NEIWA

Network of European Integrity and Whistleblowing Authorities

Paris Declaration

2 December 2019

We, members of NEIWA, the *Network of European Integrity and Whistleblowing Authorities*

- Autorità Nazionale Anticorruzione (Italy)
- Conflict of Interests and Anti-Corruption department (Czech Republic)
- Contact Point of Whistleblowers (Latvia)
- Défenseur des Droits (France)
- Federal Ombudsman (Belgium)
- Garda Ombudsman, GSOC Protected Disclosure Unit (Ireland)
- General prosecutor's office, Dep. of internal investigations (Lithuania)
- Huis voor Klokkenluiders (The Netherlands)
- MFSA (Malta)
- Prosecutor General (Portugal)
- Vlaamse Ombudsdienst (Belgium)

Gathered in Paris on 2 December 2019, for the second time after the founding meeting of the network in The Hague on 24 May 2019, in order to share our expertise and make recommendations to strengthen the level of protection of whistleblowers in the European Union,

Seizing the opportunity offered by the obligation to transpose the European Parliament and Council Directive 2019/1937 on the protection of persons reporting violations of European Union law, within two years,

Having regard to the international and European standards on the protection of human rights, in particular Article 10-1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which states:

> "*Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers*",

Having regard to the jurisprudence of the European Court of Human Rights, in particular the decision *Guja v Moldova* No. 14277/04 of 12 February 2008, which established the criteria for the identification of protected disclosures by whistleblowers,

Having regard to the resolution 2300 (2019) and the recommendation 2162 (2019) of the Parliamentary Assembly of theCouncil of Europe *"Improving the protection of whisleblowers all over Europe";*

Having regard to the Charter of Fundamental Rights of the European Union;

Having regard to the Recommendation CM/Rec(2014)7 of the Committee of Ministers of the Council of Europe of 30 April 2014,

Having regard to the resolution 2060 (2015) of the Council of Europe which calls on its Member States and the European Union to improve the protection of whistleblowers,

Having regard to the United Nations Convention against Corruption, art. 33 (2003) which legally binds all state parties to provide appropriate measures to protect reporting persons,

Having regard to the G20 High-Level Principles for the Effective Protection of Whistleblowers (2019), as developed under the Japanese presidency and endorsed by the G20 countries, which provides 12 principles for the effective protection of whistleblowers,

Having regard to the OECD Recommendation of the Council of Public Integrity (2017) which calls for states to promote a whole-of-society culture of public integrity (art. 5), and to reinforce the role of external authorities within the public integrity system (art. 12),

Having noticed the Global Principles on National Security and the Right to Information (the Tshwane Principles), developed in order to provide guidance to those engaging in drafting, revising or implementing laws, including the standards for the treatment of whistleblowers who act in the public interest,

Considering the above-mentioned Directive 2019/1937, which defines common minimum standards for the protection of whistleblowers:

> "*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."*

Emphasizing that this same Directive, which constitutes a major step forward, also encourages the Member States of the European Union to go further, specifically in the protection of whistleblowers, in particular in recital 5:

> *"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."*

Observing the fragmentation of national legislations on the protection of whistleblowers and the different levels of protection offered within the European Union,

Recognizing the need to establish and strengthen national mechanisms and to ensure the preservation of previous national provisions where they are more favourable,

Recognizing the importance of contributing to the strengthening of the protection regime for whistleblowers, in particular through the implementation of the highest standards foreseen by the Directive,

Welcoming, in this respect, the fundamental role of the independent administrative authorities or independent public or private bodies already established in the European Union in ensuring the respect for the rights and freedoms of whistleblowers, and the adequate follow up to whistleblowers' reports,

Considering article 11 of the above-mentioned Directive 2019/1937 which calls for every Member States to

> "*designate authorities competent to receive, give feedback and follow up reports, and (…) provide them with adequate resources"*

Emphasizing that the NEIWA's purpose is to bring together public entities entrusted with the protection of whistleblowers and/or the handling and investigation of whistleblowers' reports,

Recognizing that a coordinated commitment between our institutions will contribute in each Member State of the European Union to the establishment of an effective protection regime to ensure the safety of whistleblowers and/or the adequate follow up of whistleblowers' reports, and the prevention of future wrongdoings,

Recommends, within the competencies and powers of each entity, to the Member States of the European Union to provide for ambitious national legislations using all the options offered by the Directive to meet the democratic and transparency requirements of public life that underpin this Directive, along three main lines:

- **A legislation accessible to all:**

  a. Establishing or improving coherent, clear, actionable and comprehensible legislation,

  b. Raising awareness of the public / providing information and guidelines for public and private actors in charge of the whistleblowing mechanisms,

- **An efficient follow up to reports and highly protective legislation:**

  a. Providing and guaranteeing effective protection for whistleblowers throughout the process,

  b. Establishing mechanisms to ensure that whistleblowers' reports are managed timely and effectively,

- **A system backed by sufficient resources:**

  a. Guaranteeing the necessary independence in the status and/or in the processes and integrity of the structures responsible for providing support and protection to whistleblowers and/or the adequate follow up of whistleblowers' reports,

b. Guaranteeing sufficient human and financial resources to those structures to effectively carry out the necessary actions following receipt of the whistleblowers' reports.

To this end, we, members of NEIWA, the *Network of European Integrity and Whistleblowing Authorities*, in the context of our national jurisdictions and within the limits of our mandates, are committed to contribute actively to establish or reinforce the appropriate mechanisms for the protection of whistleblowers in each member State in accordance with these main lines.