

Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law

CHAPTER II

**INTERNAL REPORTING AND FOLLOW-UP**

*Article 7*

**Reporting through internal reporting channels**

- 1 As a general principle and without prejudice to Articles 10 and 15, information on breaches may be reported through the internal reporting channels and procedures provided for in this Chapter.
- 2 Member States shall encourage reporting through internal reporting channels before reporting through external reporting channels, where the breach can be addressed effectively internally and where the reporting person considers that there is no risk of retaliation.
- 3 Appropriate information relating to the use of internal reporting channels referred to in paragraph 2 shall be provided in the context of the information given by legal entities in the private and public sector pursuant to point (g) of Article 9(1), and by competent authorities pursuant to point (a) of Article 12(4) and Article 13.

*Article 8*

**Obligation to establish internal reporting channels**

- 1 Member States shall ensure that legal entities in the private and public sector establish channels and procedures for internal reporting and for follow-up, following consultation and in agreement with the social partners where provided for by national law.
- 2 The channels and procedures referred to in paragraph 1 of this Article shall enable the entity's workers to report information on breaches. They may enable other persons, referred to in points (b), (c) and (d) of Article 4(1) and Article 4(2), who are in contact with the entity in the context of their work-related activities to also report information on breaches.
- 3 Paragraph 1 shall apply to legal entities in the private sector with 50 or more workers.
- 4 The threshold laid down in paragraph 3 shall not apply to the entities falling within the scope of Union acts referred to in Parts I.B and II of the Annex.
- 5 Reporting channels may be operated internally by a person or department designated for that purpose or provided externally by a third party. The safeguards and requirements referred to in Article 9(1) shall also apply to entrusted third parties operating the reporting channel for a legal entity in the private sector.
- 6 Legal entities in the private sector with 50 to 249 workers may share resources as regards the receipt of reports and any investigation to be carried out. This shall be without prejudice to the obligations imposed upon such entities by this Directive to maintain confidentiality, to give feedback, and to address the reported breach.

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7 Following an appropriate risk assessment taking into account the nature of the activities of the entities and the ensuing level of risk for, in particular, the environment and public health, Member States may require legal entities in the private sector with fewer than 50 workers to establish internal reporting channels and procedures in accordance with Chapter II.

8 Member States shall notify the Commission of any decision they take to require legal entities in the private sector to establish internal reporting channels pursuant to paragraph 7. That notification shall include the reasons for the decision and the criteria used in the risk assessment referred to in paragraph 7. The Commission shall communicate that decision to the other Member States.

9 Paragraph 1 shall apply to all legal entities in the public sector, including any entity owned or controlled by such entities.

Member States may exempt from the obligation referred to in paragraph 1 municipalities with fewer than 10 000 inhabitants or fewer than 50 workers, or other entities referred to in the first subparagraph of this paragraph with fewer than 50 workers.

Member States may provide that internal reporting channels can be shared between municipalities or operated by joint municipal authorities in accordance with national law, provided that the shared internal reporting channels are distinct from and autonomous in relation to the relevant external reporting channels.

### *Article 9*

#### **Procedures for internal reporting and follow-up**

1 The procedures for internal reporting and for follow-up as referred to in Article 8 shall include the following:

- a channels for receiving the reports which are designed, established and operated in a secure manner that ensures that the confidentiality of the identity of the reporting person and any third party mentioned in the report is protected, and prevents access thereto by non-authorised staff members;
- b acknowledgment of receipt of the report to the reporting person within seven days of that receipt;
- c the designation of an impartial person or department competent for following-up on the reports which may be the same person or department as the one that receives the reports and which will maintain communication with the reporting person and, where necessary, ask for further information from and provide feedback to that reporting person;
- d diligent follow-up by the designated person or department referred to in point (c);
- e diligent follow-up, where provided for in national law, as regards anonymous reporting;
- f a reasonable timeframe to provide feedback, not exceeding three months from the acknowledgment of receipt or, if no acknowledgement was sent to the reporting person, three months from the expiry of the seven-day period after the report was made;
- g provision of clear and easily accessible information regarding the procedures for reporting externally to competent authorities pursuant to Article 10 and, where relevant, to institutions, bodies, offices or agencies of the Union.

2 The channels provided for in point (a) of paragraph 1 shall enable reporting in writing or orally, or both. Oral reporting shall be possible by telephone or through other voice messaging systems, and, upon request by the reporting person, by means of a physical meeting within a reasonable timeframe.