

E U R O P E A N E C O N O M I C A R E A
FORUM OF LOCAL AND REGIONAL AUTHORITIES

Ref. 18-4680

EIGHTEENTH MEETING OF THE EEA EFTA FORUM

Brussels

6-7 December 2018

**OPINION ON THE PROPOSAL FOR A DIRECTIVE ON THE PROTECTION OF
PERSONS REPORTING ON BREACHES OF UNION LAW ('WHISTLEBLOWER
PROTECTION')**

Rapporteur: Lise Selnes

The EEA EFTA Forum of Local and Regional Authorities:

- A. Having regard to the proposal for a directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law;
- B. Noting that an important purpose of the proposed directive is to strengthen the proper functioning of the internal market and in that respect could be relevant to the EEA EFTA States;
- B. Noting the letters of the Committee of the Regions to the European Parliament and the European Commission's view on the proposed directive;
- C. Noting the European Parliament resolution of 24 October 2017 on legitimate measures to protect whistleblowers acting in the public interest when disclosing the confidential information of companies and public bodies;
- D. Noting the reinforced subsidiarity principle set out in the Lisbon Treaty and its explicit reference to the local and regional dimension and self-government;
- E. Noting the role of the Forum as a body in the EFTA structure;
 - 1. Acknowledges that protection of whistleblowers differs between EU Member States and EEA EFTA States.
 - 2. Welcomes the initiative at EU level for better protection of whistleblowers.
 - 3. Underlines the importance of municipalities and regions working actively on ensuring a culture that allows for free and critical expression on matters at their own workplace or business.
 - 4. Emphasizes that municipalities and regions play important roles in society and manage public resources. If employees do not dare to report critical circumstances, among other things for fear of discomfort, personal burden or retaliation, this is

serious both for the employees concerned, but also for the management and the public authority's legitimacy.

5. Notes that the personal scope of legal protection should be persons who report through their work-related activity and therefore run the risk of work-related retaliation.
6. States however that it should be left to Member States to define the exact personal scope in accordance with the functioning of the national labour markets.
7. Emphasizes that the procedures for reporting which entail protection against retaliation must be clear and easy to practice.
8. Recognizes that the reporting person's confidence in the follow up of the matter is of utmost importance and stresses the need for clear procedures including a time frame for feedback.
9. Is of the opinion that the reporting person should reasonably believe that the matters reported are true. This is in order to safeguard against malicious and frivolous or abusive reports that unnecessarily could harm the undertaking or employer.
10. Sees that the three-tier reporting system as proposed in the directive could be a way to secure the interests both of the reporting person; to have effective reporting channels, as well as for the employer or person being reported on.
11. Is of the opinion however that the three-layers reporting system, as put forward by the European Commission, risks imposing significant administrative burden on and being very costly for municipalities, in particular for small municipalities.
12. Calls on the EEA EFTA States to assess the directive with this in mind, and if considered EEA relevant to seek solutions that reduce these costs and add more flexibility to the reporting system. This could be done for instance by allowing the use of existing reporting channels, to establish joint channels and cooperate with the social partners.
13. Underlines the importance of competence building and information to employees, employers and the whole society of the importance of the freedom of expression and the value of safe reporting channels and prohibition of retaliation.
14. Instructs the Secretariat to forward this Opinion to the EFTA Standing Committee at Ministerial level.