



Doc. 13791 – Compendium of written amendments
22/06/2015

(Final version)

Improving the protection of whistle-blowers

Contents	Page
A. Draft Resolution	2
B. Draft Recommendation	4

A. Draft Resolution

1. The Parliamentary Assembly recalls its Resolution 1729 (2010) and Recommendation 1916 (2010) on the protection of “whistle-blowers” inviting all Council of Europe member States to improve the protection of whistle-blowers, strengthen accountability and bolster the fight against corruption and mismanagement, both in the public and private sectors.
2. It further recalls its Resolution 1954 (2013) and Recommendation 2024 (2013) on national security and access to information, supporting the Tshwane Principles (The Global Principles on National Security and the Right to Information) to improve the balance between the public’s right to know and the protection of legitimate national security concerns.
3. The Assembly stresses the importance of the case law of the European Court of Human Rights, upholding the right to privacy, freedom of speech and the protection of whistle-blowers, including in the fields of national security and intelligence.
4. It further welcomes the recent adoption, by the Committee of Ministers, of Recommendation CM/Rec(2014)7 calling on member States to create an appropriate normative, judicial and institutional framework for the protection of whistle-blowers.
5. It notes that the Council of Europe has set up guidelines for staff members on reporting wrongdoing; these guidelines, which establish internal reporting channels, reflect some, but not all, of the principles advocated by the Assembly and the Committee of Ministers.
6. In view of the disclosures concerning mass surveillance and intrusions of privacy carried out by the United States National Security Agency (NSA) and other intelligence agencies, which affect the communications of numerous people who are not suspected of any wrongdoing, the Assembly notes with regret that disclosures of information related to national security are generally excluded from protection available to whistle-blowers.
7. The Assembly considers that whistle-blower protection measures should cover all individuals who denounce wrongdoings which place fellow human beings at risk of violations of their rights protected under the European Convention on Human Rights (ETS No. 5), including

Amendment 1

Tabled by Sir Roger GALE, Mr Ian LIDDELL-GRAINGER, Lady Diana ECCLES, Lord Alexander DUNDEE, Baroness Margaret EATON

In the draft resolution, after paragraph 1, insert the following paragraph:

"Recalling Resolution 1966 (2014) on refusing impunity for the killers of Sergei Magnitsky, the Assembly calls on member States to provide security protection to those who expose organised crime and large-scale collusion between government officials and criminals and to prosecute internationally the perpetrators of attacks on whistle-blowers as well as those who have instigated such attacks."

Amendment 2

Tabled by Sir Roger GALE, Mr Ian LIDDELL-GRAINGER, Lady Diana ECCLES, Lord

people working for national security or intelligence agencies.

Alexander DUNDEE, Baroness Margaret EATON

In the draft resolution, at the end of paragraph 7, insert the following words: ", without infringing upon the human rights of others."

8. In view of the importance of whistle-blowing to ensure that legal limits placed on mass surveillance are respected (see Resolution 2045 (2015) on mass surveillance, paragraph 13), and in view of the international ramifications of whistle-blowing in the field of national security or intelligence, the Assembly considers that whistle-blowers (including employees of relevant government agencies or private contractors), whose disclosures are otherwise in line with Resolution 1729 (2010), Committee of Ministers Recommendation CM/Rec(2014)7 or the Tshwane Principles as supported by Resolution 1954 (2013), should be granted asylum in any member State of the Council of Europe when they are persecuted in their home country.
9. The Assembly therefore calls on:
 - 9.1. Council of Europe member and observer States and the European Union, as applicable, to:
 - 9.1.1. enact whistle-blower protection laws also covering employees of national security or intelligence services and of private firms working in this field;
 - 9.1.2. grant asylum, as far as possible under national law, to whistle-blowers threatened by retaliation in their home countries, provided their disclosures qualify for protection under the principles advocated by the Assembly;
 - 9.1.3. agree on a binding legal instrument (convention) on whistle-blower protection on the basis of Committee of Ministers Recommendation CM/Rec(2014)7, taking into account recent developments;
 - 9.2. the United States of America to allow Mr Edward Snowden to return without fear of criminal prosecution under conditions that would not allow him to raise the public interest defence.

Amendment 4

Tabled by Ms Monica HAIDER, Mr Kåre SIMENSEN, Ms Petra De SUTTER, Ms Kerstin LUNDGREN, Ms Carina OHLSSON, Mr Jonas GUNNARSSON

In the draft resolution, paragraph 8, after the words "Resolution 1954 (2013), should", insert the following words: ", in accordance with national legislation,"

Amendment 3

Tabled by Sir Roger GALE, Mr Ian LIDDELL-GRAINGER, Lady Diana ECCLES, Lord Alexander DUNDEE, Baroness Margaret EATON

In the draft resolution, paragraph 9.2, replace the word "return" with the following words: "surrender to the US courts".

B. Draft Recommendation

1. The Parliamentary Assembly recalls its Resolution ... (2015) "Improving the protection of whistle-blowers" as well as its Recommendation 1916 (2010) on the protection of "whistle-blowers".
2. The Assembly welcomes the adoption by the Committee of Ministers of Recommendation CM/Rec(2014)7 on the protection of whistleblowers, as an important step in the right direction.
3. The Assembly invites the Committee of Ministers to:
 - 3.1. promote further improvements for the protection of whistle-blowers by launching the process of negotiating a binding legal instrument in the form of a framework convention that would be open to non-member States and cover disclosures of wrongdoings by persons employed in the field of national security and intelligence;
 - 3.2. meanwhile, consider ways and means to provide Council of Europe technical assistance to member States for the implementation of Recommendation CM/Rec(2014)7;
 - 3.3. encourage the Secretary General to further improve the whistle-blowing rules applicable in the Council of Europe, with a view to bringing them fully into line with the principles upheld by the Assembly and the Committee of Ministers.