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I

*(Legislative acts)***DIRECTIVES****DIRECTIVE (EU) 2019/1936 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 23 October 2019
amending Directive 2008/96/EC on road infrastructure safety management**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The communication of 20 July 2010 from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'Towards a European road safety area: policy orientations on road safety 2011-2020' stated the strategic objectives of the Union to halve the number of road deaths by 2020 compared to 2010 and to move close to zero fatalities by 2050. However, progress towards achieving those objectives has stalled in recent years. A new interim target of halving the number of serious injuries by 2030 compared to 2020 was endorsed by Council in its conclusions of 8 June 2017 on road safety, endorsing the Valletta Declaration of March 2017. Greater efforts are therefore needed to attain both those targets.
- (2) According to the Safe System approach, death and serious injury in road accidents are largely preventable. It should be a shared responsibility at all levels to ensure that road accidents do not lead to serious or fatal injuries. In particular, well-designed, properly maintained and clearly marked and signed roads should reduce the probability of road accidents, whilst 'forgiving roads' (roads laid out in an intelligent way to ensure that driving errors do not immediately have serious or fatal consequences) should reduce the severity of accidents. The Commission should provide guidance for the provision and maintenance of 'forgiving roadsides', building on the experience of all Member States.
- (3) The roads of the trans-European transport network (TEN-T network) identified in Regulation (EU) No 1315/2013 of the European Parliament and of the Council ⁽⁴⁾ are of key importance in supporting European integration. A high level of safety should therefore be guaranteed on those roads.
- (4) The road infrastructure safety management ('RISM') procedures implemented on the TEN-T network have helped reduce fatalities and serious injuries in the Union. It is clear from the evaluation of the effects of Directive 2008/96/EC of the European Parliament and of the Council ⁽⁵⁾ that Member States which have been applying RISM principles on a voluntary basis to their national roads beyond the TEN-T network have achieved much better road safety performance than Member States which did not do so. It is therefore also desirable for those RISM principles to be applied to other parts of the European road network.

⁽¹⁾ OJ C 62, 15.2.2019, p. 261.

⁽²⁾ OJ C 168, 16.5.2019, p. 81.

⁽³⁾ Position of the European Parliament of 4 April 2019 (not yet published in the Official Journal) and Decision of the Council of 7 October 2019.

⁽⁴⁾ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

⁽⁵⁾ Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management (OJ L 319, 29.11.2008, p. 59).

- (5) It is important that the road sections built on bridges and road sections that pass through tunnels which are part of the network within the scope of this Directive are also covered by this Directive as far as road safety is concerned, with the exception of tunnels covered by Directive 2004/54/EC of the European Parliament and of the Council ⁽⁶⁾.
- (6) For reasons of road safety, it is important that entries and exits to parking areas along the network within the scope of this Directive, in particular motorways and primary roads, are also covered by this Directive.
- (7) Seasonal conditions differ substantially between the Member States and regions. It is therefore important that those conditions are appropriately taken into consideration in the national provisions transposing this Directive.
- (8) A large proportion of road accidents occur on a small proportion of roads where traffic volumes and speeds are high and where there is a wide range of traffic travelling at different speeds. Therefore the limited extension of the scope of Directive 2008/96/EC to motorways and other primary roads beyond the TEN-T network should contribute significantly to the improvement of road infrastructure safety across the Union.
- (9) In order to ensure that such extension of scope has the intended effect, it is logical that primary roads other than motorways include all roads belonging to the highest category of road below the category 'motorway' in the national roads classification. For the same reason, Member States should be encouraged to ensure that at least all roads to which Directive 2008/96/EC applied before the entry into force of this Directive, including on a voluntary basis, remain covered by this Directive.
- (10) The mandatory application of the procedures laid down in Directive 2008/96/EC to any road infrastructure project outside urban areas which is completed using Union funding should ensure that Union funds are not used to build unsafe roads.
- (11) Directive 2008/96/EC covers exclusively road infrastructure. Road traffic law is therefore not affected by this Directive, and neither is the Member States' competence to make decisions on their own authority with regard to road traffic law. The United Nations Geneva Convention on Road Traffic of 19 September 1949 and the Vienna Convention on Road Traffic of 8 November 1968, as well as the Vienna Convention on Road Signs and Signals of 8 November 1968, should be respected by the Contracting Parties.
- (12) Risk-based network-wide road safety assessment has emerged as an efficient and effective tool to identify sections of the network that should be targeted by more detailed road safety inspections and to prioritise investment according to its potential to deliver network-wide safety improvements. The entire road network covered by this Directive should therefore be systematically assessed, including by means of data gathered by electronic and digital means, to increase road safety across the Union.
- (13) Integrating the best performing elements from the previous 'safety ranking and management of the road network in operation procedure' into the new network-wide road safety assessment procedure should allow better identification of road sections where the opportunities to improve safety are the greatest and where targeted interventions should deliver the biggest improvements.
- (14) In order to improve the quality, objectivity and efficiency of the RISM procedures, it is beneficial to allow Member States to take advantage, where appropriate, of the continuously developing technologies for inspecting road sections, documenting road safety conditions and collecting other data related to the safety of the road network.
- (15) Systematic follow-up of the findings of RISM procedures is crucial to achieve the road infrastructure safety improvements necessary for meeting the Union's road safety objectives. To this end, prioritised action plans should ensure that the necessary interventions are implemented as soon as possible. In particular, the findings of the network-wide road safety assessment should be followed up either by targeted road safety inspections or, if possible and cost-efficient, by direct remedial action aimed at eliminating or reducing the road safety risks without imposing an undue administrative burden.

⁽⁶⁾ Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004 on minimum safety requirements for tunnels in the Trans-European Road Network (OJ L 167, 30.4.2004, p. 39).

- (16) The safety performance of existing roads should be improved by targeting investment to the road sections with the highest accident concentration and the highest accident reduction potential.
- (17) Funding and financial incentives at Union level can, in accordance with the applicable conditions, be used to provide support for such investment, complementing corresponding national investment and incentives.
- (18) Sections of the road network adjoining road tunnels of the trans-European road network covered by Directive 2004/54/EC have a particularly high accident risk. Joint road safety inspections of those road sections involving representatives of both the competent road and tunnel authorities should therefore be introduced in order to improve the safety of the road network covered by this Directive.
- (19) Vulnerable road users accounted for 47 % of road fatalities in the Union in 2017. Ensuring that the needs of the vulnerable road users are taken into account in all RISM procedures and the development of quality requirements for infrastructure for such road users should therefore improve their safety on the road.
- (20) In order to enable Member States to enhance their procedures aiming at ensuring the operational use of their road markings and road signs, common specifications should be established in order to foster the effective readability and detectability of road markings and road signs for human drivers and automated driver assistance systems.
- (21) Improving safety is also a priority for level crossings (i.e. signalling, infrastructure improvement). According to the Report on Railway Safety and Interoperability in the EU 2018 of the European Union Agency for Railways, there were, in 2016, 433 significant accidents on the 108 000 level crossings in the Union, resulting in 255 fatalities and 217 people being seriously injured. Consequently, level crossings which pose a high safety risk should be identified, with a view to improving them.
- (22) High-quality road markings and road signs are crucial to support drivers and connected and automated vehicles. Common specifications for road markings and road signs should form the basis that paves the way towards the roll-out of advanced connected and automated mobility systems. A joint European approach in accordance with the Vienna Convention on Road Signs and Signals of 1968 would be preferable.
- (23) To reinforce the results expected from the application of this Directive and to ensure an adequate level of safety in emergency situations, Member States could facilitate cooperation between their civil protection, emergency response and traffic police services, wherever appropriate and especially in cross-border road sections. Where cooperation between Member States is needed in those activities, the Union Civil Protection Mechanism pursuant to Decision No 1313/2013/EU of the European Parliament and of the Council ⁽⁷⁾ offers a framework to that end.
- (24) Without prejudice to legislation on public procurement, in particular Directive 2014/25/EU of the European Parliament and of the Council ⁽⁸⁾, the technical specifications relating to safety should be made publicly accessible where public procurements are carried out in the sector of road infrastructure.
- (25) In order to achieve transparency and improve accountability, road safety ratings should be reported so that road users can be informed about the state of the infrastructure and their awareness generally raised.
- (26) The exchange of experience on Safe System methodologies between practitioners and the information exchange between road safety auditors should be encouraged.
- (27) Publication of the results of network-wide road safety assessments should allow the level of road infrastructure safety to be compared across the Union.

⁽⁷⁾ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

⁽⁸⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

- (28) Since the objective of this Directive, namely the establishment of procedures to ensure a consistently high level of road safety throughout the TEN-T network and the network of motorways and primary roads across the Union, cannot be sufficiently achieved by the Member States, but can rather, as improvement is necessary throughout the Union in order to ensure convergence towards higher standards of road infrastructure safety, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective. As a result of action at Union level, travel throughout the Union should become safer, and this in turn should improve the functioning of the internal market and support the objective of economic, social and territorial cohesion.
- (29) In order to ensure that the content of RISM procedures continues to reflect the best available technical knowledge, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adapting the Annexes to this Directive to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽⁹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (30) Specific measures are necessary for the continuous improvement of road safety management practices and to facilitate the recognition of road markings and road signs by vehicles equipped with driver assistance systems or higher levels of automation. In order to ensure uniform conditions for the implementation of the relevant provisions of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹⁰⁾.
- (31) Directive 2008/96/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2008/96/EC

Directive 2008/96/EC is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

Subject matter and scope

1. This Directive requires the establishment and implementation of procedures relating to road safety impact assessments, road safety audits, road safety inspections and network-wide road safety assessments by the Member States.
2. This Directive shall apply to roads which are part of the trans-European road network, to motorways and to other primary roads, whether they are at the design stage, under construction or in operation.
3. This Directive shall also apply to roads and to road infrastructure projects not covered by paragraph 2 which are situated outside urban areas, which do not serve properties bordering on them and which are completed using Union funding, with the exception of roads that are not open to general motor vehicle traffic, such as bicycle paths, or roads that are not designed for general traffic, such as access roads to industrial, agricultural or forestry sites.
4. Member States may exempt from the scope of this Directive primary roads which have a low risk for safety, based on duly justified grounds connected to traffic volumes and accident statistics.

⁽⁹⁾ OJ L 123, 12.5.2016, p. 1.

⁽¹⁰⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Member States may include in the scope of this Directive roads not referred to in paragraphs 2 and 3.

Each Member State shall notify to the Commission, by 17 December 2021, the list of motorways and primary roads on its territory and, thereafter, any subsequent changes thereto. In addition, each Member State shall notify to the Commission the list of roads exempted in accordance with this paragraph from, or included in the scope of, this Directive, and, thereafter, any subsequent changes thereto.

The Commission shall publish the list of roads notified in accordance with this Article.

5. This Directive shall not apply to roads in tunnels covered by Directive 2004/54/EC.;

(2) Article 2 is amended as follows:

(a) point 1 is replaced by the following:

‘1. “trans-European road network” means the road networks identified in Regulation (EU) No 1315/2013 of the European Parliament and of the Council (*);

(*) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).;

(b) the following points are inserted:

‘1a. “motorway” means a road, specially designed and built for motor traffic, which does not serve properties bordering on it and which meets the following criteria:

(a) it is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;

(b) it does not cross at level with any road, railway or tramway track, bicycle path or footpath;

(c) it is specifically designated as a motorway;

1b. “primary road” means a road outside urban areas that connects major cities or regions, or both, belonging to the highest category of road below the category “motorway” in the national road classification that is in place on 26 November 2019.;

(c) point 5 is deleted;

(d) points 6 and 7 are replaced by the following:

‘6. “safety rating” means the classification of parts of the existing road network in categories according to their objectively measured in-built safety;

7. “targeted road safety inspection” means a targeted investigation to identify hazardous conditions, defects and problems that increase the risk of accidents and injuries, based on a site visit of an existing road or section of road.;

(e) the following point is inserted:

‘7a. “periodic road safety inspection” means an ordinary periodical verification of the characteristics and defects that require maintenance work for reasons of safety.;

(f) the following point is added:

‘10. “vulnerable road user” means non-motorised road users, including, in particular, cyclists and pedestrians, as well as users of powered two-wheelers.;

(3) in Article 4, the following paragraph is added:

‘6. The Commission shall provide guidance for the design of “forgiving roadsides” and “self-explaining and self-enforcing roads” in the initial audit of the design phase, as well as guidance on quality requirements regarding vulnerable road users. Such guidance shall be developed in close cooperation with Member State experts.’;

(4) Article 5 is replaced by the following:

‘Article 5

Network-wide road safety assessment

1. Member States shall ensure that a network-wide road safety assessment is carried out on the entire road network in operation covered by this Directive.

2. Network-wide road safety assessments shall evaluate accident and impact severity risk, based on:

(a) primarily, a visual examination, either on site or by electronic means, of the design characteristics of the road (in-built safety); and

(b) an analysis of sections of the road network which have been in operation for more than three years and upon which a large number of serious accidents in proportion to the traffic flow have occurred.

3. Member States shall ensure that the first network-wide road safety assessment is carried out by 2024 at the latest. Subsequent network-wide road safety assessments shall be sufficiently frequent in order to ensure adequate safety levels, but in any case shall be carried out at least every five years.

4. In carrying out the network-wide road safety assessment, Member States may take into account the indicative elements set out in Annex III.

5. The Commission shall provide guidance on the methodology for carrying out systematic network-wide road safety assessments and safety ratings.

6. On the basis of the results of the assessment referred to in paragraph 1, and for the purpose of prioritisation of needs for further action, Member States shall classify all sections of the road network in no fewer than three categories according to their level of safety.’;

(5) Article 6 is amended as follows:

(a) the heading is replaced by the following:

‘Article 6

Periodic road safety inspections’;

(b) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that periodic road safety inspections are undertaken with sufficient frequency to safeguard adequate safety levels for the road infrastructure in question.’;

(c) paragraph 2 is deleted;

(d) paragraph 3 is replaced by the following:

‘3. Member States shall ensure the safety of sections of the road network adjoining road tunnels covered by Directive 2004/54/EC through joint road safety inspections involving the competent entities involved in the implementation of this Directive and Directive 2004/54/EC. The joint road safety inspections shall be sufficiently frequent to safeguard adequate safety levels, but in any case shall be carried out at least every six years.’;

(6) the following Articles are inserted:

Article 6a

Follow-up of procedures for roads in operation

1. Member States shall ensure that the findings of network-wide road safety assessments carried out pursuant to Article 5 are followed up either by targeted road safety inspections or by direct remedial action.
2. When carrying out targeted road safety inspections Member States may take into account the indicative elements set out in Annex IIa.
3. Targeted road safety inspections shall be carried out by expert teams. At least one member of the expert team shall meet the requirements set out in point (a) of Article 9(4).
4. Member States shall ensure that the findings of targeted road safety inspections are followed up by reasoned decisions determining if remedial action is necessary. In particular, Member States shall identify road sections where road infrastructure safety improvements are necessary and define actions to be prioritised for improving the safety of those road sections.
5. Member States shall ensure that remedial action is targeted primarily at road sections with low safety levels and which offer the opportunity for the implementation of measures with high potential for safety development and accident cost savings.
6. Member States shall prepare and regularly update a risk-based prioritised action plan to track the implementation of identified remedial action.

Article 6b

Protection of vulnerable road users

Member States shall ensure that the needs of vulnerable road users are taken into account in the implementation of the procedures set out in Articles 3 to 6a.

Article 6c

Road markings and road signs

1. Member States shall pay specific attention, in their existing and future procedures for road markings and road signs, to readability and detectability for human drivers and automated driver assistance systems. Such procedures shall take into account common specifications where such common specifications have been established in accordance with paragraph 3.
2. A group of experts established by the Commission shall, at the latest by June 2021, assess the opportunity to establish common specifications including different elements aiming at ensuring the operational use of road markings and road signs in order to foster the effective readability and detectability of road markings and road signs for human drivers and automated driver assistance systems. That group shall be formed by experts designated by the Member States. The assessment shall include a consultation of the United Nations Economic Commission for Europe.

The assessment shall take into consideration in particular the following elements:

- (a) the interaction between various driver assistance technologies and infrastructure;
 - (b) the effect of the weather and atmospheric phenomena as well as traffic on road markings and road signs present on the Union territory;
 - (c) the type and frequency of maintenance efforts necessary for various technologies, including an estimate of costs.
3. Taking into account the assessment referred to in paragraph 2, the Commission may adopt implementing acts to establish common specifications, relating to Member States' procedures referred to in paragraph 1 aiming at ensuring the operational use of their road markings and road signs, with regard to the effective readability and detectability of road markings and road signs for human drivers and automated driver assistance systems. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).

The implementing acts referred to in the first subparagraph shall be without prejudice to the competence of the European Committee for Standardization regarding standards for road markings and road signs.

Article 6d

Information and transparency

The Commission shall publish a European map of the road network within the scope of this Directive, accessible online, highlighting different categories as referred to in Article 5(6).

Article 6e

Voluntary reporting

Member States shall endeavour to establish a national system for the purpose of voluntary reporting, accessible online to all road users, to facilitate the collection of details of occurrences transmitted by road users and vehicles, and of any other safety-related information which is perceived by the reporter as an actual or potential hazard to road infrastructure safety.;

(7) in Article 7, the following paragraph is inserted:

‘1a. The Commission may adopt implementing acts to provide guidance according to which accident severity, including number of fatalities and injured persons, is to be reported. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).’;

(8) in Article 9, the following paragraph is inserted:

‘1a. For road safety auditors taking their training from 17 December 2024, Member States shall ensure that the training curricula for road safety auditors includes aspects related to vulnerable road users and the infrastructure for such users.’;

(9) Article 10 is replaced by the following:

Article 10

Exchange of best practices

In order to improve the safety of Union roads, the Commission shall establish a system for the exchange of information and best practices between the Member States, covering, inter alia, training curricula for road safety, existing road infrastructure safety projects and proven road safety technology.;

(10) in Article 11, paragraph 2 is deleted;

(11) the following Article is inserted:

Article 11a

Reporting

1. Member States shall provide a report to the Commission by 31 October 2025 on the safety classification of the entire network assessed in accordance with Article 5. Where possible, the report shall be based on a common methodology. If applicable, the report shall also cover the list of provisions of national updated guidelines, including in particular the improvements in terms of technological progress and of protection of vulnerable road users. From 31 October 2025, such reports shall be provided every five years.

2. On the basis of an analysis of the national reports referred to in paragraph 1, in the first instance by 31 October 2027 and every five years thereafter, the Commission shall draw up and submit a report to the European Parliament and to the Council on the implementation of this Directive, in particular with regard to the elements referred to in paragraph 1, and on possible further measures, including a revision of this Directive and possible adaptations to technical progress.;

(12) Article 12 is replaced by the following:

Article 12

Amendment of Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 12a amending the Annexes in order to adapt them to technical progress.;

(13) the following Article is inserted:

Article 12a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of five years from 16 December 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (*).
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) OJ L 123, 12.5.2016, p. 1.;

(14) Article 13 is replaced by the following:

Article 13

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (*).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).;

(15) the Annexes are amended as set out in the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 December 2021. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 23 October 2019.

For the European Parliament

The President

D.M. SASSOLI

For the Council

The President

T. TUPPURAINEN

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ANNEX

The Annexes to Directive 2008/96/EC are amended as follows:

(1) Annex I is amended as follows:

(a) the heading is replaced by the following:

'ANNEX I

INDICATIVE ELEMENTS OF ROAD SAFETY IMPACT ASSESSMENTS';

(b) in section 2, point (e) is replaced by the following:

'(e) traffic (e.g. traffic volume, traffic categorisation by type), including estimated pedestrian and bicycle flows determined from adjacent land-use attributes;'

(2) Annex II is amended as follows:

(a) the heading is replaced by the following:

'ANNEX II

INDICATIVE ELEMENTS OF ROAD SAFETY AUDITS';

(b) in section 1, the following point is added:

'(n) provision for vulnerable road users:

(i) provision for pedestrians;

(ii) provision for cyclists, including the existence of alternative routes or separations from high-speed motor traffic;

(iii) provision for powered two-wheelers;

(iv) density and location of crossings for pedestrians and cyclists;

(v) provision for pedestrians and cyclists on affected roads in the area;

(vi) separation of pedestrians and cyclists from high-speed motor traffic or the existence of direct alternative routes on lower class roads;'

(c) in section 2, point (h) is replaced by the following:

'(h) provision for vulnerable road users:

(i) provision for pedestrians;

(ii) provision for cyclists;

(iii) provision for powered two-wheelers;'

(3) the following Annex is inserted:

'ANNEX IIa

INDICATIVE ELEMENTS OF TARGETED ROAD SAFETY INSPECTIONS

1. Road alignment and cross-section:

(a) visibility and sight distances;

(b) speed limit and speed zoning;

- (c) self-explaining alignment (i.e. “readability” of the alignment by road users);
 - (d) access to adjacent property and developments;
 - (e) access of emergency and service vehicles;
 - (f) treatments at bridges and culverts;
 - (g) roadside layout (shoulders, pavement drop-off, cut and fill slopes).
2. Intersections and interchanges:
- (a) appropriateness of intersection/interchange type;
 - (b) geometry of intersection/interchange layout;
 - (c) visibility and readability (perception) of intersections;
 - (d) visibility at the intersection;
 - (e) layout of auxiliary lanes at intersections;
 - (f) intersection traffic control (e.g. stop controlled, traffic signals, etc.);
 - (g) existence of pedestrian and cycling crossings.
3. Provision for vulnerable road users:
- (a) provision for pedestrians;
 - (b) provision for cyclists;
 - (c) provision for powered-two-wheelers;
 - (d) public transport and infrastructures;
 - (e) level crossings (noting, particularly, the type of crossing and if they are manned, unmanned, manual, or automated).
4. Lighting, signs and markings:
- (a) coherent road signs, not obscuring visibility;
 - (b) readability of road signs (position, size, colour);
 - (c) sign posts;
 - (d) coherent road markings and delineation;
 - (e) readability of road markings (position, dimensions and retroreflectivity under dry and wet conditions);
 - (f) appropriate contrast of road markings;
 - (g) lighting of lit roads and intersections;
 - (h) appropriate roadside equipment.

5. Traffic signals:
 - (a) operation;
 - (b) visibility.
6. Objects, clear zones and road restraint systems:
 - (a) roadside environment including vegetation;
 - (b) roadside hazards and distance from carriageway or cycle path edge;
 - (c) user-friendly adaptation of road restraint systems (central reservations and crash barriers to prevent hazards to vulnerable road users);
 - (d) end treatments of crash barriers;
 - (e) appropriate road restraint systems at bridges and culverts;
 - (f) fences (in roads with restricted access).
7. Pavement:
 - (a) pavement defects;
 - (b) skid resistance;
 - (c) loose material/gravel/stones;
 - (d) ponding, water drainage.
8. Bridges and tunnels:
 - (a) presence and number of bridges;
 - (b) presence and number of tunnels;
 - (c) visual elements representing hazards for the safety of the infrastructure.
9. Other issues:
 - (a) provision of safe parking areas and rest areas;
 - (b) provision for heavy vehicles;
 - (c) headlight glare;
 - (d) roadworks;
 - (e) unsafe roadside activities;
 - (f) appropriate information in ITS equipment (e.g. variable message signs);
 - (g) wildlife and animals;
 - (h) school zone warnings (if applicable).;

(4) Annex III is replaced by the following:

‘ANNEX III

INDICATIVE ELEMENTS OF NETWORK-WIDE ROAD SAFETY ASSESSMENTS

1. General:

- (a) type of road in relation to the type and size of regions/cities it connects;
- (b) length of road section;
- (c) area type (rural, urban);
- (d) land use (educational, commercial, industrial and manufacturing, residential, farming and agricultural, undeveloped areas);
- (e) property access points density;
- (f) presence of service road (e.g. for shops);
- (g) presence of road works;
- (h) presence of parking.

2. Traffic volumes:

- (a) traffic volumes;
- (b) observed motorcycle volumes;
- (c) observed pedestrian volumes on both sides, noting “along” or “crossing”;
- (d) observed bicycle volumes on both sides, noting “along” or “crossing”;
- (e) observed heavy vehicle volumes;
- (f) estimated pedestrian flows determined from adjacent land use attributes;
- (g) estimated bicycle flows determined from adjacent land use attributes.

3. Accident data:

- (a) number, location and cause of fatalities by road user group;
- (b) number and location of serious injuries by road user group.

4. Operational characteristics:

- (a) speed limit (general, for motorcycles; for trucks);
- (b) operating speed (85th percentile);
- (c) speed management and/or traffic calming;
- (d) presence of ITS devices: queue alerts, variable message signs;
- (e) school zone warning;
- (f) presence of school crossing supervisor at prescribed periods.

5. Geometric characteristics:
 - (a) cross section characteristics (number, type and width of lanes, central median shoulders layout and material, cycle tracks, foot paths, etc.), including their variability;
 - (b) horizontal curvature;
 - (c) grade and vertical alignment;
 - (d) visibility and sight distances.
6. Objects, clear zones and road restraint systems:
 - (a) roadside environment and clear zones;
 - (b) fixed obstacles at the roadside (e.g. lighting poles, trees, etc.);
 - (c) distance of obstacles from roadside;
 - (d) density of obstacles;
 - (e) rumble strips;
 - (f) road restraint systems.
7. Bridges and tunnels:
 - (a) presence and number of bridges, as well as relevant information concerning them;
 - (b) presence and number of tunnels, as well as relevant information concerning them;
 - (c) visual elements representing hazards for the safety of the infrastructure.
8. Intersections:
 - (a) intersection type and number of arms (noting in particular the type of control and the presence of protected turns);
 - (b) presence of channelisation;
 - (c) intersection quality;
 - (d) intersecting road volume;
 - (e) presence of level crossings (noting, in particular, the type of crossing and whether they are manned, unmanned, manual or automated).
9. Maintenance:
 - (a) pavement defects;
 - (b) pavement skid resistance;
 - (c) shoulder condition (including vegetation);
 - (d) condition of signs, markings and delineation;
 - (e) condition of road restraint systems.

10. Vulnerable road users' facilities:

- (a) pedestrian and cycling crossings (surface crossings and grade separation);
- (b) cycling crossings (surface crossings and grade separation);
- (c) pedestrian fencing;
- (d) existence of sidewalk or separated facility;
- (e) bicycle facilities and their type (cycle paths, cycle lanes, other);
- (f) quality of pedestrian crossings with regard to the conspicuity and signposting of each facility;
- (g) pedestrian and cycling crossing facilities on entry arm of minor road joining network;
- (h) existence of alternative routes for pedestrians and cyclists where there are no separated facilities.

11. Pre/post-crash systems for traffic injury and gravity mitigation elements:

- (a) network operational centres and other patrolling facilities;
- (b) mechanisms to inform road users of driving conditions in order to prevent accidents or incidents;
- (c) AID (automatic incident detection) systems: sensors and cameras;
- (d) incident management systems;
- (e) systems for communicating with emergency services.;

(5) Annex IV is amended as follows:

(a) point 1 is replaced by the following:

'1. location of the accident (as precise as possible), including GNSS coordinates.;

(b) point 5 is replaced by the following:

'5. accident severity.'

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16, Article 43(2), Article 50, Article 53(1), Articles 91, 100, and 114, Article 168(4), Article 169, Article 192(1) and Article 325(4) thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions,

Having regard to the opinion of 30 November 2018 of the Group of Experts referred to in Article 31 of the Treaty establishing the European Atomic Energy Community,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Persons who work for a public or private organisation or are in contact with such an organisation in the context of their work-related activities are often the first to know about threats or harm to the public interest which arise in that context. By reporting breaches of Union law that are harmful to the public interest, such persons act as 'whistleblowers' and thereby play a key role in exposing and preventing such breaches and in safeguarding the welfare of society. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. In this context, the importance of providing balanced and effective whistleblower protection is increasingly acknowledged at both Union and international level.
- (2) At Union level, reports and public disclosures by whistleblowers are one upstream component of enforcement of Union law and policies. They feed national and Union enforcement systems with information, leading to effective detection, investigation and prosecution of breaches of Union law, thus enhancing transparency and accountability.
- (3) In certain policy areas, breaches of Union law, regardless of whether they are categorised under national law as administrative, criminal or other types of breaches, may cause serious harm to the public interest, in that they create significant risks for the welfare of society. Where weaknesses of enforcement have been identified in those areas, and whistleblowers are usually in a privileged position to disclose breaches, it is necessary to enhance enforcement by introducing effective, confidential and secure reporting channels and by ensuring that whistleblowers are protected effectively against retaliation.
- (4) Whistleblower protection currently provided in the Union is fragmented across Member States and uneven across policy areas. The consequences of breaches of Union law with a cross-border dimension reported by whistleblowers illustrate how insufficient protection in one Member State negatively impacts the functioning of Union policies not only in that Member State, but also in other Member States and in the Union as a whole.
- (5) Common minimum standards ensuring that whistleblowers are protected effectively should apply as regards acts and policy areas where there is a need to strengthen enforcement, under-reporting by whistleblowers is a key factor affecting enforcement, and breaches of Union law can cause serious harm to the public interest. Member States could decide to extend the application of national provisions to other areas with a view to ensuring that there is a comprehensive and coherent whistleblower protection framework at national level.

⁽¹⁾ OJ C 405, 9.11.2018, p. 1.

⁽²⁾ OJ C 62, 15.2.2019, p. 155.

⁽³⁾ Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 7 October 2019.

- (6) Whistleblower protection is necessary to enhance the enforcement of Union law on public procurement. It is necessary, not only to prevent and detect procurement-related fraud and corruption in the context of the implementation of the Union budget, but also to tackle insufficient enforcement of rules on public procurement by national contracting authorities and contracting entities in relation to the execution of works, the supply of products or the provision of services. Breaches of such rules create distortions of competition, increase costs for doing business, undermine the interests of investors and shareholders and, in general, lower attractiveness for investment and create an uneven playing field for all businesses across the Union, thus affecting the proper functioning of the internal market.
- (7) In the area of financial services, the added value of whistleblower protection has already been acknowledged by the Union legislator. In the aftermath of the financial crisis, which exposed serious shortcomings in the enforcement of the relevant rules, measures for the protection of whistleblowers, including internal and external reporting channels, as well as an explicit prohibition of retaliation, were introduced in a significant number of legislative acts in the area of financial services as indicated by the Commission in its communication of 8 December 2010 entitled 'Reinforcing sanctioning regimes in the financial services sector'. In particular, in the context of the prudential framework applicable to credit institutions and investment firms, Directive 2013/36/EU of the European Parliament and of the Council⁽⁴⁾ provides for whistleblower protection which applies in the context of Regulation (EU) No 575/2013 of the European Parliament and of the Council⁽⁵⁾.
- (8) As regards the safety of products placed on the internal market, businesses involved in the manufacturing and distribution chain are the primary source of evidence, with the result that reporting by whistleblowers in such businesses has a high added value, since they are much closer to information about possible unfair and illicit manufacturing, import or distribution practices regarding unsafe products. Accordingly, there is a need to introduce whistleblower protection in relation to the safety requirements applicable to products regulated by the Union harmonisation legislation as set out in Annexes I and II to Regulation (EU) 2019/1020 of the European Parliament and of the Council⁽⁶⁾, and in relation to the general product safety requirements as set out in Directive 2001/95/EC of the European Parliament and of the Council⁽⁷⁾. Whistleblower protection as provided for in this Directive would also be instrumental in avoiding diversion of firearms, their parts and components and ammunition, as well as of defence-related products, since it would encourage the reporting of breaches of Union law, such as document fraud, altered marking and fraudulent acquisition of firearms within the Union where breaches often imply a diversion from the legal to the illegal market. Whistleblower protection as provided for in this Directive would also help prevent the illicit manufacture of homemade explosives by contributing to the correct application of restrictions and controls regarding explosives precursors.
- (9) The importance of whistleblower protection in terms of preventing and deterring breaches of Union rules on transport safety, which can endanger human lives, has already been acknowledged in sectorial Union acts on aviation safety, namely in Regulation (EU) No 376/2014 of the European Parliament and of the Council⁽⁸⁾, and maritime transport safety, namely in Directives 2013/54/EU⁽⁹⁾ and 2009/16/EC⁽¹⁰⁾ of the European Parliament and of the Council, which provide for tailored measures of protection for whistleblowers as well as specific

⁽⁴⁾ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

⁽⁵⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁽⁶⁾ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

⁽⁷⁾ Directive 2001/95/EC of the European Parliament and of the Council, of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

⁽⁸⁾ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18).

⁽⁹⁾ Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 (OJ L 329, 10.12.2013, p. 1).

⁽¹⁰⁾ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

reporting channels. Those acts also provide for the protection of workers who report their own honest mistakes against retaliation, so-called 'just culture'. It is necessary to complement the existing elements of whistleblower protection in those two sectors, as well as to provide protection in other transport modes, namely inland waterway, road and railway transport, to enhance the enforcement of safety standards as regards those transport modes.

- (10) As regards the area of protection of the environment, evidence-gathering, preventing, detecting and addressing environmental crimes and unlawful conduct remain a challenge and actions in that regard need to be reinforced, as acknowledged by the Commission in its communication of 18 January 2018 entitled 'EU actions to improve environmental compliance and governance'. Given that before the entry into force of this Directive, the only existing whistleblower protection rules related to environmental protection are provided for in one sectorial act, namely Directive 2013/30/EU of the European Parliament and of the Council⁽¹¹⁾, the introduction of such protection is necessary to ensure effective enforcement of the Union environmental *acquis*, the breaches of which can cause harm to the public interest with possible spillover impacts across national borders. The introduction of such protection is also relevant in cases where unsafe products can cause environmental harm.
- (11) Enhancing whistleblower protection would also contribute to preventing and deterring breaches of European Atomic Energy Community rules on nuclear safety, radiation protection and responsible and safe management of spent fuel and radioactive waste. It would also strengthen the enforcement of the relevant provisions of Council Directive 2009/71/Euratom⁽¹²⁾, concerning promotion and enhancement of an effective nuclear safety culture and, in particular, point (a) of Article 8b(2) of that Directive, which requires, inter alia, that the competent regulatory authority establishes management systems which give due priority to nuclear safety and promote, at all levels of staff and management, the ability to question the effective delivery of relevant safety principles and practices and to report in a timely manner on safety issues.
- (12) The introduction of a whistleblower protection framework would also contribute to strengthening the enforcement of existing provisions, and to preventing breaches of Union rules, in the area of the food chain and, in particular, on food and feed safety, as well as on animal health, protection and welfare. The different Union rules laid down in those areas are closely interlinked. Regulation (EC) No 178/2002 of the European Parliament and of the Council⁽¹³⁾ sets out the general principles and requirements which underpin all Union and national measures relating to food and feed, with a particular focus on food safety, in order to ensure a high level of protection of human health and consumers' interests in relation to food, as well as the effective functioning of the internal market. That Regulation provides, inter alia, that food and feed business operators are prevented from discouraging their employees and others from cooperating with competent authorities where such cooperation could prevent, reduce or eliminate a risk arising from food. The Union legislator has taken a similar approach in the area of animal health through Regulation (EU) 2016/429 of the European Parliament and of the Council⁽¹⁴⁾ establishing the rules for the prevention and control of animal diseases which are transmissible to animals or to humans and in the area of the protection and well-being of animals kept for farming purposes, of animals used for scientific purposes, of animals during transport and of animals at the time of killing, through Council Directive 98/58/EC⁽¹⁵⁾ and Directive 2010/63/EU of the European Parliament and of the Council⁽¹⁶⁾, as well as Council Regulations (EC) No 1/2005⁽¹⁷⁾ and (EC) No 1099/2009⁽¹⁸⁾, respectively.

⁽¹¹⁾ Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013, on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ L 178, 28.6.2013, p. 66).

⁽¹²⁾ Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18).

⁽¹³⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁽¹⁴⁾ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

⁽¹⁵⁾ Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23).

⁽¹⁶⁾ Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes (OJ L 276, 20.10.2010, p. 33).

⁽¹⁷⁾ Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1).

⁽¹⁸⁾ Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1).

- (13) The reporting of breaches by whistleblowers can be key to detecting and preventing, reducing or eliminating risks to public health and to consumer protection resulting from breaches of Union rules, which might otherwise remain hidden. In particular, consumer protection is also strongly linked to cases where unsafe products can cause considerable harm to consumers.
- (14) Respect for privacy and protection of personal data, which are enshrined as fundamental rights in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union (the 'Charter'), are other areas in which whistleblowers can help to disclose breaches, which can harm the public interest. Whistleblowers can also help disclose breaches of Directive (EU) 2016/1148 of the European Parliament and of the Council⁽¹⁹⁾ on the security of network and information systems, which introduces a requirement to provide notification of incidents, including those that do not compromise personal data, and security requirements for entities providing essential services across many sectors, for example energy, health, transport and banking, for providers of key digital services, for example cloud computing services, and for suppliers of basic utilities, such as water, electricity and gas. Whistleblowers' reporting in this area is particularly valuable for the prevention of security incidents that would affect key economic and social activities and widely used digital services, as well as for the prevention of any infringement of Union data protection rules. Such reporting helps ensure the continuity of services that are essential for the functioning of the internal market and the wellbeing of society.
- (15) Furthermore, the protection of the financial interests of the Union, which is related to the fight against fraud, corruption and any other illegal activity affecting Union expenditure, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union is relevant also for the implementation of the Union budget as regards expenditure that is incurred on the basis of the Treaty establishing the European Atomic Energy Community (Euratom Treaty). Lack of effective enforcement in the area of protection of the financial interests of the Union, including as regards prevention of fraud and corruption at national level, leads to a decrease of Union revenues and a misuse of Union funds, which can distort public investments, hinder growth and undermine citizens' trust in Union action. Article 325 of the Treaty on the Functioning of the European Union (TFEU) requires the Union and the Member States to counter fraud and any other illegal activities affecting the financial interests of the Union. Relevant Union measures in this respect include, in particular, Council Regulation (EC, Euratom) No 2988/95⁽²⁰⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽²¹⁾. Regulation (EC, Euratom) No 2988/95 is complemented, for the most serious types of fraud-related conduct, by Directive (EU) 2017/1371 of the European Parliament and of the Council⁽²²⁾ and by the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests of 26 July 1995⁽²³⁾, including the Protocols thereto of 27 September 1996⁽²⁴⁾, of 29 November 1996⁽²⁵⁾ and of 19 June 1997⁽²⁶⁾. That Convention and those Protocols remain in force for the Member States not bound by Directive (EU) 2017/1371.
- (16) Common minimum standards for the protection of whistleblowers should also be laid down for breaches relating to the internal market as referred to in Article 26(2) TFEU. In addition, in accordance with the case law of the Court of Justice of the European Union (the 'Court'), Union measures aimed at establishing or ensuring the functioning of the internal market are intended to contribute to the elimination of existing or emerging obstacles to the free movement of goods or to the freedom to provide services, and to contribute to the removal of distortions of competition.
- (17) Specifically, the protection of whistleblowers to enhance the enforcement of Union competition law, including concerning State aid, would serve to safeguard the efficient functioning of markets in the Union, allow a level playing field for business and deliver benefits to consumers. As regards competition rules applying to undertakings, the importance of insider reporting in detecting competition law infringements has already been recognised

⁽¹⁹⁾ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

⁽²⁰⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽²¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽²²⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽²³⁾ OJ C 316, 27.11.1995, p. 49.

⁽²⁴⁾ OJ C 313, 23.10.1996, p. 2.

⁽²⁵⁾ OJ C 151, 20.5.1997, p. 2.

⁽²⁶⁾ OJ C 221, 19.7.1997, p. 2.

in the leniency policy pursued by the Commission under Article 4a of Commission Regulation (EC) No 773/2004⁽²⁷⁾ as well as with the recent introduction of an anonymous whistleblower tool by the Commission. Breaches relating to competition law and State aid rules concern Articles 101, 102, 106, 107 and 108 TFEU and rules of secondary law adopted for their application.

- (18) Breaches of corporate tax law and arrangements of which the purpose is to obtain a tax advantage and to evade legal obligations, thereby defeating the object or purpose of the applicable corporate tax law, negatively affect the proper functioning of the internal market. Such breaches and arrangements can give rise to unfair tax competition and extensive tax evasion, distorting the level playing field for businesses and resulting in a loss of tax revenues for Member States and for the Union budget as a whole. This Directive should provide for protection against retaliation for persons who report evasive and/or abusive arrangements that could otherwise go undetected, with a view to strengthening the ability of competent authorities to safeguard the proper functioning of the internal market and remove distortions and barriers to trade that affect the competitiveness of businesses in the internal market, and that are directly linked to the free movement rules and are also relevant for the application of the State aid rules. Whistleblower protection as provided for in this Directive would add to recent Commission initiatives aimed at improving transparency and the exchange of information in the field of taxation, and creating a fairer corporate tax environment within the Union with a view to increasing Member States' effectiveness in identifying evasive and/or abusive arrangements, and would help deter such arrangements. However, this Directive does not harmonise provisions relating to taxes, whether substantive or procedural, and does not seek to strengthen the enforcement of national corporate tax rules, without prejudice to the possibility of Member States to use reported information for that purpose.
- (19) Point (a) of Article 2(1) defines the material scope of this Directive by means of a reference to a list of Union acts set out in the Annex. This implies that where those Union acts, in turn, define their material scope by reference to Union acts listed in their annexes, the latter acts also form part of the material scope of this Directive. In addition, the reference to the acts in the Annex should be understood as including all national and Union implementing or delegated measures adopted pursuant to those acts. Moreover, the reference to the Union acts in the Annex is to be understood as a dynamic reference, in accordance with the standard referencing system for legal acts of the Union. Thus, if a Union act in the Annex has been or is amended, the reference relates to the act as amended; if a Union act in the Annex has been or is replaced, the reference relates to the new act.
- (20) Certain Union acts, in particular in the area of financial services, such as Regulation (EU) No 596/2014 of the European Parliament and of the Council⁽²⁸⁾, and Commission Implementing Directive (EU) 2015/2392⁽²⁹⁾, adopted on the basis of that Regulation, already contain detailed rules on whistleblower protection. Any specific rules in that regard provided for in such existing Union legislation, including the Union acts listed in Part II of the Annex to this Directive, which are tailored to the relevant sectors, should be maintained. This is of particular importance for ascertaining which legal entities in the area of financial services, the prevention of money laundering and terrorist financing are currently obliged to establish internal reporting channels. At the same time, in order to ensure consistency and legal certainty across Member States, this Directive should be applicable in respect of all matters not regulated under the sector-specific acts, and thereby should complement such acts, so that they are fully aligned with minimum standards. In particular, this Directive should provide further detail as to the design of the internal and external reporting channels, the obligations of competent authorities, and the specific forms of protection to be provided at national level against retaliation. In that regard, Article 28(4) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council⁽³⁰⁾ provides for Member States to be able to provide for an internal reporting channel in the area covered by that Regulation. For reasons of consistency with the minimum standards laid down by this Directive, the obligation to establish internal reporting channels provided for in this Directive should also apply in respect of Regulation (EU) No 1286/2014.

⁽²⁷⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

⁽²⁸⁾ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

⁽²⁹⁾ Commission Implementing Directive (EU) 2015/2392 of 17 December 2015 on Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards reporting to competent authorities of actual or potential infringements of that Regulation (OJ L 332, 18.12.2015, p. 126).

⁽³⁰⁾ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

- (21) This Directive should be without prejudice to the protection granted to workers when reporting breaches of Union employment law. In particular, in the area of occupational safety and health, Article 11 of Council Directive 89/391/EEC ⁽³¹⁾ already requires Member States to ensure that workers or workers' representatives are not placed at a disadvantage because of requests or proposals they make to employers to take appropriate measures to mitigate hazards for workers and/or to remove sources of danger. Workers and their representatives are entitled, under that Directive, to raise issues with the competent authority if they consider that the measures taken, and the means employed, by the employer are inadequate for the purposes of ensuring safety and health.
- (22) Member States could decide to provide that reports concerning interpersonal grievances exclusively affecting the reporting person, namely grievances about interpersonal conflicts between the reporting person and another worker, can be channelled to other procedures.
- (23) This Directive should be without prejudice to the protection granted by the procedures for reporting possible illegal activities, including fraud or corruption, that are detrimental to the interests of the Union, or for reporting conduct relating to the discharge of professional duties, which could constitute a serious failure to comply with the obligations of officials and other servants of the European Union established under Articles 22a, 22b and 22c of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽³²⁾. This Directive should apply where officials and other servants of the Union report breaches that occur in a work-related context outside their employment relationship with the Union institutions, bodies, offices or agencies.
- (24) National security remains the sole responsibility of each Member State. This Directive should not apply to reports of breaches related to procurement involving defence or security aspects where those are covered by Article 346 TFEU, in accordance with the case law of the Court. If Member States decide to extend the protection provided under this Directive to further areas or acts, which are not within its material scope, it should be possible for them to adopt specific provisions to protect essential interests of national security in that regard.
- (25) This Directive should also be without prejudice to the protection of classified information which Union law or the laws, regulations or administrative provisions in force in the Member State concerned require, for security reasons, to be protected from unauthorised access. Moreover, this Directive should not affect the obligations arising from Council Decision 2013/488/EU ⁽³³⁾ or Commission Decision (EU, Euratom) 2015/444 ⁽³⁴⁾.
- (26) This Directive should not affect the protection of confidentiality of communications between lawyers and their clients ('legal professional privilege') as provided for under national and, where applicable, Union law, in accordance with the case law of the Court. Moreover, this Directive should not affect the obligation of maintaining the confidential nature of communications of health care providers, including therapists, with their patients and of patient records ('medical privacy') as provided for under national and Union law.
- (27) Members of professions other than lawyers and health care providers should be able to qualify for protection under this Directive when they report information protected by the applicable professional rules, provided that reporting that information is necessary for the purposes of revealing a breach falling within the scope of this Directive.
- (28) While this Directive should provide, under certain conditions, for a limited exemption from liability, including criminal liability, in the event of a breach of confidentiality, it should not affect national rules on criminal procedure, particularly those aiming at safeguarding the integrity of the investigations and proceedings or the rights of defence of persons concerned. This should be without prejudice to the introduction of measures of protection into other types of national procedural law, in particular, the reversal of the burden of proof in national administrative, civil or labour proceedings.
- (29) This Directive should not affect national rules on the exercise of the rights of employees' representatives to information, consultation, and participation in collective bargaining and their defence of workers' employment rights. This should be without prejudice to the level of protection granted under this Directive.

⁽³¹⁾ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

⁽³²⁾ OJ L 56, 4.3.1968, p. 1.

⁽³³⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

⁽³⁴⁾ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

- (30) This Directive should not apply to cases in which persons who, having given their informed consent, have been identified as informants or registered as such in databases managed by authorities appointed at national level, such as customs authorities, and report breaches to enforcement authorities, in return for reward or compensation. Such reports are made pursuant to specific procedures that aim to guarantee the anonymity of such persons in order to protect their physical integrity, and that are distinct from the reporting channels provided for under this Directive.
- (31) Persons who report information about threats or harm to the public interest obtained in the context of their work-related activities make use of their right to freedom of expression. The right to freedom of expression and information, enshrined in Article 11 of the Charter and in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, encompasses the right to receive and impart information as well as the freedom and pluralism of the media. Accordingly, this Directive draws upon the case law of the European Court of Human Rights (ECHR) on the right to freedom of expression, and the principles developed on this basis by the Council of Europe in its Recommendation on the Protection of Whistleblowers adopted by its Committee of Ministers on 30 April 2014.
- (32) To enjoy protection under this Directive, reporting persons should have reasonable grounds to believe, in light of the circumstances and the information available to them at the time of reporting, that the matters reported by them are true. That requirement is an essential safeguard against malicious and frivolous or abusive reports as it ensures that those who, at the time of the reporting, deliberately and knowingly reported wrong or misleading information do not enjoy protection. At the same time, the requirement ensures that protection is not lost where the reporting person reported inaccurate information on breaches by honest mistake. Similarly, reporting persons should be entitled to protection under this Directive if they have reasonable grounds to believe that the information reported falls within its scope. The motives of the reporting persons in reporting should be irrelevant in deciding whether they should receive protection.
- (33) Reporting persons normally feel more at ease reporting internally, unless they have reasons to report externally. Empirical studies show that the majority of whistleblowers tend to report internally, within the organisation in which they work. Internal reporting is also the best way to get information to the persons who can contribute to the early and effective resolution of risks to the public interest. At the same time, the reporting person should be able to choose the most appropriate reporting channel depending on the individual circumstances of the case. Moreover, it is necessary to protect public disclosures, taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and the freedom and pluralism of the media, whilst balancing the interest of employers to manage their organisations and to protect their interests, on the one hand, with the interest of the public to be protected from harm, on the other, in line with the criteria developed in the case law of the ECHR.
- (34) Without prejudice to existing obligations to provide for anonymous reporting by virtue of Union law, it should be possible for Member States to decide whether legal entities in the private and public sector and competent authorities are required to accept and follow up on anonymous reports of breaches which fall within the scope of this Directive. However, persons who anonymously reported or who made anonymous public disclosures falling within the scope of this Directive and meet its conditions should enjoy protection under this Directive if they are subsequently identified and suffer retaliation.
- (35) This Directive should provide for protection to be granted in cases where persons report, pursuant to Union legislation, to institutions, bodies, offices or agencies of the Union, for example in the context of fraud concerning the Union budget.
- (36) Persons need specific legal protection where they acquire the information they report through their work-related activities and therefore run the risk of work-related retaliation, for instance, for breaching the duty of confidentiality or loyalty. The underlying reason for providing such persons with protection is their position of economic vulnerability vis-à-vis the person on whom *de facto* they depend for work. Where there is no such work-related power imbalance, for instance in the case of ordinary complainants or citizen bystanders, there is no need for protection against retaliation.
- (37) Effective enforcement of Union law requires that protection should be granted to the broadest possible range of categories of persons, who, irrespective of whether they are Union citizens or third-country nationals, by virtue of their work-related activities, irrespective of the nature of those activities and of whether they are paid or not, have privileged access to information on breaches that it would be in the public interest to report and who may suffer retaliation if they report them. Member States should ensure that the need for protection is determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship, so as to cover the whole range of persons connected in a broad sense to the organisation where the breach has occurred.

- (38) Protection should, firstly, apply to persons having the status of ‘workers’, within the meaning of Article 45(1) TFEU, as interpreted by the Court, namely persons who, for a certain period of time, perform services for and under the direction of another person, in return for which they receive remuneration. Protection should, thus, also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, precarious types of relationships where standard forms of protection against unfair treatment are often difficult to apply. The concept of ‘worker’ also includes civil servants, public service employees, as well as any other persons working in the public sector.
- (39) Protection should also extend to categories of natural persons, who, whilst not being ‘workers’ within the meaning of Article 45(1) TFEU, can play a key role in exposing breaches of Union law and may find themselves in a position of economic vulnerability in the context of their work-related activities. For instance, as regards product safety, suppliers are much closer to the source of information about possible unfair and illicit manufacturing, import or distribution practices concerning unsafe products; and as regards the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, which include self-employed persons providing services, freelance workers, contractors, subcontractors and suppliers, are typically subject to retaliation, which can take the form, for instance, of early termination or cancellation of a contract for services, a licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting or business boycotting or damage to their reputation. Shareholders and persons in managerial bodies can also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their reputation. Protection should also be granted to persons whose work-based relationship has ended, and to candidates for employment or persons seeking to provide services to an organisation, who acquire information on breaches during the recruitment process or another pre-contractual negotiation stage, and who could suffer retaliation, for instance in the form of negative employment references, blacklisting or business boycotting.
- (40) Effective whistleblower protection implies protecting also categories of persons who, whilst not relying on their work-related activities economically, can nevertheless suffer retaliation for reporting breaches. Retaliation against volunteers and paid or unpaid trainees could take the form of no longer making use of their services, or of giving them a negative employment reference or otherwise damaging their reputation or career prospects.
- (41) Protection should be provided against retaliatory measures taken not only directly vis-à-vis reporting persons themselves, but also those that can be taken indirectly, including vis-à-vis facilitators, colleagues or relatives of the reporting person who are also in a work-related connection with the reporting person’s employer or customer or recipient of services. Without prejudice to the protection that trade union representatives or employees’ representatives enjoy in their capacity as such representatives under other Union and national rules, they should enjoy the protection provided for under this Directive both where they report in their capacity as workers and where they have provided advice and support to the reporting person. Indirect retaliation also includes actions taken against the legal entity that the reporting person owns, works for or is otherwise connected with in a work-related context, such as denial of provision of services, blacklisting or business boycotting.
- (42) Effective detection and prevention of serious harm to the public interest requires that the notion of breach also includes abusive practices, as defined by the case law of the Court, namely acts or omissions which do not appear to be unlawful in formal terms but defeat the object or the purpose of the law.
- (43) Effective prevention of breaches of Union law requires that protection is granted to persons who provide information necessary to reveal breaches which have already taken place, breaches which have not yet materialised, but are very likely to take place, acts or omissions which the reporting person has reasonable grounds to consider as breaches, as well as attempts to conceal breaches. For the same reasons, protection is justified also for persons who do not provide positive evidence but raise reasonable concerns or suspicions. At the same time, protection should not apply to persons who report information which is already fully available in the public domain or unsubstantiated rumours and hearsay.

- (44) There should be a close link between reporting and the adverse treatment suffered, directly or indirectly, by the reporting person, for that adverse treatment to be considered to be retaliation and consequently for the reporting person to be able to enjoy legal protection in that respect. Effective protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in a work-related context and which causes them detriment. This Directive should not, however, prevent employers from taking employment-related decisions which are not prompted by the reporting or public disclosure.
- (45) Protection against retaliation as a means of safeguarding freedom of expression and the freedom and pluralism of the media should be provided both to persons who report information about acts or omissions within an organisation ('internal reporting') or to an outside authority ('external reporting') and to persons who make such information available in the public domain, for instance, directly to the public through online platforms or social media, or to the media, elected officials, civil society organisations, trade unions, or professional and business organisations.
- (46) Whistleblowers are, in particular, important sources for investigative journalists. Providing effective protection to whistleblowers from retaliation increases legal certainty for potential whistleblowers and thereby encourages whistleblowing also through the media. In this respect, protection of whistleblowers as journalistic sources is crucial for safeguarding the 'watchdog' role of investigative journalism in democratic societies.
- (47) For the effective detection and prevention of breaches of Union law, it is vital that the relevant information reaches swiftly those closest to the source of the problem, most able to investigate and with powers to remedy it, where possible. As a principle, therefore, reporting persons should be encouraged to first use internal reporting channels and report to their employer, if such channels are available to them and can reasonably be expected to work. That is the case, in particular, where reporting persons believe that the breach can be effectively addressed within the relevant organisation, and that there is no risk of retaliation. As a consequence, legal entities in the private and public sector should establish appropriate internal procedures for receiving and following up on reports. Such encouragement also concerns cases where such channels were established without it being required by Union or national law. This principle should help foster a culture of good communication and corporate social responsibility in organisations, whereby reporting persons are considered to significantly contribute to self-correction and excellence within the organisation.
- (48) For legal entities in the private sector, the obligation to establish internal reporting channels should be commensurate with their size and the level of risk their activities pose to the public interest. All enterprises having 50 or more workers should be subject to the obligation to establish internal reporting channels, irrespective of the nature of their activities, based on their obligation to collect VAT. Following an appropriate risk assessment, Member States could also require other enterprises to establish internal reporting channels in specific cases, for instance due to the significant risks that may result from their activities.
- (49) This Directive should be without prejudice to Member States being able to encourage legal entities in the private sector with fewer than 50 workers to establish internal channels for reporting and follow-up, including by laying down less prescriptive requirements for those channels than those laid down under this Directive, provided that those requirements guarantee confidentiality and diligent follow-up.
- (50) The exemption of small and micro enterprises from the obligation to establish internal reporting channels should not apply to private enterprises which are obliged to establish internal reporting channels by virtue of Union acts referred to in Parts I.B and II of the Annex.
- (51) It should be clear that, in the case of legal entities in the private sector that do not provide for internal reporting channels, reporting persons should be able to report externally to the competent authorities and such persons should enjoy the protection against retaliation provided by this Directive.
- (52) In order to ensure, in particular, that the public procurement rules in the public sector are respected, the obligation to put in place internal reporting channels should apply to all contracting authorities and contracting entities, at local, regional and national level, whilst being commensurate with their size.
- (53) Provided the confidentiality of the identity of the reporting person is ensured, it is up to each individual legal entity in the private and public sector to define the kind of reporting channels to establish. More specifically, the reporting channels should enable persons to report in writing and submit reports by post, by physical complaint box(es), or through an online platform, whether it be on an intranet or internet platform, or to report orally, by telephone hotline or other voice messaging system, or both. Upon request by the reporting person, such channels should also enable reporting by means of physical meetings, within a reasonable timeframe.

- (54) Third parties could also be authorised to receive reports of breaches on behalf of legal entities in the private and public sector, provided they offer appropriate guarantees of respect for independence, confidentiality, data protection and secrecy. Such third parties could be external reporting platform providers, external counsel, auditors, trade union representatives or employees' representatives.
- (55) Internal reporting procedures should enable legal entities in the private sector to receive and investigate in full confidentiality reports by the workers of the entity and of its subsidiaries or affiliates ('the group'), but also, to any extent possible, by any of the group's agents and suppliers and by any persons who acquire information through their work-related activities with the entity and the group.
- (56) The choice of the most appropriate persons or departments within a legal entity in the private sector to be designated as competent to receive and follow up on reports depends on the structure of the entity, but, in any case, their function should be such as to ensure independence and absence of conflict of interest. In smaller entities, this function could be a dual function held by a company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, an integrity officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.
- (57) In the context of internal reporting, informing, as far as legally possible and in the most comprehensive way possible, the reporting person about the follow-up to the report is crucial for building trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further unnecessary reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow-up to the report and the grounds for the choice of that follow-up. Follow-up could include, for instance, referral to other channels or procedures in the case of reports exclusively affecting individual rights of the reporting person, closure of the procedure based on lack of sufficient evidence or other grounds, launch of an internal enquiry and, possibly, its findings and any measures taken to address the issue raised, referral to a competent authority for further investigation, insofar as such information would not prejudice the internal enquiry or the investigation or affect the rights of the person concerned. In all cases, the reporting person should be informed of the investigation's progress and outcome. It should be possible to ask the reporting person to provide further information, during the course of the investigation, albeit without there being an obligation to provide such information.
- (58) A reasonable timeframe for informing a reporting person should not exceed three months. Where the appropriate follow-up is still being determined, the reporting person should be informed about this and about any further feedback to expect.
- (59) Persons who are considering reporting breaches of Union law should be able to make an informed decision on whether, how and when to report. Legal entities in the private and public sector that have internal reporting procedures in place should be required to provide information on those procedures as well as on external reporting procedures to relevant competent authorities. It is essential that such information be clear and easily accessible, including, to any extent possible, also to persons other than workers, who come in contact with the entity through their work-related activities, such as service-providers, distributors, suppliers and business partners. For instance, such information could be posted at a visible location accessible to all such persons and on the website of the entity, and could also be included in courses and training seminars on ethics and integrity.
- (60) Effective detection and prevention of breaches of Union law require ensuring that potential whistleblowers can easily and in full confidentiality bring the information they possess to the attention of the relevant competent authorities that are able to investigate and to remedy the problem, where possible.
- (61) It may be the case that internal channels do not exist or that they were used but did not function properly, for instance because the report was not dealt with diligently or within a reasonable timeframe, or no appropriate action was taken to address the breach despite the results of the related internal enquiry confirming the existence of a breach.
- (62) In other cases, the use of internal channels cannot reasonably be expected to function properly. This is most notably the case where reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting, including as a result of a breach of confidentiality, or that competent authorities

would be better placed to take effective action to address the breach. Competent authorities would be better placed, for example, where the ultimate responsibility holder within the work-related context is involved in the breach, or there is a risk that the breach or related evidence could be concealed or destroyed; or, more generally, the effectiveness of investigative actions by competent authorities might otherwise be jeopardised, such as in the case of reported cartel arrangements and other breaches of competition rules; or the breach requires urgent action, for instance to safeguard the health and safety of persons or to protect the environment. In all cases, persons reporting externally to the competent authorities and, where relevant, to institutions, bodies, offices or agencies of the Union should be protected. This Directive should also grant protection where Union or national law requires the reporting persons to report to the competent national authorities, for instance as part of their job duties and responsibilities or because the breach is a criminal offence.

- (63) Lack of confidence in the effectiveness of reporting is one of the main factors discouraging potential whistleblowers. Accordingly, there is a need to impose a clear obligation on competent authorities to establish appropriate external reporting channels, to diligently follow up on the reports received, and, within a reasonable timeframe, give feedback to reporting persons.
- (64) It should be for the Member States to designate the authorities competent to receive information on breaches falling within the scope of this Directive and give appropriate follow-up to the reports. Such competent authorities could be judicial authorities, regulatory or supervisory bodies competent in the specific areas concerned, or authorities of a more general competence at a central level within a Member State, law enforcement agencies, anticorruption bodies or ombudsmen.
- (65) As recipients of reports, the authorities designated as competent should have the necessary capacities and powers to ensure appropriate follow-up, including assessing the accuracy of the allegations made in the report and addressing the breaches reported by launching an internal enquiry, investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate. Alternatively, those authorities should have the necessary powers to refer the report to another authority that should investigate the breach reported, while ensuring that there is appropriate follow-up by such authority. In particular, where Member States wish to establish external reporting channels at a central level, for instance in the area of State aid, Member States should put in place adequate safeguards in order to ensure that the requirements of independence and autonomy laid down in this Directive are respected. The establishment of such external reporting channels should not affect the powers of the Member States or of the Commission concerning supervision in the field of State aid, nor should this Directive affect the exclusive power of the Commission as regards the declaration of compatibility of State aid measures in particular pursuant to Article 107(3) TFEU. With regard to breaches of Articles 101 and 102 TFEU, Member States should designate as competent authorities those referred to in Article 35 of Council Regulation (EC) No 1/2003⁽³⁵⁾ without prejudice to the powers of the Commission in this area.
- (66) Competent authorities should also give feedback to the reporting persons about the action envisaged or taken as follow-up, for instance, referral to another authority, closure of the procedure based on lack of sufficient evidence or other grounds, or launch of an investigation, and possibly its findings and any measures taken to address the issue raised, as well as about the grounds for the choice of that follow-up. Communications on the final outcome of the investigations should not affect the applicable Union rules, which include possible restrictions on the publication of decisions in the area of financial regulation. This should apply *mutatis mutandis* in the field of corporate taxation, if similar restrictions are provided for by the applicable national law.
- (67) Follow-up and feedback should take place within a reasonable timeframe, given the need to promptly address the problem that is the subject of the report, as well as the need to avoid unnecessary public disclosures. Such timeframe should not exceed three months, but could be extended to six months where necessary due to the specific circumstances of the case, in particular the nature and complexity of the subject of the report, which may require a lengthy investigation.
- (68) Union law in specific areas, such as market abuse, namely Regulation (EU) No 596/2014 and Implementing Directive (EU) 2015/2392, civil aviation, namely Regulation (EU) No 376/2014, or safety of offshore oil and gas operations, namely Directive 2013/30/EU, already provides for the establishment of internal and external reporting channels. The obligations to establish such channels laid down in this Directive should build as far as possible on the existing channels provided by specific Union acts.

⁽³⁵⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

- (69) The Commission, as well as some bodies, offices and agencies of the Union, such as the European Anti-Fraud Office (OLAF), the European Maritime Safety Agency (EMSA), the European Aviation Safety Agency (EASA), the European Security and Markets Authority (ESMA) and the European Medicines Agency (EMA), have in place external reporting channels and procedures for receiving reports of breaches falling within the scope of this Directive, which mainly provide for confidentiality of the identity of the reporting persons. This Directive should not affect such external reporting channels and procedures, where they exist, but should ensure that persons reporting to institutions, bodies, offices or agencies of the Union benefit from common minimum standards of protection throughout the Union.
- (70) To ensure the effectiveness of the procedures for following up on reports and addressing breaches of the Union rules concerned, Member States should be able to take measures to alleviate burdens for competent authorities resulting from reports of minor breaches of provisions falling within the scope of this Directive, repetitive reports or reports of breaches of ancillary provisions, for instance provisions on documentation or notification obligations. Such measures could consist in allowing competent authorities, after due assessment of the matter, to decide that a reported breach is clearly minor and does not require further follow-up pursuant to this Directive, other than closure of the procedure. It should also be possible for Member States to allow competent authorities to close the procedure regarding repetitive reports which do not contain any meaningful new information adding to a past report in respect of which the relevant procedures were concluded, unless new legal or factual circumstances justify a different form of follow-up. Furthermore, Member States should be able to allow competent authorities to prioritise the treatment of reports of serious breaches or breaches of essential provisions falling within the scope of this Directive in the event of high inflows of reports.
- (71) Where provided for under Union or national law, the competent authorities should refer cases or relevant information on breaches to institutions, bodies, offices or agencies of the Union, including, for the purposes of this Directive, OLAF and the European Public Prosecutor Office (EPPO), without prejudice to the possibility for the reporting person to refer directly to such bodies, offices or agencies of the Union.
- (72) In many policy areas falling within the material scope of this Directive, there are cooperation mechanisms through which national competent authorities exchange information and carry out follow-up activities in relation to breaches of Union rules with a cross-border dimension. Examples range from the Administrative Assistance and Cooperation System established by Commission Implementing Decision (EU) 2015/1918⁽³⁶⁾, in cases of cross-border breaches of the Union agri-food chain legislation, and the Food Fraud Network under Regulation (EC) No 882/2004 of the European Parliament and of the Council⁽³⁷⁾, the rapid alert system for dangerous non-food products established by Regulation (EC) No 178/2002 of the European Parliament and of the Council⁽³⁸⁾, the Consumer Protection Cooperation Network under Regulation (EC) No 2006/2004 of the European Parliament and of the Council⁽³⁹⁾, to the Environmental Compliance and Governance Forum set up by the Commission Decision of 18 January 2018⁽⁴⁰⁾, the European Competition Network established pursuant to Regulation (EC) No 1/2003, and the administrative cooperation in the field of taxation under Council Directive 2011/16/EU⁽⁴¹⁾. Member States' competent authorities should make full use of such existing cooperation mechanisms where relevant as part of their obligation to follow up on reports regarding breaches falling within the scope of this Directive. In addition, Member States' authorities could also cooperate beyond the existing cooperation mechanisms in cases of breaches with a cross-border dimension in areas where such cooperation mechanisms do not exist.

⁽³⁶⁾ Commission Implementing Decision (EU) 2015/1918 of 22 October 2015 establishing the Administrative Assistance and Cooperation system ('AAC system') pursuant to Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 280, 24.10.2015, p. 31).

⁽³⁷⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

⁽³⁸⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁽³⁹⁾ Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 9.12.2004, p. 1).

⁽⁴⁰⁾ Commission Decision of 18 January 2018 setting up a group of experts on environmental compliance and governance (OJ C 19, 19.1.2018, p. 3).

⁽⁴¹⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

- (73) In order to enable effective communication with staff members who are responsible for handling reports, it is necessary that the competent authorities have in place channels that are user-friendly, secure, ensure confidentiality for receiving and handling information provided by the reporting person on breaches, and that enable the durable storage of information to allow for further investigations. This could require that such channels are separated from the general channels through which the competent authorities communicate with the public, such as normal public complaints systems or channels through which the competent authority communicates internally and with third parties in its ordinary course of business.
- (74) Staff members of the competent authorities who are responsible for handling reports should be professionally trained, including on applicable data protection rules, in order to handle reports and to ensure communication with the reporting person, as well as to follow up on the report in a suitable manner.
- (75) Persons intending to report should be able to make an informed decision on whether, how and when to report. Competent authorities should therefore provide clear and easily accessible information about the available reporting channels with competent authorities, about the applicable procedures and about the staff members responsible for handling reports within those authorities. All information regarding reports should be transparent, easily understandable and reliable in order to promote and not deter reporting.
- (76) Member States should ensure that competent authorities have in place adequate protection procedures for the processing of reports and for the protection of the personal data of the persons referred to in the report. Such procedures should ensure that the identity of every reporting person, person concerned, and third persons referred to in the report, for example witnesses or colleagues, is protected at all stages of the procedure.
- (77) It is necessary that staff members of the competent authority who are responsible for handling reports and staff members of the competent authority who have the right of access to the information provided by a reporting person comply with the duty of professional secrecy and confidentiality when transmitting the data both inside and outside the competent authority, including where a competent authority opens an investigation or an internal enquiry or engages in enforcement activities in connection with the report.
- (78) The regular review of the procedures of competent authorities and the exchange of good practices between them should guarantee that those procedures are adequate and thus serving their purpose.
- (79) Persons making a public disclosure should qualify for protection in cases where, despite internal and external reporting, the breach remains unaddressed, for instance in cases where the breach was not appropriately assessed or investigated, or no appropriate remedial action was taken. The appropriateness of the follow-up should be assessed according to objective criteria, linked to the obligation of the competent authorities to assess the accuracy of the allegations and to put an end to any possible breach of Union law. The appropriateness of the follow-up will thus depend on the circumstances of each case and of the nature of the rules that have been breached. In particular, a decision by the authorities that a breach was clearly minor and no further follow-up, other than closure of the procedure, was required could constitute appropriate follow-up pursuant to this Directive.
- (80) Persons making a public disclosure directly should also qualify for protection in cases where they have reasonable grounds to believe that there is an imminent or manifest danger to the public interest, or a risk of irreversible damage, including harm to a person's physical integrity.
- (81) Persons making a public disclosure directly should also qualify for protection where they have reasonable grounds to believe that in the case of external reporting there is a risk of retaliation or there is a low prospect of the breach being effectively addressed, due to the particular circumstances of the case, such as those where evidence could be concealed or destroyed or where an authority could be in collusion with the perpetrator of the breach or involved in the breach.
- (82) Safeguarding the confidentiality of the identity of the reporting person during the reporting process and investigations triggered by the report is an essential *ex-ante* measure to prevent retaliation. It should only be possible to disclose the identity of the reporting person where that is a necessary and proportionate obligation under Union or national law in the context of investigations by authorities or judicial proceedings, in particular to safeguard the rights of defence of persons concerned. Such an obligation could derive, in particular, from Directive 2012/13/EU of the European Parliament and of the Council⁽⁴²⁾. The protection of confidentiality should not apply where the reporting person has intentionally revealed his or her identity in the context of a public disclosure.

⁽⁴²⁾ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

- (83) Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁽⁴³⁾ and with Directive (EU) 2016/680 of the European Parliament and of the Council⁽⁴⁴⁾. Any exchange or transmission of information by Union institutions, bodies, offices or agencies should be undertaken in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council⁽⁴⁵⁾. Particular regard should be had to the principles relating to processing of personal data set out in Article 5 of Regulation (EU) 2016/679, Article 4 of Directive (EU) 2016/680 and Article 4 of Regulation (EU) 2018/1725, and to the principle of data protection by design and by default laid down in Article 25 of Regulation (EU) 2016/679, Article 20 of Directive (EU) 2016/680 and Articles 27 and 85 of Regulation (EU) 2018/1725.
- (84) The procedures provided for in this Directive and related to follow-up on reports of breaches of Union law in the areas falling within its scope serve an important objective of general public interest of the Union and of the Member States, within the meaning of point (e) of Article 23(1) of Regulation (EU) 2016/679, as they aim to enhance the enforcement of Union law and policies in specific areas where breaches can cause serious harm to the public interest. The effective protection of the confidentiality of the identity of reporting persons is necessary for the protection of the rights and freedoms of others, in particular those of the reporting persons, provided for under point (i) of Article 23(1) of Regulation (EU) 2016/679. Member States should ensure that this Directive is effective, including, where necessary, by restricting, by legislative measures, the exercise of certain data protection rights of persons concerned in line with points (e) and (i) of Article 23(1) and Article 23(2) of Regulation (EU) 2016/679 to the extent, and as long as, necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons.
- (85) The effective protection of the confidentiality of the identity of reporting persons is equally necessary for the protection of the rights and freedoms of others, in particular those of the reporting persons, where reports are handled by authorities as defined in point (7) of Article 3 of Directive (EU) 2016/680. Member States should ensure that this Directive is effective, including, where necessary, by restricting, by legislative measures, the exercise of certain data protection rights of persons concerned in line with points (a) and (e) of Article 13(3), points (a) and (e) of Article 15(1), points (a) and (e) of Article 16(4) and Article 31(5) of Directive (EU) 2016/680 to the extent, and as long as, necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons.
- (86) Member States should ensure that there is adequate record-keeping as regards all reports of breaches, that every report is retrievable and that information received through reports can be used as evidence in enforcement actions where appropriate.
- (87) Reporting persons should be protected against any form of retaliation, whether direct or indirect, taken, encouraged or tolerated by their employer or customer or recipient of services and by persons working for or acting on behalf of the latter, including colleagues and managers in the same organisation or in other organisations with which the reporting person is in contact in the context of his or her work-related activities
- (88) Where retaliation occurs undeterred and unpunished, it has a chilling effect on potential whistleblowers. A clear legal prohibition of retaliation would have an important dissuasive effect, and would be further strengthened by provisions for personal liability and penalties for the perpetrators of retaliation.

⁽⁴³⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽⁴⁴⁾ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

⁽⁴⁵⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (89) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant and accurate information in that regard is provided in a way that is clear and easily accessible to the general public. Individual, impartial and confidential advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel might best be used and which alternative procedures are available in the event that the information is not covered by the applicable rules, so-called 'signposting'. Access to such advice can help to ensure that reports are made through the appropriate channels, in a responsible manner, and that breaches are detected in a timely manner or even prevented. Such advice and information could be provided by an information centre or a single and independent administrative authority. Member States could choose to extend such advice to legal counselling. Where such advice is given to reporting persons by civil society organisations which are bound by a duty of maintaining the confidential nature of the information received, Member States should ensure that such organisations do not suffer retaliation, for instance in the form of economic prejudice through a restriction on their access to funding or blacklisting that could impede the proper functioning of the organisation.
- (90) Competent authorities should provide reporting persons with the support necessary for them to access protection effectively. In particular, they should provide proof or other documentation required to confirm to other authorities or courts that external reporting has taken place. Under certain national frameworks and in certain cases, reporting persons may benefit from forms of certification of the fact that they meet the conditions of the applicable rules. Notwithstanding such possibilities, they should have effective access to judicial review, whereby it is for the courts to decide, based on all the individual circumstances of the case, whether they meet the conditions of the applicable rules.
- (91) It should not be possible to rely on individuals' legal or contractual obligations, such as loyalty clauses in contracts or confidentiality or non-disclosure agreements, so as to preclude reporting, to deny protection or to penalise reporting persons for having reported information on breaches or made a public disclosure where providing the information falling within the scope of such clauses and agreements is necessary for revealing the breach. Where those conditions are met, reporting persons should not incur any kind of liability, be it civil, criminal, administrative or employment-related. It is appropriate that there be protection from liability for the reporting or public disclosure under this Directive of information in respect of which the reporting person had reasonable grounds to believe that reporting or public disclosure was necessary to reveal a breach pursuant to this Directive. Such protection should not extend to superfluous information that the person revealed without having such reasonable grounds.
- (92) Where reporting persons lawfully acquire or obtain access to the information on breaches reported or the documents containing that information, they should enjoy immunity from liability. This should apply both in cases where reporting persons reveal the content of documents to which they have lawful access as well as in cases where they make copies of such documents or remove them from the premises of the organisation where they are employed, in breach of contractual or other clauses stipulating that the relevant documents are the property of the organisation. The reporting persons should also enjoy immunity from liability in cases where the acquisition of or access to the relevant information or documents raises an issue of civil, administrative or labour-related liability. Examples would be cases where the reporting persons acquired the information by accessing the emails of a co-worker or files which they normally do not use within the scope of their work, by taking pictures of the premises of the organisation or by accessing locations they do not usually have access to. Where the reporting persons acquired or obtained access to the relevant information or documents by committing a criminal offence, such as physical trespassing or hacking, their criminal liability should remain governed by the applicable national law, without prejudice to the protection granted under Article 21(7) of this Directive. Similarly, any other possible liability of the reporting persons arising from acts or omissions which are unrelated to the reporting or are not necessary for revealing a breach pursuant to this Directive should remain governed by the applicable Union or national law. In those cases, it should be for the national courts to assess the liability of the reporting persons in the light of all relevant factual information and taking into account the individual circumstances of the case, including the necessity and proportionality of the act or omission in relation to the report or public disclosure.
- (93) Retaliation is likely to be presented as being justified on grounds other than the reporting and it can be very difficult for reporting persons to prove the link between the reporting and the retaliation, whilst the perpetrators of retaliation may have greater power and resources to document the action taken and the reasoning. Therefore, once the reporting person demonstrates *prima facie* that he or she reported breaches or made

a public disclosure in accordance with this Directive and suffered a detriment, the burden of proof should shift to the person who took the detrimental action, who should then be required to demonstrate that the action taken was not linked in any way to the reporting or the public disclosure.

- (94) Beyond an explicit prohibition of retaliation provided in law, it is crucial that reporting persons who do suffer retaliation have access to legal remedies and compensation. The appropriate remedy in each case should be determined by the kind of retaliation suffered, and the damage caused in such cases should be compensated in full in accordance with national law. The appropriate remedy could take the form of actions for reinstatement, for instance, in the event of dismissal, transfer or demotion, or of withholding of training or promotion, or for restoration of a cancelled permit, licence or contract; compensation for actual and future financial losses, for example for lost past wages, but also for future loss of income, costs linked to a change of occupation; and compensation for other economic damage, such as legal expenses and costs of medical treatment, and for intangible damage such as pain and suffering.
- (95) While the types of legal action may vary between legal systems, they should ensure that compensation or reparation is real and effective, in a way which is proportionate to the detriment suffered and is dissuasive. Of relevance in this context are the Principles of the European Pillar of Social Rights, in particular Principle 7 according to which 'Prior to any dismissal, workers have the right to be informed of the reasons and be granted a reasonable period of notice. They have the right to access to effective and impartial dispute resolution and, in case of unjustified dismissal, a right to redress, including adequate compensation.'. The remedies established at national level should not discourage potential future whistleblowers. For instance, providing for compensation as an alternative to reinstatement in the event of dismissal might give rise to a systematic practice, in particular by larger organisations, thus having a dissuasive effect on future whistleblowers.
- (96) Of particular importance for reporting persons are interim remedies pending the resolution of legal proceedings that can be protracted. Particularly, actions of interim relief, as provided for under national law, should also be available to reporting persons in order to stop threats, attempts or continuing acts of retaliation, such as harassment or to prevent forms of retaliation, such as dismissal, which might be difficult to reverse after the lapse of lengthy periods and which can ruin the individual financially, a perspective which can seriously discourage potential whistleblowers.
- (97) Action taken against reporting persons outside the work-related context, through proceedings, for instance, related to defamation, breach of copyright, trade secrets, confidentiality and personal data protection, can also pose a serious deterrent to whistleblowing. In such proceedings, reporting persons should be able to rely on having reported breaches or made a public disclosure in accordance with this Directive as a defence, provided that the information reported or publicly disclosed was necessary to reveal the breach. In such cases, the person initiating the proceedings should carry the burden of proving that the reporting person does not meet the conditions laid down by this Directive.
- (98) Directive (EU) 2016/943 of the European Parliament and of the Council ⁽⁴⁶⁾ lays down rules to ensure a sufficient and consistent level of civil redress in the event of unlawful acquisition, use or disclosure of a trade secret. However, it also provides that the acquisition, use or disclosure of a trade secret is to be considered lawful to the extent that it is allowed by Union law. Persons who disclose trade secrets acquired in a work-related context should only benefit from the protection granted by this Directive, including in terms of not incurring civil liability, provided that they meet the conditions laid down by this Directive, including that the disclosure was necessary to reveal a breach falling within the material scope of this Directive. Where those conditions are met, disclosures of trade secrets are to be considered allowed by Union law within the meaning of Article 3(2) of Directive (EU) 2016/943. Moreover, both Directives should be considered as being complementary and the civil redress measures, procedures and remedies as well as exemptions provided for in Directive (EU) 2016/943 should remain applicable for all disclosures of trade secrets falling outside the scope of this Directive. Competent authorities that receive information on breaches that includes trade secrets should ensure that they are not used or disclosed for purposes going beyond what is necessary for proper follow-up of the reports.

⁽⁴⁶⁾ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

- (99) A significant cost for reporting persons contesting retaliation measures taken against them in legal proceedings can be the relevant legal fees. Although they could recover such fees at the end of the proceedings, they might not be able to pay those fees if charged at the outset of proceedings, especially if they are unemployed and blacklisted. Assistance for criminal legal proceedings, particularly where the reporting persons meet the conditions of Directive (EU) 2016/1919 of the European Parliament and of the Council⁽⁴⁷⁾, and, more generally, support to those who are in serious financial need might be key, in certain cases, for the effective enforcement of their rights to protection.
- (100) The rights of the person concerned should be protected in order to avoid reputational damage or other negative consequences. Furthermore, the rights of defence and access to remedies of the person concerned should be fully respected at every stage of the procedure following the report, in accordance with Articles 47 and 48 of the Charter. Member States should protect the confidentiality of the identity of the person concerned and ensure the rights of defence including the right of access to the file, the right to be heard and the right to seek effective remedy against a decision concerning the person concerned under the applicable procedures set out in national law in the context of investigations or subsequent judicial proceedings.
- (101) Any person who suffers prejudice, whether directly or indirectly, as a consequence of the reporting or public disclosure of inaccurate or misleading information should retain the protection and the remedies available to him or her under the rules of general national law. Where such inaccurate or misleading information was reported or publicly disclosed deliberately and knowingly, the persons concerned should be entitled to compensation in accordance with national law.
- (102) Criminal, civil or administrative penalties are necessary to ensure the effectiveness of the rules on whistleblower protection. Penalties against those who take retaliatory or other adverse actions against reporting persons can discourage further such actions. Penalties against persons who report or publicly disclose information on breaches which is demonstrated to be knowingly false are also necessary to deter further malicious reporting and preserve the credibility of the system. The proportionality of such penalties should ensure that they do not have a dissuasive effect on potential whistleblowers.
- (103) Any decision taken by authorities adversely affecting the rights granted by this Directive, in particular decisions by which competent authorities decide to close the procedure regarding a reported breach on account of it being clearly minor or on account of the report being repetitive, or decide that a particular report does not deserve priority treatment, is subject to judicial review in accordance with Article 47 of the Charter.
- (104) This Directive introduces minimum standards and it should be possible for Member States to introduce or maintain provisions which are more favourable to the reporting person, provided that such provisions do not interfere with the measures for the protection of persons concerned. The transposition of this Directive should, under no circumstances, provide grounds for reducing the level of protection already granted to reporting persons under national law in the areas to which it applies.
- (105) In accordance with Article 26(2) TFEU, the internal market needs to comprise an area without internal frontiers in which the free movement of goods and services is ensured. The internal market should provide Union citizens with added value in the form of better quality and safety of goods and services, ensuring high standards of public health and environmental protection as well as free movement of personal data. Thus, Article 114 TFEU is the appropriate legal basis to adopt the measures necessary for the establishment and functioning of the internal market. In addition to Article 114 TFEU, this Directive should have additional specific legal bases in order to cover the fields that rely on Article 16, Article 43(2), Article 50, Article 53(1), Articles 91 and 100, Article 168(4), Article 169, Article 192(1) and Article 325(4) TFEU and Article 31 of the Euratom Treaty for the adoption of Union measures.
- (106) The material scope of this Directive is based on the identification of areas where the introduction of whistleblower protection appears justified and necessary on the basis of currently available evidence. Such material scope could be extended to further areas or Union acts, if that proves necessary as a means of strengthening their enforcement in the light of evidence that may come to the fore in the future, or on the basis of the evaluation of the way in which this Directive has functioned.
- (107) Where future legislative acts relevant to the policy areas covered by this Directive are adopted, they should specify, where appropriate, that this Directive applies. Where necessary, the material scope of this Directive should be adapted and the Annex should be amended accordingly.

⁽⁴⁷⁾ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1).

- (108) Since the objective of this Directive, namely to strengthen enforcement in certain policy areas and as regards acts where breaches of Union law can cause serious harm to the public interest, through effective whistleblower protection, cannot be sufficiently achieved by the Member States acting alone or in an uncoordinated manner, but can rather be better achieved at Union level by laying down common minimum standards for whistleblower protection, and given that only Union action can provide coherence and align the existing Union rules on whistleblower protection, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (109) This Directive respects fundamental rights and the principles recognised in particular by the Charter, in particular Article 11 thereof. Accordingly, it is essential that this Directive be implemented in accordance with those rights and principles by ensuring full respect for, inter alia, freedom of expression and information, the right to protection of personal data, the freedom to conduct a business, the right to a high level of consumer protection, the right to a high level of human health protection, the right to a high level of environmental protection, the right to good administration, the right to an effective remedy and the rights of defence.
- (110) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

SCOPE, DEFINITIONS AND CONDITIONS FOR PROTECTION

Article 1

Purpose

The purpose of this Directive is to enhance the enforcement of Union law and policies in specific areas by laying down common minimum standards providing for a high level of protection of persons reporting breaches of Union law.

Article 2

Material scope

1. This Directive lays down common minimum standards for the protection of persons reporting the following breaches of Union law:
 - (a) breaches falling within the scope of the Union acts set out in the Annex that concern the following areas:
 - (i) public procurement;
 - (ii) financial services, products and markets, and prevention of money laundering and terrorist financing;
 - (iii) product safety and compliance;
 - (iv) transport safety;
 - (v) protection of the environment;
 - (vi) radiation protection and nuclear safety;
 - (vii) food and feed safety, animal health and welfare;
 - (viii) public health;
 - (ix) consumer protection;
 - (x) protection of privacy and personal data, and security of network and information systems;

- (b) breaches affecting the financial interests of the Union as referred to in Article 325 TFEU and as further specified in relevant Union measures;
 - (c) breaches relating to the internal market, as referred to in Article 26(2) TFEU, including breaches of Union competition and State aid rules, as well as breaches relating to the internal market in relation to acts which breach the rules of corporate tax or to arrangements the purpose of which is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law.
2. This Directive is without prejudice to the power of Member States to extend protection under national law as regards areas or acts not covered by paragraph 1.

Article 3

Relationship with other Union acts and national provisions

1. Where specific rules on the reporting of breaches are provided for in the sector-specific Union acts listed in Part II of the Annex, those rules shall apply. The provisions of this Directive shall be applicable to the extent that a matter is not mandatorily regulated in those sector-specific Union acts.
2. This Directive shall not affect the responsibility of Member States to ensure national security or their power to protect their essential security interests. In particular, it shall not apply to reports of breaches of the procurement rules involving defence or security aspects unless they are covered by the relevant acts of the Union.
3. This Directive shall not affect the application of Union or national law relating to any of the following:
- (a) the protection of classified information;
 - (b) the protection of legal and medical professional privilege;
 - (c) the secrecy of judicial deliberations;
 - (d) rules on criminal procedure.
4. This Directive shall not affect national rules on the exercise by workers of their rights to consult their representatives or trade unions, and on protection against any unjustified detrimental measure prompted by such consultations as well as on the autonomy of the social partners and their right to enter into collective agreements. This is without prejudice to the level of protection granted by this Directive.

Article 4

Personal scope

1. This Directive shall apply to reporting persons working in the private or public sector who acquired information on breaches in a work-related context including, at least, the following:
- (a) persons having the status of worker, within the meaning of Article 45(1) TFEU, including civil servants;
 - (b) persons having self-employed status, within the meaning of Article 49 TFEU;
 - (c) shareholders and persons belonging to the administrative, management or supervisory body of an undertaking, including non-executive members, as well as volunteers and paid or unpaid trainees;
 - (d) any persons working under the supervision and direction of contractors, subcontractors and suppliers.
2. This Directive shall also apply to reporting persons where they report or publicly disclose information on breaches acquired in a work-based relationship which has since ended.

3. This Directive shall also apply to reporting persons whose work-based relationship is yet to begin in cases where information on breaches has been acquired during the recruitment process or other pre-contractual negotiations.
4. The measures for the protection of reporting persons set out in Chapter VI shall also apply, where relevant, to:
 - (a) facilitators;
 - (b) third persons who are connected with the reporting persons and who could suffer retaliation in a work-related context, such as colleagues or relatives of the reporting persons; and
 - (c) legal entities that the reporting persons own, work for or are otherwise connected with in a work-related context.

Article 5

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) 'breaches' means acts or omissions that:
 - (i) are unlawful and relate to the Union acts and areas falling within the material scope referred to in Article 2; or
 - (ii) defeat the object or the purpose of the rules in the Union acts and areas falling within the material scope referred to in Article 2;
- (2) 'information on breaches' means information, including reasonable suspicions, about actual or potential breaches, which occurred or are very likely to occur in the organisation in which the reporting person works or has worked or in another organisation with which the reporting person is or was in contact through his or her work, and about attempts to conceal such breaches;
- (3) 'report' or 'to report' means, the oral or written communication of information on breaches;
- (4) 'internal reporting' means the oral or written communication of information on breaches within a legal entity in the private or public sector;
- (5) 'external reporting' means the oral or written communication of information on breaches to the competent authorities;
- (6) 'public disclosure' or 'to publicly disclose' means the making of information on breaches available in the public domain;
- (7) 'reporting person' means a natural person who reports or publicly discloses information on breaches acquired in the context of his or her work-related activities;
- (8) 'facilitator' means a natural person who assists a reporting person in the reporting process in a work-related context, and whose assistance should be confidential;
- (9) 'work-related context' means current or past work activities in the public or private sector through which, irrespective of the nature of those activities, persons acquire information on breaches and within which those persons could suffer retaliation if they reported such information;
- (10) 'person concerned' means a natural or legal person who is referred to in the report or public disclosure as a person to whom the breach is attributed or with whom that person is associated;
- (11) 'retaliation' means any direct or indirect act or omission which occurs in a work-related context, is prompted by internal or external reporting or by public disclosure, and which causes or may cause unjustified detriment to the reporting person;

- (12) 'follow-up' means any action taken by the recipient of a report or any competent authority, to assess the accuracy of the allegations made in the report and, where relevant, to address the breach reported, including through actions such as an internal enquiry, an investigation, prosecution, an action for recovery of funds, or the closure of the procedure;
- (13) 'feedback' means the provision to the reporting person of information on the action envisaged or taken as follow-up and on the grounds for such follow-up;
- (14) 'competent authority' means any national authority designated to receive reports in accordance with Chapter III and give feedback to the reporting person, and/or designated to carry out the duties provided for in this Directive, in particular as regards follow-up.

Article 6

Conditions for protection of reporting persons

1. Reporting persons shall qualify for protection under this Directive provided that:
 - (a) they had reasonable grounds to believe that the information on breaches reported was true at the time of reporting and that such information fell within the scope of this Directive; and
 - (b) they reported either internally in accordance with Article 7 or externally in accordance with Article 10, or made a public disclosure in accordance with Article 15.
2. Without prejudice to existing obligations to provide for anonymous reporting by virtue of Union law, this Directive does not affect the power of Member States to decide whether legal entities in the private or public sector and competent authorities are required to accept and follow up on anonymous reports of breaches.
3. Persons who reported or publicly disclosed information on breaches anonymously, but who are subsequently identified and suffer retaliation, shall nonetheless qualify for the protection provided for under Chapter VI, provided that they meet the conditions laid down in paragraph 1.
4. Persons reporting to relevant institutions, bodies, offices or agencies of the Union breaches falling within the scope of this Directive shall qualify for protection as laid down in this Directive under the same conditions as persons who report externally.

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.
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.

CHAPTER III

EXTERNAL REPORTING AND FOLLOW-UP

Article 10

Reporting through external reporting channels

Without prejudice to point (b) of Article 15(1), reporting persons shall report information on breaches using the channels and procedures referred to in Articles 11 and 12, after having first reported through internal reporting channels, or by directly reporting through external reporting channels.

Article 11

Obligation to establish external reporting channels and to follow up on reports

1. Member States shall designate the authorities competent to receive, give feedback and follow up on reports, and shall provide them with adequate resources.
2. Member States shall ensure that the competent authorities:
 - (a) establish independent and autonomous external reporting channels, for receiving and handling information on breaches;
 - (b) promptly, and in any event within seven days of receipt of the report, acknowledge that receipt unless the reporting person explicitly requested otherwise or the competent authority reasonably believes that acknowledging receipt of the report would jeopardise the protection of the reporting person's identity;
 - (c) diligently follow up on the reports;
 - (d) provide feedback to the reporting person within a reasonable timeframe not exceeding three months, or six months in duly justified cases;
 - (e) communicate to the reporting person the final outcome of investigations triggered by the report, in accordance with procedures provided for under national law;
 - (f) transmit in due time the information contained in the report to competent institutions, bodies, offices or agencies of the Union, as appropriate, for further investigation, where provided for under Union or national law.
3. Member States may provide that competent authorities, after having duly assessed the matter, can decide that a reported breach is clearly minor and does not require further follow-up pursuant to this Directive, other than closure of the procedure. This shall not affect other obligations or other applicable procedures to address the reported breach, or the protection granted by this Directive in relation to internal or external reporting. In such a case, the competent authorities shall notify the reporting person of their decision and the reasons therefor.
4. Member States may provide that competent authorities can decide to close procedures regarding repetitive reports which do not contain any meaningful new information on breaches compared to a past report in respect of which the relevant procedures were concluded, unless new legal or factual circumstances justify a different follow-up. In such a case, the competent authorities shall notify the reporting person of their decision and the reasons therefor.

5. Member States may provide that, in the event of high inflows of reports, competent authorities may deal with reports of serious breaches or breaches of essential provisions falling within the scope of this Directive as a matter of priority, without prejudice to the timeframe as set out in point (d) of paragraph 2.
6. Member States shall ensure that any authority which has received a report but does not have the competence to address the breach reported transmits it to the competent authority, within a reasonable time, in a secure manner, and that the reporting person is informed, without delay, of such a transmission.

Article 12

Design of external reporting channels

1. External reporting channels shall be considered independent and autonomous, if they meet all of the following criteria:
 - (a) they are designed, established and operated in a manner that ensures the completeness, integrity and confidentiality of the information and prevents access thereto by non-authorised staff members of the competent authority;
 - (b) they enable the durable storage of information in accordance with Article 18 to allow further investigations to be carried out.
2. The external reporting channels shall enable reporting in writing and orally. 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.
3. Competent authorities shall ensure that, where a report is received through channels other than the reporting channels referred to in paragraphs 1 and 2 or by staff members other than those responsible for handling reports, the staff members who receive it are prohibited from disclosing any information that might identify the reporting person or the person concerned, and that they promptly forward the report without modification to the staff members responsible for handling reports.
4. Member States shall ensure that competent authorities designate staff members responsible for handling reports, and in particular for:
 - (a) providing any interested person with information on the procedures for reporting;
 - (b) receiving and following up on reports;
 - (c) maintaining contact with the reporting person for the purpose of providing feedback and requesting further information where necessary.
5. The staff members referred to in paragraph 4 shall receive specific training for the purposes of handling reports.

Article 13

Information regarding the receipt of reports and their follow-up

Member States shall ensure that competent authorities publish on their websites in a separate, easily identifiable and accessible section at least the following information:

- (a) the conditions for qualifying for protection under this Directive;
- (b) the contact details for the external reporting channels as provided for under Article 12, in particular the electronic and postal addresses, and the phone numbers for such channels, indicating whether the phone conversations are recorded;
- (c) the procedures applicable to the reporting of breaches, including the manner in which the competent authority may request the reporting person to clarify the information reported or to provide additional information, the timeframe for providing feedback and the type and content of such feedback;
- (d) the confidentiality regime applicable to reports, and in particular the information in relation to the processing of personal data in accordance with Article 17 of this Directive, Articles 5 and 13 of Regulation (EU) 2016/679, Article 13 of Directive (EU) 2016/680 and Article 15 of Regulation (EU) 2018/1725, as applicable;

- (e) the nature of the follow-up to be given to reports;
- (f) the remedies and procedures for protection against retaliation and the availability of confidential advice for persons contemplating reporting;
- (g) a statement clearly explaining the conditions under which persons reporting to the competent authority are protected from incurring liability for a breach of confidentiality pursuant to Article 21(2); and
- (h) contact details of the information centre or of the single independent administrative authority as provided for in Article 20(3) where applicable.

Article 14

Review of the procedures by competent authorities

Member States shall ensure that competent authorities review their procedures for receiving reports, and their follow-up, regularly, and at least once every three years. In reviewing such procedures, competent authorities shall take account of their experience as well as that of other competent authorities and adapt their procedures accordingly.

CHAPTER IV

PUBLIC DISCLOSURES

Article 15

Public disclosures

1. A person who makes a public disclosure shall qualify for protection under this Directive if any of the following conditions is fulfilled:
 - (a) the person first reported internally and externally, or directly externally in accordance with Chapters II and III, but no appropriate action was taken in response to the report within the timeframe referred to in point (f) of Article 9(1) or point (d) of Article 11(2); or
 - (b) the person has reasonable grounds to believe that:
 - (i) the breach may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage; or
 - (ii) in the case of external reporting, there is a risk of retaliation or there is a low prospect of the breach being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where an authority may be in collusion with the perpetrator of the breach or involved in the breach.
2. This Article shall not apply to cases where a person directly discloses information to the press pursuant to specific national provisions establishing a system of protection relating to freedom of expression and information.

CHAPTER V

PROVISIONS APPLICABLE TO INTERNAL AND EXTERNAL REPORTING

Article 16

Duty of confidentiality

1. Member States shall ensure that the identity of the reporting person is not disclosed to anyone beyond the authorised staff members competent to receive or follow up on reports, without the explicit consent of that person. This shall also apply to any other information from which the identity of the reporting person may be directly or indirectly deduced.
2. By way of derogation from paragraph 1, the identity of the reporting person and any other information referred to in paragraph 1 may be disclosed only where this is a necessary and proportionate obligation imposed by Union or national law in the context of investigations by national authorities or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned.

3. Disclosures made pursuant to the derogation provided for in paragraph 2 shall be subject to appropriate safeguards under the applicable Union and national rules. In particular, reporting persons shall be informed before their identity is disclosed, unless such information would jeopardise the related investigations or judicial proceedings. When informing the reporting persons, the competent authority shall send them an explanation in writing of the reasons for the disclosure of the confidential data concerned.

4. Member States shall ensure that competent authorities that receive information on breaches that includes trade secrets do not use or disclose those trade secrets for purposes going beyond what is necessary for proper follow-up.

Article 17

Processing of personal data

Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, shall be carried out in accordance with Regulation (EU) 2016/679 and Directive (EU) 2016/680. Any exchange or transmission of information by Union institutions, bodies, offices or agencies shall be undertaken in accordance with Regulation (EU) 2018/1725.

Personal data which are manifestly not relevant for the handling of a specific report shall not be collected or, if accidentally collected, shall be deleted without undue delay.

Article 18

Record keeping of the reports

1. Member States shall ensure that legal entities in the private and public sector and competent authorities keep records of every report received, in compliance with the confidentiality requirements provided for in Article 16. Reports shall be stored for no longer than it is necessary and proportionate in order to comply with the requirements imposed by this Directive, or other requirements imposed by Union or national law.

2. Where a recorded telephone line or another recorded voice messaging system is used for reporting, subject to the consent of the reporting person, legal entities in the private and public sector and competent authorities shall have the right to document the oral reporting in one of the following ways:

- (a) by making a recording of the conversation in a durable and retrievable form; or
- (b) through a complete and accurate transcript of the conversation prepared by the staff members responsible for handling the report.

Legal entities in the private and public sector and competent authorities shall offer the reporting person the opportunity to check, rectify and agree the transcript of the call by signing it.

3. Where an unrecorded telephone line or another unrecorded voice messaging system is used for reporting, legal entities in the private and public sector and competent authorities shall have the right to document the oral reporting in the form of accurate minutes of the conversation written by the staff member responsible for handling the report. Legal entities in the private and public sector and competent authorities shall offer the reporting person the opportunity to check, rectify and agree the minutes of the conversation by signing them.

4. Where a person requests a meeting with the staff members of legal entities in the private and public sector or of competent authorities for reporting purposes pursuant to Articles 9(2) and 12(2), legal entities in the private and public sector and competent authorities shall ensure, subject to the consent of the reporting person, that complete and accurate records of the meeting are kept in a durable and retrievable form.

Legal entities in the private and public sector and competent authorities shall have the right to document the meeting in one of the following ways:

- (a) by making a recording of the conversation in a durable and retrievable form; or
- (b) through accurate minutes of the meeting prepared by the staff members responsible for handling the report.

Legal entities in the private and public sector and competent authorities shall offer the reporting person the opportunity to check, rectify and agree the minutes of the meeting by signing them.

CHAPTER VI

PROTECTION MEASURES*Article 19***Prohibition of retaliation**

Member States shall take the necessary measures to prohibit any form of retaliation against persons referred to in Article 4, including threats of retaliation and attempts of retaliation including in particular in the form of:

- (a) suspension, lay-off, dismissal or equivalent measures;
- (b) demotion or withholding of promotion;
- (c) transfer of duties, change of location of place of work, reduction in wages, change in working hours;
- (d) withholding of training;
- (e) a negative performance assessment or employment reference;
- (f) imposition or administering of any disciplinary measure, reprimand or other penalty, including a financial penalty;
- (g) coercion, intimidation, harassment or ostracism;
- (h) discrimination, disadvantageous or unfair treatment;
- (i) failure to convert a temporary employment contract into a permanent one, where the worker had legitimate expectations that he or she would be offered permanent employment;
- (j) failure to renew, or early termination of, a temporary employment contract;
- (k) harm, including to the person's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- (l) blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;
- (m) early termination or cancellation of a contract for goods or services;
- (n) cancellation of a licence or permit;
- (o) psychiatric or medical referrals.

*Article 20***Measures of support**

1. Member States shall ensure that persons referred to in Article 4 have access, as appropriate, to support measures, in particular the following:

- (a) comprehensive and independent information and advice, which is easily accessible to the public and free of charge, on procedures and remedies available, on protection against retaliation, and on the rights of the person concerned;
- (b) effective assistance from competent authorities before any relevant authority involved in their protection against retaliation, including, where provided for under national law, certification of the fact that they qualify for protection under this Directive; and
- (c) legal aid in criminal and in cross-border civil proceedings in accordance with Directive (EU) 2016/1919 and Directive 2008/52/EC of the European Parliament and of the Council⁽⁴⁸⁾, and, in accordance with national law, legal aid in further proceedings and legal counselling or other legal assistance.

⁽⁴⁸⁾ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (OJ L 136, 24.5.2008, p. 3).

2. Member States may provide for financial assistance and support measures, including psychological support, for reporting persons in the framework of legal proceedings.
3. The support measures referred to in this Article may be provided, as appropriate, by an information centre or a single and clearly identified independent administrative authority.

Article 21

Measures for protection against retaliation

1. Member States shall take the necessary measures to ensure that persons referred to in Article 4 are protected against retaliation. Such measures shall include, in particular, those set out in paragraphs 2 to 8 of this Article.
2. Without prejudice to Article 3(2) and (3), where persons report information on breaches or make a public disclosure in accordance with this Directive they shall not be considered to have breached any restriction on disclosure of information and shall not incur liability of any kind in respect of such a report or public disclosure provided that they had reasonable grounds to believe that the reporting or public disclosure of such information was necessary for revealing a breach pursuant to this Directive.
3. Reporting persons shall not incur liability in respect of the acquisition of or access to the information which is reported or publicly disclosed, provided that such acquisition or access did not constitute a self-standing criminal offence. In the event of the acquisition or access constituting a self-standing criminal offence, criminal liability shall continue to be governed by applicable national law.
4. Any other possible liability of reporting persons arising from acts or omissions which are unrelated to the reporting or public disclosure or which are not necessary for revealing a breach pursuant to this Directive shall continue to be governed by applicable Union or national law.
5. In proceedings before a court or other authority relating to a detriment suffered by the reporting person, and subject to that person establishing that he or she reported or made a public disclosure and suffered a detriment, it shall be presumed that the detriment was made in retaliation for the report or the public disclosure. In such cases, it shall be for the person who has taken the detrimental measure to prove that that measure was based on duly justified grounds.
6. Persons referred to in Article 4 shall have access to remedial measures against retaliation as appropriate, including interim relief pending the resolution of legal proceedings, in accordance with national law.
7. In legal proceedings, including for defamation, breach of copyright, breach of secrecy, breach of data protection rules, disclosure of trade secrets, or for compensation claims based on private, public, or on collective labour law, persons referred to in Article 4 shall not incur liability of any kind as a result of reports or public disclosures under this Directive. Those persons shall have the right to rely on that reporting or public disclosure to seek dismissal of the case, provided that they had reasonable grounds to believe that the reporting or public disclosure was necessary for revealing a breach, pursuant to this Directive.

Where a person reports or publicly discloses information on breaches falling within the scope of this Directive, and that information includes trade secrets, and where that person meets the conditions of this Directive, such reporting or public disclosure shall be considered lawful under the conditions of Article 3(2) of the Directive (EU) 2016/943.

8. Member States shall take the necessary measures to ensure that remedies and full compensation are provided for damage suffered by persons referred to in Article 4 in accordance with national law.

Article 22

Measures for the protection of persons concerned

1. Member States shall ensure, in accordance with the Charter, that persons concerned fully enjoy the right to an effective remedy and to a fair trial, as well as the presumption of innocence and the rights of defence, including the right to be heard and the right to access their file.
2. Competent authorities shall ensure, in accordance with national law, that the identity of persons concerned is protected for as long as investigations triggered by the report or the public disclosure are ongoing.

3. The rules set out in Articles 12, 17 and 18 as regards the protection of the identity of reporting persons shall also apply to the protection of the identity of persons concerned.

Article 23

Penalties

1. Member States shall provide for effective, proportionate and dissuasive penalties applicable to natural or legal persons that:

- (a) hinder or attempt to hinder reporting;
- (b) retaliate against persons referred to in Article 4;
- (c) bring vexatious proceedings against persons referred to in Article 4;
- (d) breach the duty of maintaining the confidentiality of the identity of reporting persons, as referred to in Article 16.

2. Member States shall provide for effective, proportionate and dissuasive penalties applicable in respect of reporting persons where it is established that they knowingly reported or publicly disclosed false information. Member States shall also provide for measures for compensating damage resulting from such reporting or public disclosures in accordance with national law.

Article 24

No waiver of rights and remedies

Member States shall ensure that the rights and remedies provided for under this Directive cannot be waived or limited by any agreement, policy, form or condition of employment, including a pre-dispute arbitration agreement.

CHAPTER VII

FINAL PROVISIONS

Article 25

More favourable treatment and non-regression clause

1. Member States may introduce or retain provisions more favourable to the rights of reporting persons than those set out in this Directive, without prejudice to Article 22 and Article 23(2).
2. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection already afforded by Member States in the areas covered by this Directive.

Article 26

Transposition and transitional period

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 December 2021.
2. By way of derogation from paragraph 1, as regards legal entities in the private sector with 50 to 249 workers, Member States shall by 17 December 2023 bring into force the laws, regulations and administrative provisions necessary to comply with the obligation to establish internal reporting channels under Article 8(3).
3. When Member States adopt the provisions referred to in paragraphs 1 and 2, those provisions shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. They shall forthwith communicate to the Commission the text of those provisions.

Article 27

Reporting, evaluation and review

1. Member States shall provide the Commission with all relevant information regarding the implementation and application of this Directive. On the basis of the information provided, the Commission shall, by 17 December 2023, submit a report to the European Parliament and the Council on the implementation and application of this Directive.

2. Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit the following statistics on the reports referred to in Chapter III to the Commission, preferably in an aggregated form, if they are available at a central level in the Member State concerned:

- (a) the number of reports received by the competent authorities;
- (b) the number of investigations and proceedings initiated as a result of such reports and their outcome; and
- (c) if ascertained, the estimated financial damage, and the amounts recovered following investigations and proceedings, related to the breaches reported.

3. The Commission shall, by 17 December 2025, taking into account its report submitted pursuant to paragraph 1 and the Member States' statistics submitted pursuant to paragraph 2, submit a report to the European Parliament and to the Council assessing the impact of national law transposing this Directive. The report shall evaluate the way in which this Directive has functioned and consider the need for additional measures, including, where appropriate, amendments with a view to extending the scope of this Directive to further Union acts or areas, in particular the improvement of the working environment to protect workers' health and safety and working conditions.

In addition to the evaluation referred to in the first subparagraph, the report shall evaluate how Member States made use of existing cooperation mechanisms as part of their obligations to follow up on reports regarding breaches falling within the scope of this Directive and more generally how they cooperate in cases of breaches with a cross-border dimension.

4. The Commission shall make the reports referred to in paragraphs 1 and 3 public and easily accessible.

Article 28

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 29

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 23 October 2019.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

T. TUPPURAINEN

ANNEX

Part I

A. Point (a)(i) of Article 2(1) — public procurement:

1. Rules of procedure for public procurement and the award of concessions, for the award of contracts in the fields of defence and security, and for the award of contracts by entities operating in the fields of water, energy, transport and postal services and any other contract, as set out in:

- (i) Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1);
- (ii) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65);
- (iii) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243);
- (iv) Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

2. Review procedures regulated by:

- (i) Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14);
- (ii) Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

B. Point (a)(ii) of Article 2(1) — financial services, products and markets, and prevention of money laundering and terrorist financing:

Rules establishing a regulatory and supervisory framework and consumer and investor protection in the Union's financial services and capital markets, banking, credit, investment, insurance and re-insurance, occupational or personal pensions products, securities, investment funds, payment services and the activities listed in Annex I to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338), as set out in:

- (i) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7);
- (ii) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1);
- (iii) Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1);
- (iv) Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1);

- (v) Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship fund (OJ L 115, 25.4.2013, p. 18);
- (vi) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34);
- (vii) Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p. 77);
- (viii) Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84);
- (ix) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35);
- (x) Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJ L 142, 30.4.2004, p. 12);
- (xi) Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17);
- (xii) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38);
- (xiii) Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1);
- (xiv) Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1);
- (xv) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1);
- (xvi) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190);
- (xvii) Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1);
- (xviii) Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149);
- (xix) Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 84, 26.3.1997, p. 22);
- (xx) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

- C. Point (a)(iii) of Article 2(1) — product safety and compliance:
1. Safety and compliance requirements for products placed in the Union market, as defined and regulated by:
 - (i) Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4);
 - (ii) Union harmonisation legislation concerning manufactured products, including labelling requirements, other than food, feed, medicinal products for human and veterinary use, living plants and animals, products of human origin and products of plants and animals relating directly to their future reproduction as listed in Annexes I and II to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1);
 - (iii) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).
 2. Rules on marketing and use of sensitive and dangerous products, as set out in:
 - (i) Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1);
 - (ii) Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons (OJ L 256, 13.9.1991, p. 51);
 - (iii) Regulation (EU) No 98/2013 of the European Parliament and the Council of 15 January 2013 on the marketing and use of explosives precursors (OJ L 39, 9.2.2013, p. 1).
- D. Point (a)(iv) of Article 2(1) — transport safety:
1. Safety requirements in the railway sector, as regulated by Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).
 2. Safety requirements in the civil aviation sector, as regulated by Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295, 12.11.2010, p. 35).
 3. Safety requirements in the road sector, as regulated by:
 - (i) Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management (OJ L 319, 29.11.2008, p. 59);
 - (ii) Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004 on minimum safety requirements for tunnels in the Trans-European Road Network (OJ L 167, 30.4.2004, p. 39);
 - (iii) Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).
 4. Safety requirements in the maritime sector, as regulated by:
 - (i) Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11);
 - (ii) Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (OJ L 131, 28.5.2009, p. 24);
 - (iii) Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L 257, 28.8.2014, p. 146);

- (iv) Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC (OJ L 131, 28.5.2009, p. 114);
 - (v) Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33);
 - (vi) Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35);
 - (vii) Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers (OJ L 13, 16.1.2002, p. 9).
5. Safety requirements, as regulated by Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).
- E. Point (a)(v) of Article 2(1) — protection of the environment:
- 1. Any criminal offence against the protection of the environment as regulated by Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28) or any unlawful conduct infringing the legislation set out in the Annexes to Directive 2008/99/EC;
 - 2. Rules on the environment and climate, as set out in:
 - (i) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32);
 - (ii) Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16);
 - (iii) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1);
 - (iv) Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13);
 - (v) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).
 - 3. Rules on sustainable development and waste management, as set out in:
 - (i) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3);
 - (ii) Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1);
 - (iii) Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

4. Rules on marine, air and noise pollution, as set out in:

- (i) Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars (OJ L 12, 18.1.2000, p. 16);
- (ii) Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309, 27.11.2001, p. 22);
- (iii) Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJ L 189, 18.7.2002, p. 12);
- (iv) Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships (OJ L 115, 9.5.2003, p. 1);
- (v) Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56);
- (vi) Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11);
- (vii) Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 33, 4.2.2006, p. 1);
- (viii) Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5);
- (ix) Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1);
- (x) Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1);
- (xi) Directive 2009/126/EC of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (OJ L 285, 31.10.2009, p. 36);
- (xii) Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 145, 31.5.2011, p. 1);
- (xiii) Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1);
- (xiv) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55);
- (xv) Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants (OJ L 313, 28.11.2015, p. 1).

5. Rules on the protection and management of water and soil, as set out in:

- (i) Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks (OJ L 288, 6.11.2007, p. 27);
- (ii) Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84);

- (iii) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).
6. Rules relating to the protection of nature and biodiversity, as set out in:
- (i) Council Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish (OJ L 263, 3.10.2001, p. 1);
 - (ii) Council Regulation (EC) No 812/2004 of 26 April 2004 laying down measures concerning bycatches of cetaceans in fisheries and amending Regulation (EC) No 88/98 (OJ L 150, 30.4.2004, p. 12);
 - (iii) Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products (OJ L 286, 31.10.2009, p. 36);
 - (iv) Council Regulation (EC) No 734/2008 of 15 July 2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears (OJ L 201, 30.7.2008, p. 8);
 - (v) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7);
 - (vi) Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23);
 - (vii) Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).
7. Rules on chemicals, as set out in Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).
8. Rules relating to organic products, as set out in Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).
- F. Point (a)(vi) of Article 2(1) — radiation protection and nuclear safety
- Rules on nuclear safety, as set out in:
- (i) Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18);
 - (ii) Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12);
 - (iii) Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1);
 - (iv) Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (OJ L 199, 2.8.2011, p. 48);
 - (v) Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel (OJ L 337, 5.12.2006, p. 21);

- (vi) Council Regulation (Euratom) 2016/52 of 15 January 2016 laying down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency, and repealing Regulation (Euratom) No 3954/87 and Commission Regulations (Euratom) No 944/89 and (Euratom) No 770/90 (OJ L 13, 20.1.2016, p. 2);
 - (vii) Council Regulation (Euratom) No 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States (OJ L 148, 19.6.1993, p. 1).
- G. Point (a)(vii) of Article 2(1) — food and feed safety, animal health and animal welfare:
- 1. Union food and feed law governed by the general principles and requirements as defined by Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).
 - 2. Animal health, as regulated by:
 - (i) Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1);
 - (ii) Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).
 - 3. Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).
 - 4. Rules and standards on the protection and well-being of animals, as set out in:
 - (i) Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23);
 - (ii) Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1);
 - (iii) Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1);
 - (iv) Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos (OJ L 94, 9.4.1999, p. 24);
 - (v) Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes (OJ L 276, 20.10.2010, p. 33).
- H. Point (a) (viii) of Article 2(1) — public health:
- 1. Measures setting high standards of quality and safety of organs and substances of human origin, as regulated by:
 - (i) Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC (OJ L 33, 8.2.2003, p. 30);

- (ii) Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells (OJ L 102, 7.4.2004, p. 48);
 - (iii) Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation (OJ L 207, 6.8.2010, p. 14).
2. Measures setting high standards of quality and safety for medicinal products and devices of medical use, as regulated by:
- (i) Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products (OJ L 18, 22.1.2000, p. 1);
 - (ii) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67);
 - (iii) Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43);
 - (iv) Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1);
 - (v) Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ L 378, 27.12.2006, p. 1);
 - (vi) Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ L 324, 10.12.2007, p. 121);
 - (vii) Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC (OJ L 158, 27.5.2014, p. 1).
3. Patients' rights, as regulated by Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).
4. Manufacture, presentation and sale of tobacco and related products, as regulated by Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).
- I. Point (a)(ix) of Article 2(1) — consumer protection:
- Consumer rights and consumer protection, as regulated by:
- (i) Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers (OJ L 80, 18.3.1998, p. 27);
 - (ii) Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1);
 - (iii) Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28);
 - (iv) Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p. 12);

- (v) Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ L 271, 9.10.2002, p. 16);
 - (vi) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22);
 - (vii) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66);
 - (viii) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64);
 - (ix) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).
- J. Point (a)(x) of Article 2(1) — protection of privacy and personal data, and security of network and information systems:
- (i) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37);
 - (ii) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1);
 - (iii) Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

Part II

Article 3(1) refers to the following Union legislation:

- A. Point (a)(ii) of Article 2(1) — financial services, products and markets, and prevention of money laundering and terrorist financing:
1. Financial services:
- (i) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32);
 - (ii) Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37);
 - (iii) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87);
 - (iv) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1);
 - (v) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338);

- (vi) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349);
 - (vii) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1);
 - (viii) Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1);
 - (ix) Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1);
 - (x) Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19);
 - (xi) Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).
2. Prevention of money laundering and terrorist financing:
- (i) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73);
 - (ii) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).
- B. Point (a)(iv) of Article 2(1) — transport safety:
- (i) Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18);
 - (ii) Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 (OJ L 329, 10.12.2013, p. 1);
 - (iii) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).
- C. Point (a)(v) of Article 2(1) — protection of the environment:
- (i) Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ L 178, 28.6.2013, p. 66).
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II

(Non-legislative acts)

DECISIONS

DECISION (EU) 2019/1938 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 18 September 2019****on the mobilisation of the European Globalisation Adjustment Fund (EGF/2019/000 TA 2019 —
Technical assistance at the initiative of the Commission)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1309/2013 of the European Parliament and of the Council of 17 December 2013 on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC) No 1927/2006 ⁽¹⁾, and in particular Article 11(2) thereof,

Having regard to the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽²⁾, and in particular point 13 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Globalisation Adjustment Fund (EGF) aims to provide support for workers made redundant and self-employed persons whose activities have ceased as a result of major structural changes in world trade patterns due to globalisation, as a result of a continuation of the global financial and economic crisis, or as a result of a new global financial and economic crisis, and to assist them with their reintegration into the labour market.
- (2) The EGF is not to exceed a maximum annual amount of EUR 150 million (2011 prices), as laid down in Article 12 of Council Regulation (EU, Euratom) No 1311/2013 ⁽³⁾.
- (3) Regulation (EU) No 1309/2013 provides that a maximum of 0,5 % of the annual maximum amount of the EGF may be used each year for technical assistance at the initiative of the Commission.
- (4) The EGF should, therefore, be mobilised in order to provide the sum of EUR 610 000 for technical assistance at the initiative of the Commission,

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the European Union for the financial year 2019, the European Globalisation Adjustment Fund shall be mobilised to provide the sum of EUR 610 000 in commitment and payment appropriations.

⁽¹⁾ OJ L 347, 20.12.2013, p. 855.

⁽²⁾ OJ C 373, 20.12.2013, p. 1.

⁽³⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

Article 2

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Done at Strasbourg, 18 September 2019.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

T. TUPPURAINEN

CORRIGENDA

Corrigendum to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007

(Official Journal of the European Union L 150 of 14 June 2018)

On page 12, recital 82:

for:

'(82) Organic production is only credible if accompanied by effective verification and controls at all stages of production, processing and distribution.'

read:

'(82) Organic production is only credible if accompanied by effective verification and controls at all stages of production, preparation and distribution.'

On page 23, point (e) of Article 5:

for:

'(e) ensuring the integrity of organic production at all stages of the production, processing and distribution of food and feed;'

read:

'(e) ensuring the integrity of organic production at all stages of the production, preparation and distribution of food and feed;'

On page 69, point 1.9.4.1(f) of Part II of Annex II:

for:

'(f) 92 days for Mallard ducks;'

read:

'(f) 92 days for Mulard ducks;'

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