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To the attention of

The Romanian Presidency
Vice President Timmermans
Commissioner Jourovà
Virginie Roziere MEP

Berlin, den 3.3.2019

Dear Madam, Dear Sir,

We are writing to you today with an urgent request: to protect whistleblowers effectively in the interests of democracy and human rights. It is in your hands in the coming days to decide if there will be an EU directive that makes real progress in the protection of whistleblowers or dangerously undermines their already fragile position.

Kurt Tucholsky, one of the most important journalists of the Weimar Republic, wrote in 1921 in the "Weltbühne":

"Because nothing is a heavier burden nor requires more character than to be in open opposition to one's time and to say aloud: no."

A hundred years later, it is still a heavy burden to say "no". We at the Whistleblower Network Germany (WBNW) hear this daily. Please take as an example our attached letter to Deutsche Telekom AG in the matter of the former auditor and whistleblower Joachim Wedler and read also their cynical, 6-line response. Joachim Wedler never wanted to damage his company TollCollect. He actually wanted to protect the federal government and taxpayers from heavy billing fraud.

- This is the stark reality of whistleblowing – that someone who tried very hard to have a serious issue addressed internally is then treated personally and professionally as a pariah.
- This is the fate that awaits whistleblowers who have no safe alternatives outside their employer; a fate that will be made worse if you insist on the obligation to report concerns internally first.

This "stepped hierarchical model" favored by some member states reveals the prevailing, yet empirically unfounded, mistrust of whistleblowers by government and business. It means that an employee reports maladministration or breaches of law first through a prescribed internal whistleblowing system and only turns to the law enforcement authorities after months have passed. The negative implications of this requirement for the investigation of potential crimes and for protecting the public interest, as well as the risks for the whistleblowers themselves are clear. The negative impact will be great and the responsibility for this dangerous outcome is a political one.

Vorstand: Dipl.Pol. Annegret Falter, Prof. Dr. Johannes Ludwig, Markwart Faussner, Thomas Holbach

Erweiterter Vorstand: OStA a.D. Robert Bungart, Dr. Detlev Böttcher, Dipl.Ing. Günter Steinke, Dipl.-Ing. Ingo Karras

Beirat: Renata Avila, Dr. Marta Böning, Prof. Dr. Colneric, Klaus Hennemann, Dr. Christian Humborg, Dr. Constanze Kurz, Dipl.Pol. Wolfgang Neskovic, Katharina Nocun, Matthias Spielkamp, Prof. Dr. Roland Roth, Arne Semsrott, Dr. Elke Steven, RA Hans-Christian Ströbele, Konstantin Wecker, Frank Wehrheim, Dr. Theresa Züger

Geschäftsführung: Jan Engelmann

Mandatory internal reporting is a perversion of the idea of whistleblowing and a slap in the face of all employees. The basic assumption is that they intend to do harm to the organisation for whom they work and on whom they depend and that they do not have enough judgment to make the right decision on the appropriate reporting channel themselves.

After long and careful negotiations the Members of the European Parliament have decided to delete the Commission's proposal for a mandatory tiered model of internal-external reporting channels without replacement.

The European Court of Human Rights in its settled case law does not prescribe a mandatory tiered model - for strong human rights reasons.

Why then do some member states want to do so?

We appeal to you: Don't let the overdue Whistleblower Protection Directive fail because of this!

With kind regards,

Annegret Falter (Whistleblower-Netzwerk, Chair)

Attachments

Letter Whistleblower-Netzwerk to Deutsche Telekom AG on behalf of J. Wedler
Response of Telekom