

The Draft Revision of the Whistleblowing Internal Rules Falls Drastically Short of the Breakthrough Required

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Background

In our communication of 26 February 2026 [\[link\]](#), we reaffirmed an unequivocal principle: the European Commission cannot credibly act as Guardian of the Treaties while imposing robust whistleblower-protection standards on Member States yet systematically failing to apply equivalent — let alone equal — safeguards within its own administration and within the EU agencies and joint undertakings under its authority.

For the Commission, *leading by example* means finally establishing internally effective and credible procedures for the protection of whistleblowers. This is not a matter of strategic choice; it is an obligation flowing directly from its role as Guardian of both the Treaties and the Staff Regulations.

The credibility of Union action, the authority of EU law, and the trust of citizens and staff alike all depend on the Institutions' willingness to apply to themselves, fully and without reservation, the very standards they impose on others.

The Commission's responsibility to *lead by example* is all the more pressing in that the internal rules for the protection of whistleblowers, ultimately adopted will, *mutatis mutandis*, be adopted by all EU agencies and Joint Undertakings placed under its authority. The EEAS has, moreover, announced that it will as much as possible align its own procedures with those of the Commission.

The significance of this reform therefore extends well beyond the Commission's own services.

The revised internal rules will set the benchmark for a far wider institutional ecosystem and will, in practice, determine the level of protection afforded to whistleblowers across the EU administration.

We welcome the European Parliament's resolution in the framework of the 2024 discharge procedure for the Commission, which fully confirms our critical analyses and our calls for reforms.

We were sincerely pleased to note that our requests and critical analyses concerning shortcomings in whistleblower protection, in the management of requests for assistance under Article 24 of the Staff Regulations, and in the investigations conducted within formal procedures, were subsequently fully reflected in the resolution of 29 April 2026 of the European Parliament ([link](#)), adopted as part of the 2024 discharge procedure.

It is therefore with profound disappointment that we received the draft of the internal rules transmitted by DG HR in anticipation of negotiations with the Staff Representation.

Far from delivering genuine reform, the draft constitutes a thinly veiled reaffirmation of the status quo — one that entrenches institutional inertia and actively discourages disclosures.

It plainly lacks any credible political impetus or genuine commitment to change.

This defensive posture is precisely what prevents the cultural shift that effective whistleblower protection requires

As the leading trade union in the European civil service, **R&D** develops its analyses by systematically taking into account the best practices observed within the other institutions. Therefore, all the more concerning is the fact that the draft is, plainly and in several respects, still significantly less protective of whistleblowers than the corresponding implementing provisions in force in



Whistleblower protection:
Commission must finally
lead by example

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other EU institutions, which are now, paradoxical-ly, “*leading the Commission by example*”.

Dear Commissioner Serafin,

During the negotiation, the draft must therefore undergo a fundamental overhaul, and we will submit detailed, duly rea-soned proposals for the necessary amendments.

For the negotiations to be meaningful and fruitful, they must first be underpinned by YOUR clear political direction, together with a mandate to the relevant services — including IDOC and DG HR — to engage in genuine negotiations, ra-ther than in a merely performative exercise aimed at defending a flawed proposal.

1. The Adoption of the Whistleblower Protection Directive Was Rightly Hailed as a Historic Breakthrough

We take this opportunity to pay renewed tribute to our colleagues in DG JUST who shaped this seminal file. With the adoption of Directive (EU) 2019/1937, the Union recognised, for the first time, whistleblowing not as a marginal employment matter, but as a foundational pillar of accountability, the rule of law, and democratic governance — establishing a common baseline of rights and obligations across all Member States

That recognition is, moreover, firmly anchored in primary law. Article 11 of the Charter of Fundamental Rights of the European Union guarantees the freedom of expression and information, which the

European Court of Human Rights has expressly extended to whistleblowers in a consistent line of authority running from *Guja v. Moldova* through *Heinisch v. Germany* to the Grand Chamber judgment in *Halet v. Luxembourg*¹

Any reform of the internal rules must be construed in the light of, and give full effect to, that constitutional framework.

¹ ECtHR, *Guja v. Moldova* [GC], App. No. 14277/04, judgment of 12 February 2008, ECtHR, *Heinisch v. Germany*, App. No. 28274/08, judgment of 21 July 2011, ECtHR, *Halet v. Luxembourg* [GC], App. No. 21884/18, judgment of 14 February 2023

2. The Same Breakthrough Is Urgently Required Internally

We have accordingly called for a genuine internal breakthrough: a thorough and urgent reform of the Commission's whistleblower protection procedures, on the same scale as the breakthrough achieved through the adoption of the Decision against all forms of harassment.

This cultural shift is both indispensable and urgent.

The available data, together with our direct experience in assisting colleagues, demonstrate beyond doubt

that no staff member can credibly claim that the landmark framework established by the Directive is meaningfully implemented within the Commission's own services.

This is not a matter of optics or communication; it is a failure of institutional responsibility for which accountability must be assumed at the highest level.

A genuine internal breakthrough is therefore all the more necessary in that Article 22a(1) of the Staff Regulations does not merely grant officials a right to report irregularities: it im-

poses on them a legal obligation to do so.

The General Court has, moreover, made clear that officials may incur liability under Article 86 of the Staff Regulations and may be subject to disciplinary sanctions where they fail to report suspected irregularities.

Such a reform cannot be reduced to a bureaucratic exercise of aligning the internal rules with the Directive. That alignment, while indispensable, must be accompanied by a true cultural transformation in the treatment and protection of whistleblowers.

3. Any credible reform must start by recognising the prevailing climate of fear

Any adoption of new internal rules must begin by unequivocally acknowledging the collapse of staff trust, as lastly evidenced by the complete absence of whistleblower referrals to OLAF between 2021 and 2024 — a systemic failure rightly denounced by the European Parliament in the context of the Commission's 2024 discharge procedure.

That silence must be understood for what it is: a systemic failure requiring urgent remediation.

The Commission must not repeat the same discredited logic once applied to harassment cases, where the absence of formal complaints was disingenuously presented as evidence of a successful “zero-tolerance” policy.

This silence is all the more troubling in that, as early as 2019, the Commission itself confirmed, in reply to a parliamentary question, that *“while OLAF registered five cases of internal whistleblowing concerning EU Commission staff members since 2015, [it] opened and investigated only one of the cases registered.”*

The problem is therefore neither new nor unknown. The complete absence of referrals to OLAF between 2021 and 2024

must be understood not as an isolated anomaly, but as the culmination of a long-standing and well-documented loss of trust in the existing system.

The absence of referrals to OLAF is in no way surprising. There is a widely shared conviction among staff that any whistleblower must be prepared to face potentially disastrous consequences — for their job, their career, and even their health — without being able to rely on any meaningful protection.

Time and again — most recently in ongoing cases — when serious misconduct comes to light, the reflex is not to take corrective action or to ensure accountability, but to launch a witch hunt against the whistleblowers themselves.

They are too often treated not as defenders of the public interest who have simply fulfilled their obligations under the Staff Regulations, but as suspects — or even as traitors alleged to have breached some purported “duty of loyalty” towards their superiors and the Institution.

4. The Draft Revision of the Internal Rules Fails to Deliver the Required Breakthrough

It is therefore with profound disappointment that we received the draft of the internal rules transmitted by DG HR in anticipation of negotiations with the Staff Representation.

Far from delivering genuine reform,

the draft constitutes a thinly veiled reaffirmation of the status quo — one that entrenches institutional inertia and actively discourages disclosures.

It plainly lacks any credible political

impetus or genuine commitment to change.

This defensive posture is precisely what prevents the cultural shift that effective whistleblower protection requires.

An unduly restricted and therefore inadequate consultation

Even as regards the **very restricted procedure followed in preparing the draft**, it is deeply regrettable that only a very limited number of DGs and Services were consulted (SG, SJ, JUST, OLAF). Given the cross-cutting nature and institutional importance of whistleblower protection, the Commission should have sought, as broadly as possible, the views of all Directorates-General and Services. Likewise, it is essential **to seek the opinion of the CCC** as well, since colleagues subjected to pressure or fearing reprisals may have turned to her for support

By failing to do so, the Commission risks producing internal rules perceived as the product of a narrow administrative exercise rather than of a genuine institution-wide reflection on how to ensure effective protection for whistle-

blowers.

The obvious risk is therefore that the Commission will be seen as having finally been compelled to revise the internal rules only because the continued misalignment with the Directive had become politically untenable. A purely bureaucratic reform, driven by institutional necessity and external political pressure rather than by any genuine recognition of the gravity of the problems that have eroded staff trust for years.

It is worth recalling, in that respect, **that on 25 August 2025 the Commission launched a broad public consultation on its forthcoming Action Plan on Whistleblower Protection**, as part of its wider evaluation of the Directive. **That evaluation will assess implementation across Member States in terms of effectiveness, efficiency, relevance, coherence, and EU added value.**

It is striking that no comparable critical assessment appears to have informed the internal draft now submitted to staff representatives.

5. Too Late too Little?

It is already a matter of deep concern that, although Directive (EU) 2019/1937 was adopted in 2019, reform of the internal rules is only being contemplated now, in 2026.

The launch note for the ISC on these internal rules confirms that it is now necessary to draw the necessary conclusions from the finding made by DG JUST, namely that ***“the Commission Guidelines on Whistleblowing should be amended and aligned, on certain aspects, with the Directive.”***

The conclusion is therefore clear: in the field of whistleblower protection, the staff of our institution have until now been subject to a legal framework offering fewer safeguards than those provided for under the Directive.

As the leading trade union in the European civil service, **R&D** develops deve-

lops its analyses by systematically taking into account the best practices observed within the other institutions. Therefore, all the more concerning is the fact that the draft recently submitted by DG HR to staff representatives is, plainly and in several respects, **still significantly less protective** of whistleblowers than the corresponding implementing provisions in force in other EU institutions.

“If it is broken, don’t fix it — let it remain broken”

The implicit message appears to be that, even where the system is broken, it should not be repaired but preserved rather than repaired.

While it is unnecessary at this stage to detail every shortcoming — these must

be addressed through genuine negotiations — it must be stressed that the draft contains no critical assessment whatsoever of the difficulties repeatedly reported, nor any discernible commitment to addressing them.

This omission is all the more serious in that the underlying problems are undeniable. The most obvious example is the abovementioned complete absence of whistleblower referrals to OLAF between 2021 and 2024, which the European Parliament rightly identified as a stark indication of the collapse of staff trust in the current system.

As regards referrals to OLAF, the draft perpetuates the Commission's highly unusual and problematic practice of "regulation by example."

By providing in Article 6 that staff may report to OLAF *"for instance, if they consider that superiors are involved in illegal activities or serious irregularities, or if they fear that confidentiality may be compromised,"* the draft effectively requires whistleblowers to implicate, or at least cast suspicion on, their own hierarchy simply to exercise an unconditional statutory right

This approach is unacceptable and has, fortunately, not been followed by other Institutions — which are now, paradoxically, "leading the Commission by example".

While the draft stops short of formally requiring internal reporting first — a step that would be manifestly unlawful under both Article 22a of the Staff Regulations and Article 10 of Directive (EU) 2019/1937 — it uses illustrative language to nudge, pressure, and stigmatise those who choose to report directly to OLAF.

The absence of referrals to OLAF, so rightly denounced by the European Parliament, is therefore hardly surprising.

It flows directly from the widespread perception — which the draft openly perpetuates — that bypassing the hierarchy is an act of betrayal, particularly where the information later turns out to be used against the disclosing staff member. It also reflects the deep-seated conviction among staff that no genuine protection will be afforded to them wi-

thin the Commission.

Such misrepresentations impose an unjust emotional and professional burden on staff and inevitably deter many from coming forward. They also betray the very purpose not only of the Staff Regulations, but also of the Directive that the Institution has so proudly championed.

We do not suggest that colleagues should be prevented from seeking the support of their superiors or from raising concerns internally. Nor do we contend that referral to OLAF must take precedence in all cases.

The Commission must, however, refrain — under any guise — from creating a *de facto* hierarchy among reporting channels that undermines the unconditional rights enshrined in the Staff Regulations.

Such an approach contradicts not only the letter and spirit of Article 22a, but also the position consistently taken by the Legal Service concerning the scope of application of Articles 22a and 22b of the Staff Regulations, confirming that "the official concerned has a free choice about whom to inform (among those indicated), including the possibility of informing OLAF direct".

Likewise, concerning the settled case-law, any suggestion that an official should report internally first is directly contradicted by paragraph 67 of *Bermejo Garde v EESC*, which confirms that:

- **the staff member enjoys a free choice** as to whom to report among the persons and bodies indicated — including the possibility of informing OLAF directly, without any intervention of a hierarchical superior; and
- **any inference** that an official who reports directly to OLAF acts less reasonably or less honestly than one who reports first to their superiors is **expressly excluded.**

6. From “If He Considers It Useful” to the Fictitious Duty to Report Internally First

It must be recalled that one of the principal grounds on which the Commission has initiated infringement proceedings against Member States for incorrect transposition of the Directive is precisely the imposition of a prior internal reporting obligation, requiring whistleblowers to report first to their employer.

That requirement directly contradicts the principle laid down in Article 10 of Directive (EU) 2019/1937, according to which whistleblowers are free to choose between internal and external reporting channels — just as Article 22a of the Staff Regulations guarantees officials the free choice to report directly to OLAF “*if he considers it useful*”.

It is therefore particularly troubling that the Commission's own draft Internal rules appear to reproduce, through ambiguous wording and very inappropriate « illustrative examples », the very logic the Commission has challenged in Member States.

It is widely recognised that a standard method for discrediting a disclosure consists in targeting the person who raised it before addressing the substance of the alert. **The whistleblower is accused of having breached a rule**, used the wrong procedure, acted in bad faith, or served hidden interests.

This reveals a fundamental divide in the way disclosures are assessed: between those who first ask “*who*” is speaking, and those who ask “*whether*” the alert is substantiated. Demanding evidence may be legitimate, even necessary. Discrediting the whistleblower at the outset is not, however, an assessment of the alert; it is a strategy for neutralising it.

Where this occurs within a legal framework such as the Staff Regulations — which, under Article 22a, impose on officials a legal obligation to report suspected irregularities — **neutralising that duty requires the “invention” of a contrary duty, a contrary rule designed, at the very least, to prevent direct referral to OLAF**, which would de-prive the service concerned of any control over the matter.

That is precisely what occurs when a fictitious duty to report internally first is asserted: a statutory obligation to disclose wrongdoing is converted into a procedural trap for the whistleblower.

This impulse to manage whistleblowers as an internal “risk” has gone so far that some managers — including, very recently, within services under your authority — have exploited the prevailing ambiguity to claim the existence of a **fictitious legal duty to report internally before contacting OLAF**

That claim rests on the pretence that the duty of loyal cooperation with hierarchical superiors under Article 21 of the Staff Regulations takes precedence over the right, expressly enshrined in Article 22a, to report directly to OLAF.

This reflects a profound and dangerous distortion of the very notion of loyalty.

Loyalty to the Institution can never equate to complicity in wrongdoing, to silence in the face of illegality, or to the concealment of breaches of EU law. True loyalty lies in upholding the values of the Union enshrined in Article 2 TEU, the rule of law, and the public interest.

The only way to put a definitive end to these abusive practices and legally untenable interpretations is for the Commission to state, clearly and unequivocally, that whistleblowers do not betray the Institution: they serve it, by enabling it to correct failures, restore integrity, and preserve its credibility.

Such a statement must be matched by credible and effective procedures designed not only to protect whistleblowers, but also to recognise their institutional value.

7. Effective Anti-Harassment Procedures and Effective Whistleblower Protection Are Inextricably Linked

As a broad consensus of experts confirms, an effective policy for preventing and addressing all forms of harassment is a prerequisite for credible whistleblower protection.

It would therefore be unacceptable to draw an artificial and impermeable line between the two procedures, where they are, by their very nature, complementary — a point which the draft itself rightly acknowledges.

Combating harassment and ensuring effective whistleblower protection are inseparable struggles against the same adversary: a culture of silence and impunity.

This intrinsic link was expressly confirmed by the Commission in its communication “*Strengthening whistleblowers protection at Eu level*”, which explicitly referred to harassment as one of the retaliatory measures against whistleblowers that must be prevented and sanctioned by means of the same **reversal of the burden of proof** as applies to sexual harassment — an approach consistent with Article 21(5) of Directive (EU) 2019/1937.

The burden must therefore fall on the person taking action against a whistleblower to demonstrate that such action does not constitute retaliation.

8. Yet, resignation is not an option: with a clear political impetus, effective and meaningful reforms are possible

While the draft clearly shows no real willingness to address the problems and provide effective responses, and instead conveys an almost resigned message, the adoption of the new Commission Decision on harassment demonstrates, on the contrary, that meaningful reforms are possible — provided they go beyond empty slogans and unfulfilled promises.

With the reform of the anti-harassment procedures, the Commission genuinely led by example, also for the benefit of the other institutions.

The internal breakthrough — identical to the one so urgently required for whistleblower protection — was not achieved through public relations or symbolic gestures.

It was concretely embodied in **two structural innovations** that we had proposed:

1. **the creation of the Chief Confidential Counsellor (CCC)**, directly attached to the Commissioner and vested with genuine authority within the informal procedure; and
2. **the explicit recognition that victims may refer matters directly to OLAF**, without being compelled first to submit to the formal assistance-request

procedure under Article 24 of the Staff Regulations — thereby avoiding the imposition of a procedure in which staff have manifestly lost all trust.

These were not cosmetic adjustments; they were structural reforms that helped restore staff trust and reorient the system towards protection rather than procedural gate-keeping.

The harassment reform succeeded, so far as the informal procedure is concerned, precisely because it did not consist in perpetuating a self-congratulatory narrative based on the alleged absence of harassment cases, nor in asking staff simply to trust the procedures then in place.

In the revision of the former harassment procedures, the Commission rightly :

- **acknowledged** the underlying factors that had led victims to remain silent;
- **addressed** the profound lack of staff confidence — a deficit of trust that now affects whistleblower protection even more acutely; and
- **offered** colleagues a genuine fresh start through new safeguards and new actors.

These are not optional refinements. They are the essential components of any credible protection framework for victims of harassment and for whistleblowers — and they are precisely the elements that are entirely absent from the draft submitted to us.

This stands in stark contrast with the approach underlying the present draft, which appears more concerned with preserving the existing framework than with addressing the structural reasons for the collapse of staff trust.

By way of example, one decisive element in restoring staff trust in the reformed harassment procedures — **as subsequently confirmed by the 300 referrals received by the Chief Confidential Counsellor, a figure rightly highlighted by the European Parliament** — was the decision not merely to introduce that function, but to attach it directly to the Commissioner .

That institutional positioning was essential to reassure staff that the informal procedure would no longer be perceived as an internal administrative filter, but as an independent and credible avenue for protection and support.

With the unanimous support of staff representatives, it produced a Decision that **raised staff confidence by 13 percentage points** in the Staff Survey.

The remaining measures concerning the harassment procedures that we have requested and which the European Parliament has rightly urged the Commission to adopt, are equally essential to ensuring genuine protection for whistleblowers.

In its decision on the 2024 discharge of the Commission, the European Parliament expressly endorsed our concerns regarding structural shortcomings in:

1. **the handling of requests for assistance, underling that (...) “54 requests for article 24 assistance under the Staff Regulation were submitted in the period 2021-2024 and that only 8 have been followed up on with the opening of an administrative inquiry; finds that this number is worryingly low, as it means that 85**

% of the requests have been dismissed without any follow-up”

2. **the conduct of investigations under the formal procedure with very few cases finally dealt with.** We warmly welcome, in this regard, the Parliament's decision to request to “ (...) **commission an external study by independent experts under the auspices of the Chief Confidential Counsellor analysing the functioning or malfunctioning of the formal harassment procedure and proposing means to make it more effective;**

The problem lies not only in the disappointing handling of requests for assistance and formal procedures once initiated, but above all in the extremely limited number of such procedures, given the number of colleagues potentially concerned. That limited number is itself irrefutable evidence of colleagues' total lack of trust in these procedures.

This is all the more evident **in light of the 300 referrals received in a single year by the CCC**, which clearly show that **colleagues do place their trust in channels they consider credible.**

We therefore rely on you to ensure that the Commission urgently provides a credible response to the concerns raised by Parliament and acts on the requests it has made.

These two mechanisms — requests for assistance and formal investigations — are precisely those on which whistleblowers must be able to rely when seeking protection against retaliation

9. What a Genuine Reform of the Commission's Whistleblowing Internal Rules Must Achieve

Let us state it once again, unequivocally: a purely bureaucratic alignment of the Internal Rules with the Directive is, of course, necessary, but wholly insufficient.

What is required is a genuine change of culture, giving full and unreserved effect to Article 22a of the Staff Regulations, read in conjunction with Article 11 of the Charter of Fundamental Rights, and sending an unambiguous signal that the Commission:

1. **welcomes whistleblowing as an act of institutional loyalty** which must be recognised, valued also in the evaluation and promotion of the staff, as the EO guidelines rightly foresee, and supported — not treated as a threat or a risk to be contained;
2. **guarantees robust and finally credible protection against retaliation through clear, effective, and immediately operational procedures with a clear and proactive commitment from the Appointing Authority**, without placing the entire burden on whistleblowers, **in particular as regards mobility, appraisal and promotion** — rather than, as the draft does, contrary with what EO guidelines rightly do, merely listing prohibited conduct while failing to inspire any confidence that the AA commitments made will
3. **gives credibility to its stated commitment to act with the necessary severity against anyone who breaches their duties under Article 22a**, whether by failing to report suspected irregularities or by engaging in, encouraging, or tolerating any form of retaliation against whistleblowers; and
4. **commits to independent assistance at every stage of the procedure, transparent follow-up, and timely feedback to whistleblowers**. These safeguards could be ensured **by establishing a new actor** responsible for carrying out these tasks or, at the very least, **by assigning the CCC a clear role and effective powers in this area as well**. By supporting the inclusion in the internal rules of an explicit provision establishing a new actor or assigning a clear role to the CCC, which reports directly to you, you could send a clear message of attention and commitment.

Conclusion

Dear Commissioner,

The indispensable internal breakthrough in whistleblower protection that is so urgently required can occur only through your personal political impetus and unequivocal leadership. Without such leadership, nothing will genuinely change.

A fundamental shift in institutional culture must come first.

The window of opportunity for this indispensable breakthrough remains open — but only if staff can rely on you to overcome the systemic resistance that continues to obstruct effective reform. In many cases, this is the very same resistance that previously opposed the reform of the harassment policy.

During the negotiation, the draft must therefore undergo a fundamental overhaul, and we will submit detailed, duly reasoned proposals for the necessary amendments.

For the negotiations to be meaningful and fruitful, they must first be underpinned by clear political direction from you, together with a mandate to the relevant services — including IDOC and DG HR — to engage in genuine negotiations, rather than in a merely performative exercise aimed at defending a flawed proposal.

Only then will the Commission truly set an example for the other institutions as well, rather than leaving that role to them with the resignation that this draft conveys.

Only then will the new internal rules reflect internally the historic breakthrough achieved across the Union by the Directive and begin to repair the severe deficit of trust among staff.

The purpose of the internal rules is not merely to restate the Staff Regulations — still less to restrict their scope — but to translate them into practice with clarity, courage, and conviction.

The current draft fails on all counts.

Cristiano SEBASTIANI,

Chair

