

CDDH comments on the Parliamentary Assembly Recommendation 2162(2019) – IMPROVING THE PROTECTION OF WHISTLE-BLOWERS ALL OVER EUROPE

92nd meeting - 26–29 November 2019 - CDDH(2019)R92

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly's Recommendation 2162 (2019) – "Improving the protection of whistle-blowers all over Europe". Whistleblowing represents an important means in the fight against corruption and tackling gross mismanagement in the public and private sectors. The protection of whistle-blowers is a fundamental aspect of freedom of expression and freedom of conscience.
2. The CDDH recalls that recent developments within the Council of Europe member States and within the European Union as regards the existing practices and/or standards on the protection of whistle-blowers are addressed in the "Guide to good and promising practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies", prepared by the CDDH and transmitted to the Committee of Ministers for information at its 1357th meeting (16 October 2019).¹
3. The CDDH shares the opinion of the Parliamentary Assembly on the importance to maintain coherence between the Council of Europe's approach reflected in Recommendation CM/Rec(2014)7 of the Committee of Ministers² and the EU's approach reflected in the proposal for a directive of the European Parliament and of the European Council on the protection of persons reporting on breaches of Union law.
4. As regards the Assembly's invitation to the Committee of Ministers to begin preparations for negotiating a binding legal instrument in the form of a Council of Europe Convention in this field which would draw on, *inter alia*, the above-mentioned European directive and the Council of Europe acquis on this matter, namely Recommendation CM/Rec2014(7) and the above-mentioned CDDH Guide, the CDDH notes that this issue will be considered by the European Committee on Legal Co-operation (CDCJ). The CDDH expresses its availability to, if appropriate, co-operate with the CDCJ in this field.

* * *

Text of Recommendation 2162(2019)

"IMPROVING THE PROTECTION OF WHISTLE-BLOWERS ALL OVER EUROPE"

Parliamentary Assembly

1. The Assembly refers to its [Resolution 2300 \(2019\)](#) "Improving the protection of whistle-blowers all over Europe", its [Recommendation 2073 \(2015\)](#) "Improving the protection of whistle-blowers" and the Committee of Ministers' reply of 25 January 2016.

¹ See document [CM\(2019\)148](#), §§ 361-373.

² CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistle-blowers, adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers' Deputies.

2. It recalls that a proposal for a directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law, the aim of which is to set minimum common standards to ensure a high level of protection for whistle-blowers in all EU member States, is about to come into force. This draft directive is inspired in large part by the Committee of Ministers' Recommendation CM/Rec2014(7) on this subject, but it also contains clarifications of, and improvements to, that recommendation. The draft directive addresses an issue of particular importance for democracy, the rule of law and human rights, especially the fight against corruption and the protection of freedom of expression and of information.
3. In order to avoid a new legal divide in this area that falls within the Council of Europe's three priorities, the Assembly reiterates its invitation to the Committee of Ministers to begin preparations for negotiating a binding legal instrument in the form of a Council of Europe Convention as a follow-up to its [Resolution 2060 \(2015\)](#) and its [Recommendation 2073 \(2015\)](#). This instrument should draw on the above-mentioned European directive, taking due account of the clarifications and additions proposed in Assembly [Resolution 2300 \(2019\)](#).