

36th SESSION

The protection of whistleblowers

Challenges and opportunities for local and regional government

Resolution 444 (2019)¹

1. Aware of the corrosive effect that corruption can have on public trust and the quality and efficiency of government, the Congress adopted a roadmap of activities, at its 31st session in October 2016 to fight corruption and decided to prepare reports on several themes, including the protection of whistleblowers.
2. While there have recently been substantial legislative developments on protecting whistleblowers, most of these are limited in scope to the national level, leaving local and regional authorities with few mechanisms for reporting suspected illegal actions.
3. Whistleblowers have a unique role to play in local and regional governance. At the subnational level, the one closest to the citizens, it is easier to detect alleged violations of law than at the national level. This also means that local and regional authorities are especially vulnerable to various types of corruption, given their responsibility for public service provision, which is increasingly based on public-private partnerships, accompanied by the transfer of public resources to the private sector.
4. The issues of anonymity and confidentiality can pose particular challenges at the local level. The small size of many local authorities limits the choice of reporting channels that an individual would choose to communicate suspected illegal actions. However due to the limited scope of legislation, which often does not recognise anonymous reporting, individuals in possession of information that could be considered as threatening or harmful to the public interest, often decide not to disclose it, fearing negative personal consequences and possible retaliation at the work place.
5. With regard to the confidentiality issue, local and regional authorities should consider external reporting as a last resort, which can reduce the chances of the identity of a whistle-blower being disclosed.
6. Whistle-blower protection is not just a matter of legislation, there also needs to be a change in social attitudes to the disclosure of information, which often discourage individuals from reporting crucial information, afraid of potential negative consequences that could ensue. Action needs to be taken to make the public aware of the important role of whistleblowers in the fight against corruption.
7. In the light of the above, 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);

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).

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 whistleblowers;

8. Calls upon local and regional authorities of the Council of Europe member States to:

a. establish and disseminate a whistleblowing policy, respecting the 20 principles set out in the aforementioned Recommendation CM/Rec(2014)7;

b. guarantee the establishment of appropriate internal reporting channels and the possibility for employees to consult confidential advisors within their organisation;

c. ensure that independent designated institutions, such as local and regional ombudsmen, exist to oversee and process the disclosure of information, and to act as a place of reporting of last resort, if local and regional employees feel unable to raise their concerns internally;

d. ensure that individuals who wish to report cases of misconduct or wrongdoing have access to reporting channels which would allow them to remain anonymous or offer a 'pre-emptive protection' option in case of retaliation;

e. provide information:

i. on the circumstances under which a suspicion of wrongdoing can be reported inside and outside the organisation;

ii. on the legal protection for whistleblowers;

f. ensure that reporting channels, such as information hotlines, also exist for individuals working in the private sector, who are involved in the provision of local and regional public services;

g. ensure that individuals disclosing information in the public interest are informed in a timely manner about the follow-up made in response to their reports;

h. encourage positive attitudes towards whistleblowing among citizens by promoting whistleblowing policies and publicising post-reporting follow-up;

i. ensure that individuals considering reporting suspected cases of wrongdoing have access to advice that is confidential and free of charge, from external bodies such as NGOs and national associations;

j. introduce periodic assessments of the effectiveness of rules and regulations on the protection of whistleblowers.

9. Calls on national associations of local and regional authorities to:

a. guide and assist local and regional authorities in introducing and implementing whistleblowing policies;

b. assist local and regional authorities in designing and implementing training programmes for officials and employees to raise awareness of the existing rules and procedures and the role of whistleblowing in the fight against corruption;

c. liaise with central anti-corruption agencies to ensure the maximum harmonisation of whistle-blower policies.