith***whose work-based relationship is yet to begin in cases where information concerning a breach has been acquired during the recruitment process or other pre-contractual negotiation***, as well as to reporting persons whose working relationship has ceased***.

**Corresponding recitals**

*Compromise amendement on recital 28a : facilitators and intermediaries*

*Covering amendment 10 (Rapporteur), 125 (Chrysogonos), 129 (Durand), 131 (Cavada)*

***(28a) Similarly, it is important to ensure protection for those, for example colleagues, assisting the whistleblower in the workplace, inter alia by providing advice on how to proceed, the proper channels for reporting, the protections available, or what wording to use in the report. These persons may be made privy to the information uncovered and may therefore also be victims of retaliation. They should, as such, benefit from the protection provided for by this Directive. Investigative journalists also play a crucial role in exposing breaches of EU law and potentially suffer from retaliation measures, such as strategic litigation suits, for example regarding libel or defamation. They should therefore also be entitled to enjoy the protection measures provided for in this Directive, so as to safeguard freedom of expression as far as the protection provided for in national law does not foresee more favourable provisions.***

*Compromise amendment on définitions - Article 3*

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| * *Given the fact that definitions are interlinked with the rest of the text, the rapporteur has not suggested compromise amendments on all definitions yet.*

*Some of amendments proposed on the definitions are in the Rapporteur’s view now covered in other part of the text. This is for instance the case for:** *good faith where there is now a reference to in article 2 and recital 60*
* *the reference to work-based relationship which is dealt under article 2*

*Where possible, the Rapporteur suggests to consider those amendments as covered by other CAMs and therefore not put them to vote. The voting list could be drafted accordingly.* * *If shadows agree on having on reference to “facilitators, the Rapporteur suggests the following compromise amendment on article 3 paragraphe 9a and covering amendments 40 (Rapporteur), 301 (Durand), 304 (Popa), 320 (Chrysogonos)*
* *The Rapporteur would also like to suggest the following compromise amendment on article 3 paragraph 12 and covering amendments 41 (Rapporteur), 309 (Durand), 310 (Buda), 311 (Cavada), 312 (Chrysogonos), 313 (Svoboda), 314 (Popa)*
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***(9a) ‘facilitator’ means a natural person who assists or aids the reporting person in the reporting process*** ***in a work-related context.***

 (12) ‘retaliation’ means any threatened or actual, ***direct or indirect,*** act or omission prompted by the internal or external reporting ***or public disclosure*** which occurs in a work-related context and causes or may cause unjustified detriment to the reporting person;

***14a ‘good faith’ means the reasonable belief of a reporting person, in light of the circumstances and the information available to this person at the time of the reporting, that the matters reported by this person are true and fall within the scope of this Directive.***