

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 435 (2019)<sup>1</sup>

### The protection of whistle-blowers Challenges and opportunities for local and regional government

1. Effective protection of whistle-blowers is one of the key areas that the Congress of Local and Regional Authorities of the Council of Europe agreed to work on in its roadmap of activities for preventing corruption and promoting public ethics at local and regional levels, which it adopted at its 31st session in October 2016. The Congress is convinced that corruption poses a threat to good governance at local and regional levels and that it undermines fundamental democratic values.

2. As whistle-blowers often have access to information which sometimes cannot be detected by integrity monitoring mechanisms and institutions, they constitute a unique added value to institutional safeguards and can make a vital contribution to the fight against corruption by promoting greater transparency and accountability in local and regional authorities.

3. Local and regional authorities, responsible for delivering public services across many sectors, can be at greater risk of corruption, as there are often fewer safeguards in place than at the national level. The bringing to light of activities that are not in the public interest, by means of reporting, is an important weapon in the fight against corruption at this level, which needs to be encouraged through appropriate policies and legal instruments.

4. While legislation on whistle-blower protection is now in place in many member States, it has not always been matched with effective measures for the management of whistle-blowing or adequate measures to protect individuals who decide to report cases of misconduct or wrongdoing.

5. At the same time, legitimate public concern at the manipulation of public opinion in the media through so-called “fake news” can make it easier for those accused of misconduct to dismiss the criticisms as being false.

6. Public attitudes to reporting tend to change more slowly than the legislation in this area. Raising awareness of whistle-blower protection can lead to an increase in cases of reporting and can, in consequence, be a valuable tool in the fight against corruption.

7. In light of the above considerations, the Congress, bearing in mind:

*a.* the Council of Europe’s Programme of Action against Corruption, the Council of Europe Criminal Law Convention

on Corruption (ETS No. 173) and the Council of Europe Civil Law Convention on Corruption (ETS No. 174);

*b.* Resolution (97) 24 of the Committee of Ministers on the twenty guiding principles for the fight against corruption;

*c.* Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistle-blowers,

8. Invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to:

*a.* ensure that national legislation provides for the protection of whistle-blowers at the local and regional levels and, in particular, that it:

*i.* applies not only to suspected cases of wrongdoing related to corruption, but also to broader issues of public interest, such as risks to public health or the environment;

*ii.* includes the possibility for anonymous reporting or grants “pre-emptive protection” for individuals exposed to retaliation;

*iii.* ensures post-reporting follow-up of disclosures that are in the public interest;

*b.* establish agencies at the national level to monitor the implementation and effectiveness of whistle-blowing legislation and to ensure professional training for public officials;

*c.* ensure that whistle-blower protection also covers individuals whose employment has already ended and those who disclose information acquired during the recruitment process and who have yet to begin their employment;

*d.* extend whistle-blower protection to individuals working in the private sector and who are involved in the provision of local and regional public services, and encourage their employers to introduce internal reporting procedures;

*e.* introduce national whistle-blowing campaigns to promote the unique added value of whistle-blowing in the fight against corruption, to raise awareness of the issue and to challenge social attitudes, which in some countries discourage individuals from reporting matters of public interest;

*f.* encourage initiatives that offer additional reporting channels and support for whistle-blowers;

*g.* ensure that any measures put in place to target those who peddle falsehoods or “fake news” do not inadvertently silence people who wish to raise genuine concerns, and that such measures are not used as a means of retaliation against these people;

*h.* guarantee access to information and confidential advice for individuals considering disclosing information in the public interest;

*i.* introduce periodic assessments of the effectiveness of the national framework to monitor the implementation of the rules and regulations on whistle-blower protection;

*j.* support national associations of local and regional authorities in their work to co-ordinate and harmonise

whistle-blower protection among the authorities that they represent.

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1. Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)14](#), explanatory memorandum), rapporteur: Josan MEIJERS, Netherlands (R, SOC).