

# Whistleblower protection: Commission sets new, EU-wide rules

Recent scandals such as Dieselgate, Luxleaks, the Panama Papers or the ongoing Cambridge Analytica revelations show that whistleblowers can play an important role in uncovering unlawful activities that damage the public interest and the welfare of our citizens and society.

Today's proposal will guarantee a high level of protection for whistleblowers who report breaches of EU law by setting new, EU-wide standards. The new law will establish safe channels for reporting both within an organisation and to public authorities. It will also protect whistleblowers against dismissal, demotion and other forms of retaliation and require national authorities to inform citizens and provide training for public authorities on how to deal with whistleblowers.

First Vice-President Frans **Timmermans** said: *"Many recent scandals may never have come to light if insiders hadn't had the courage to speak out. But those who did took enormous risks. So if we better protect whistleblowers, we can better detect and prevent harm to the public interest such as fraud, corruption, corporate tax avoidance or damage to people's health and the environment. There should be no punishment for doing the right thing. In addition, today's proposals also protect those who act as sources for investigative journalists, helping to ensure that freedom of expression and freedom of the media are defended in Europe."*

Věra **Jourová**, Commissioner for Justice, Consumers and Gender Equality added: *"The new whistleblowers' protection rules will be a game changer. In the globalised world where the temptation to maximise profit sometimes at the expense of the law is real we need to support people who are ready to take the risk to uncover serious violations of EU law. We owe it to the honest people of Europe."*

Whistleblowers can help to detect, investigate and sanction abuses of EU law. They also play an important role in enabling journalists and the free press to play their fundamental role in our democracies. That is why whistleblowers need proper protection against intimidation and/or retaliation. Citizens who uncover illegal activities should not be punished as a consequence of their action. But in reality, many of them pay for their action with their jobs, their reputation or even their health: 36% of workers who reported misconduct experienced retaliation (2016 Global Business Ethics [Survey](#)). Protecting whistleblowers will also help safeguard freedom of expression and media freedom, and is essential to protect the rule of law and democracy in Europe.

## **Protection for a wide range of EU law breaches**

Today's proposal ensures EU-wide protection for blowing the whistle on breaches of EU legislation in the fields of public procurement; financial services, money laundering and terrorist financing; product safety; transport

safety; environmental protection; nuclear safety; food and feed safety, animal health and welfare; public health; consumer protection; privacy, data protection and security of network and information systems. It also applies to breaches of EU competition rules, violations and abuse of corporate tax rules and damage to the EU's financial interests. The Commission encourages Member States to go beyond this minimum standard and establish comprehensive frameworks for whistleblower protection based on the same principles.

### **Clear Mechanisms and Obligations for Employers**

All companies with more than 50 employees or with an annual turnover of over €10 million will have to set up an internal procedure to handle whistleblowers' reports. All state, regional administrations and municipalities with over 10,000 inhabitants will also be covered by the new law.

The protection mechanisms will have to set up must include:

- **Clear reporting channels**, within and outside of the organisation, ensuring confidentiality;
- **A three tier reporting system of:**
  - Internal reporting channels;
  - Reporting to competent authorities – if internal channels do not work or could not reasonably be expected to work (for example where the use of internal channels could jeopardise the effectiveness of investigative actions by the authorities responsible);
  - Public/media reporting – if no appropriate action is taken after reporting through other channels, or in case of imminent or clear danger to the public interest or irreversible damage;
- **Feedback obligations for authorities and companies**, who will have to respond and follow-up to the whistleblowers' reports within 3 months for internal reporting channels;
- **Prevention of retaliation and effective protection:** all forms of retaliation are forbidden and should be sanctioned. If a whistleblower suffers retaliation, he or she should have access to free advice and adequate remedies (for example measures to stop workplace harassment or prevent dismissal). The burden of proof will be reversed in such cases, so that the person or organisation must prove that they are not acting in retaliation against the whistleblower. Whistleblowers will also be protected in judicial proceedings, in particular through an exemption from liability for disclosing the information.

### **Effective Safeguards**

The proposal protects responsible whistleblowing genuinely intended to safeguard the public interest. It therefore includes safeguards to discourage malicious or abusive reports and prevent unjustified reputational damage. Those affected by a whistleblower's report will fully enjoy the presumption of innocence, the right to an effective remedy, a fair trial, and the right of defence.

### **Background**

Protection given to whistleblowers across the EU is currently fragmented and uneven. Only 10 EU Member States currently ensure that whistleblowers are fully protected. In the remaining countries, the protection granted is partial and only applies to specific sectors or categories of employee.

The Commission's proposal builds on the 2014 Council of Europe [Recommendation on Protection of Whistleblowers](#), which recommends that *"member states have in place a normative, institutional and judicial framework to protect individuals who, in the context of their work based relationship, report or disclose information on threats or harm to the public interest"* and sets out principles to guide states when introducing or reviewing such frameworks.

The Council encouraged the Commission to explore the possibility of future EU action in its [Conclusions on Tax Transparency](#) of 11 October 2016. Civil society organisations and trade unions have consistently called for EU-wide legislation to protect whistleblowers acting in the public interest.

The Commission committed to take action to protect whistleblowers, as journalist sources, at the second [Annual Colloquium](#) on Fundamental Rights in November 2016, which was on the theme of 'Media Pluralism and Democracy'.

Strengthening whistleblower protection also gives effect to the Commission's commitment to put a stronger focus on enforcement of EU law, as set out in its 2016 Communication on [EU Law: Better Results through Better Application](#)

#### **For More information**

[Communication](#) on strengthening whistleblower protection at EU level

[Directive](#) on the protection of persons reporting on breaches of Union law

[Q&A](#)

[Factsheet](#)

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## **Shaping globalisation: Commission mobilises €9.8 million to help former workers of Air France find new jobs**

Most of the redundancies occurred in the regions of Ile-de-France and Provence-Alpes-Côte d'Azur (PACA).

Commissioner for Employment, Social Affairs, Skills and Labour Mobility Marianne **Thyssen** commented: *"Air transport, along with other sectors in Europe, is going through major structural changes as a consequence of changing global trade patterns. Our European Globalisation Adjustment Fund*

*supports workers who experience hardship in this difficult transition, to adapt their skills and find new jobs This is a concrete expression of European solidarity."*

France applied for support from the Globalisation Adjustment Fund following the dismissal of 1,858 workers from Air France. These job losses were the result of the decline of the EU's market share of international passenger air transport between 2008 and 2015. The Globalisation Adjustment Fund will co-finance measures that will help the displaced workers find new jobs, by providing them with active career guidance, vocational training, as well as job-search and mobility allowances.

The total estimated cost of the set of measures is €16.5 million, of which the Globalisation Adjustment Fund would provide €9.8 million.

The proposal will now go to the European Parliament and the Council for approval.

## **Background**

Over the period 2008-2015, global air traffic increased by 5.3% per year, as part of a trend of long-term growth observed since 1970. Air traffic between Europe and the rest of the world however grew at a slower pace (3.4%), which led to a decrease of the EU's market share in air transport.

European companies and their hub airports have been particularly challenged, both on air passenger transport flows representing the largest volumes of traffic (e.g. Europe-Asia) and on high-growth flows, in particular Africa-Asia.

The largest number of redundancies occurred in the French regions of Ile-de-France (76.2%) and Provence-Alpes-Côte d'Azur (11.7%). The expected impact in both territories is linked to the difficulties of redeployment for workers aged 50+. This age bracket represents 79% of the total number of redundancies. In Provence-Alpes-Côte d'Azur the difficulties are also related to the higher than national average number of job-seekers.

More open trade with the rest of the world leads to overall benefits for growth and employment, but it can also cost jobs, particularly in vulnerable sectors and among lower-skilled workers. To help these groups adjust to the consequences of globalisation, the EGF was set up. Since starting operations in 2007, the [European Globalisation Adjustment Fund \(EGF\)](#) has received 158 applications. Some €630 million has been requested to help about 150,000 workers and 3,369 young people not in employment, education or training (NEETs).

The [Fund continues during the 2014-2020 period](#) as an expression of EU solidarity, with further improvements to its functioning. Its scope includes workers made redundant because of the economic crisis, as well as fixed-term workers, the self-employed, and, by way of derogation until the end of 2017, young people not in employment, education or training (NEETs) residing in regions eligible under the [Youth Employment Initiative](#) (YEI) up to a number

equal to the redundant workers supported.

#### **Further information**

[EGF website](#)

Video News Releases:

[Europe acts to fight the crisis: the European Globalisation Fund revitalised](#)

[Facing up to a globalised world – The European Globalisation Fund](#)

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## **Special Eurobarometer: How fair do Europeans think life in the EU is?**

European Commission President Jean-Claude **Juncker** made fairness in the EU the cornerstone of his political priorities. To support this effort with scientific evidence, the Commission's science and knowledge service, the Joint Research Centre (JRC) produced its first [Fairness Report](#) last year. The results of the Special Eurobarometer survey published today will contribute to tackling wider questions of perceived unfairness in employment, education, health and society at large.

According to the Eurobarometer published today, a majority of Europeans think that most things that happen in their lives are fair and that they have equal opportunities to get ahead. Nevertheless, they are less convinced that justice and political decisions are applied in an equal and consistent way in their countries- regardless of people's social status, wealth and connections. The vast majority also feel that income inequalities are too great and that governments should address them, while fewer than half believe that equality of opportunity and their social status have improved over time.

Tibor **Navracsics**, Commissioner for Education, Culture, Youth and Sport, responsible for the JRC, said: *"Fairness is a crucial part of building a more resilient, cohesive Europe. Our initiatives in this area need to be based on sound evidence, but at the same time take the values and perceptions of Europeans into account. I am proud that the JRC's work is helping us increase our knowledge on both counts, making a vital contribution to our efforts to build a better Europe for the future."*

The main findings of the Eurobarometer survey cover education, income, social status and inter-generational mobility. They also address perceptions of migration and globalisation, the former being one of the drivers of rising inequalities and the latter being a proxy for political preferences which are among the determinants of attitudes to fairness and inequality:

- More than half of respondents think that people have **equal opportunities to get ahead** (58%). However, this figure hides **substantial regional disparities**, with 81% agreeing in Denmark, but only 18% in Greece.
- Respondents are **less optimistic about fairness in specific fields**. Only **39% are confident that justice always prevails** over injustice, while the same proportion disagrees. Even more pessimistically, only **32% agree that political decisions are applied consistently to all citizens** and 48% disagree. Overall, people are **more likely to perceive things to be fair if they are better educated, younger, and better-off**.
- The **overwhelming majority think that income differences are too great** (84%), ranging from 96% in Portugal and 92% in Germany to 59% in the Netherlands. In all countries except Denmark **more than 60% agree that governments should take measures to reduce differences**.
- **For getting ahead in life, good health and quality education are regarded as essential or important** by 98% and 93% of respondents respectively. Working hard and knowing the right people are also deemed essential or important by more than 90%. Coming from a wealthy family, having political connections, being of a specific ethnic origin or birth gender are seen as less important.
- **Fewer than half of respondents (46%) believe that opportunities to get ahead have become more equal compared to 30 years ago**, with more than 70% agreeing in Malta, Finland and Ireland, but fewer than 25% in Croatia, France and Greece.
- Overall, 47% of Europeans think that globalisation is a good thing and 21% disagree. 39% think migration into their country is a good thing while 33% do not.

The JRC will use the survey data and the latest scientific research to continue building a knowledge base to support EU policies aimed at creating a fairer society. In 2019 it will publish a series of policy briefs as well as the second edition of the Fairness Report.

## Background

The Special Eurobarometer 471 “Fairness, inequality and inter-generational mobility” was conducted through face to face interviews between 2 and 11 December 2017. A total of 28,031 people were interviewed in 28 EU countries.

The earlier fairness report by the JRC analysed data and statistics on income inequality, on the impact that family background and geographical location have on opportunities in education, health and the labour market, and on people’s perceptions and attitudes. The JRC also launched a Community of Practice on Fairness, connecting EU policy makers with academics and researchers working on fairness related issues.

As part of the [European Pillar of Social Rights](#), the Commission has put forward a series of legal and policy initiatives in this sense, including a proposal to increase [gender equality by improving the balance between private and professional life for working parents](#), as well as proposals aiming at creating [more predictable and transparent working conditions](#) and access to [social protection for all](#).

To harness the full potential of education and culture in boosting social fairness, participation and economic growth, the Commission is working towards a European Education Area by 2025, proposing a series of initiatives on education, youth and culture. Its [first package of measures](#) presented in January included a [proposal](#) on strengthening inclusive education to promote quality education for all pupils.

## For more information

[Eurobarometer, Report and Country Factsheets](#)

[Joint Research Centre Factsheet](#)

[Joint Research Centre Fairness Report 2017](#)

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## [State aid: Commission opens in-depth investigation into Italian State loan to Alitalia](#)

Commissioner Margrethe **Vestager**, in charge of competition policy, said: “The

*Commission has a duty to make sure that loans given to companies by Member States are in line with the EU rules on State aid. We will investigate whether this is the case for Alitalia.”*

Alitalia is an Italian airline owned by the consortium Compagnia Aerea Italiana – CAI (51% shares) and Etihad Airways (49%). Alitalia has been in financial difficulty for a number of years. On 24 April 2017 Alitalia’s staff rejected a cost-cutting plan, which meant that the shareholders decided not to provide additional financing to Alitalia. As a result, Alitalia was placed under extraordinary administration under Italian bankruptcy law on 2 May 2017.

In order to ensure financing of Alitalia during the period of extraordinary administration, the Italian State granted a €600 million bridge loan to Alitalia in May 2017. In October 2017, this loan was increased by an additional €300 million. The extraordinary administrators also started a tender procedure aimed at finding a buyer for Alitalia’s assets.

In January 2018, Italy notified the total €900 million State loan granted to Alitalia as rescue aid within the meaning of EU State aid rules, namely the Commission’s [Rescue and Restructuring Aid Guidelines](#). This followed a number of complaints received by the Commission in 2017, alleging that the loan constitutes State aid that it is not compatible with the applicable EU rules.

The Commission’s current view is that the State loan may constitute State aid. It will now investigate further whether the loan satisfies the conditions under the Guidelines. The Commission has concerns that the duration of the loan, extending from May 2017 until at least December 2018, exceeds the maximum duration of 6 months allowed for a rescue loan under the Guidelines. Furthermore, the Commission has doubts as to whether the aid is limited to the minimum necessary.

The Commission will now investigate further to determine whether or not these initial concerns are confirmed. The opening of an in-depth investigation provides all interested parties with an opportunity to comment on the measure. It does not prejudice in any way the outcome of the investigation.

## **Background**

Under EU State aid rules, public interventions in favour of companies can be considered free of State aid when they are made on terms that a private operator would have accepted under market conditions (the market economy operator principle – MEOP). If this principle is not respected, the public interventions involve State aid within the meaning of [Article 107 of the Treaty on the Functioning of the European Union](#), because they confer an economic advantage on the beneficiary that its competitors do not have. The assessment criteria for public interventions in companies in difficulty are set out in the [Rescue and Restructuring Aid Guidelines](#).

The non-confidential version of the decision will be made available under the case number SA.48171 in the [State aid register](#) on the Commission’s competition website once any confidentiality issues have been resolved. New

publications of State aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

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## EU and Mexico reach new agreement on trade

Simpler **customs procedures** will further benefit the EU's industry, including in sectors like pharmaceuticals, machinery and transport equipment. The agreement also lays down progressive rules on sustainable development. Among other things, the EU and Mexico have committed to effectively implementing their obligations under the Paris Agreement on climate change. It will also be the first EU trade agreement to tackle corruption in the private and public sectors.

European Commission President Jean-Claude **Juncker** said: *"Trade can and should be a win-win process and today's agreement shows just that. Mexico and the EU worked together and reached a mutually beneficial outcome. We did it as partners who are willing to discuss, to defend their interests while at the same time being willing to compromise to meet each other's expectations. With this agreement, Mexico joins Canada, Japan and Singapore in the growing list of partners willing to work with the EU in defending open, fair and rules-based trade."*

Commissioner for Trade Cecilia **Malmström** added: *"In less than two years the EU and Mexico have delivered a deal fit for the economic and political challenges of the 21<sup>st</sup> century. We now open a new chapter in our long and fruitful relationship, boosting trade and creating jobs. Today's agreement also sends a strong message to other partners that it is possible to modernise existing trade relations when both partners share a clear belief in the merits of openness, and of free and fair trade."*

Commissioner for Agriculture, Phil **Hogan**, said: *"This agreement proves yet again the value of the EU leading from the front globally in promoting open and rules-based trade. Our commitment is to deliver benefits for our citizens at home through closer cooperation with our partners abroad. This deal is very positive for our agri-food sector, creating new export opportunities for our high-quality food and drink products, which in turn will create support more jobs and growth, particularly in rural areas."*

Today's agreement – once finalised and approved – will benefit both companies and consumers across Europe and advance the EU's values-based trade policy agenda. The agreement in principle struck today brings the EU's trade relationship with Mexico into the modern era, tearing down most of the remaining barriers to trade.

Since the previous EU-Mexico trade agreement came into force in 2000, trade

between the EU and Mexico has risen at a rate of around 8% per year, resulting in an overall increase of 148% in trade in goods over the period. Despite these positive results, there was still a wide margin for improving the trade relationship that the new agreement is addressing, by making virtually all trade in goods duty-free.

The main elements of the agreement

1) **Agricultural exports** from the EU are set to benefit the most, such as poultry, cheese, chocolate, pasta, and pork.

The agreement will, in particular:

- provide preferential access for many **cheeses** such as Gorgonzola and Roquefort, which currently are up to 20%, and gain significant new access for many others within annual quotas;
- secure a considerable volume for **milk powder** exports in one of the largest markets, starting with 30,000 tonnes from entry into force, rising to 50,000 tonnes after 5 years.
- allow the EU to substantially increase its **pork** exports to Mexico, with duty-free trade for virtually all pork products;
- eliminate tariffs for products like **chocolate** (currently up to 30%) and **pasta** (currently up to 20%);
- ensure the protection from imitation for 340 distinctive European foods and drink products in Mexico, so-called **geographical indications**, such as Comté cheese from France, Queijo São Jorge cheese from Portugal, Szegedi szalámi from Hungary, and Magiun de prune Topoloveni plums from Romania. This means that EU producers of traditional delicacies are not struggling against copies, and when consumers buy these products they can do so knowing they are buying the real thing.

When it comes to customs procedures, the new agreement will bring in new rules to simplify and speed up paperwork and physical checks at Mexican customs.

2) The agreement includes a comprehensive **trade and sustainable development** chapter, which sets the highest standards of labour, safety, environmental and consumer protection; introduces a new dialogue with civil society in all areas of the agreement, strengthens the EU and Mexico's actions on sustainable development and climate change, notably the obligations both sides undertook under **the Paris Agreement on climate change**; and maintains and fully safeguards Member States' right to organise public services the way they choose.

The agreement also includes an explicit reference to the **precautionary principle** that, already enshrined in the EU treaties, allows the EU to keep products out of its market as long as there is no scientific certainty that they are safe.

It will also be the very first EU trade agreement to include provisions to **fight corruption**, with measures to act against bribery and money laundering. The broader Global Agreement, of which the trade agreement is an integral

part, also covers the protection of human rights, as well as chapters on political and development cooperation.

3) The agreement is a big step forward in giving companies mutual access to government contracts in both the EU and Mexico **public procurement markets**. EU and Mexican companies will be placed on an equal footing, irrespective of whether they present a bid in Mexico or in the EU. Mexico has also committed itself to enter into negotiations with the Mexican States to allow EU firms to tender for contracts at State level by the time the agreement is signed.

4) This opening goes hand in hand with setting a level playing-field: we agreed a high level of protection of **intellectual property rights**. This protects EU research and development and guarantees fair pay for EU artists, as well as the 340 traditional EU delicacies mentioned above.

5) The new agreement opens up **trade in services**, such as financial services, transport, e-commerce, and telecommunications. The agreement will also help develop an favourable environment for a knowledge-based economy, with a new chapter on digital trade. This will remove unnecessary barriers to online trade, like charging customs duties when downloading an app, and will put in place clear rules to protect consumers online.

6) On **investment protection**, the agreement improves investment conditions and includes the EU's new Investment Court System, ensuring transparency and the right of governments to regulate in the public interest, and will also ensure that Mexico and the EU work towards the setting up of a Multilateral Investment Court.

Overall, this agreement will strengthen Europe's leadership in **shaping globalisation** by putting in place trade rules that are in line with the EU's core values and safeguard the EU's interests and sensitivities. In doing so, it contributes to addressing challenges identified in the reflection paper on [Harnessing Globalisation](#) presented by the Commission as part of the [White Paper process](#).

## Next Steps

Today's agreement in principle includes the most important elements of the agreement. In some chapters, technical details still need to be tied up. Based on today's agreement in principle, negotiators from both sides will continue their work to resolve the remaining technical issues and finalise the full legal text by the end of the year. Then, the Commission will proceed with the legal verification and translation of the agreement into all official EU languages, and will subsequently submit it for approval by the European Parliament and Council of the European Union.

## Background

The negotiations for the new agreement with Mexico started in May of 2016 based on negotiating directives from the Council. They were conducted according to the Commission's high transparency standards. In addition to close scrutiny from the European Parliament and Member States, the Commission

ensured access to information about the progress in the negotiations by publishing regular [reports](#) from the negotiating rounds, as well as [negotiating proposals](#).

The trade pillar is part of a broader Global Agreement, which sets the framework for the EU's relationship with Mexico and covers issues of broader shared interest that go beyond trade, including political issues, climate change and human rights.

In 1997, Mexico was the first country in Latin America to sign a Global Agreement with the EU. This came into force in 2000, and will be replaced by the new agreement once it is ratified.

### **For More Information**

[Agreement in Principle](#) [available soon]

[MEMO](#)

[Joint statement](#)

[Video material from the today's ministerial meeting](#)

[Dedicated webpage](#)

[Factsheets](#)

[Exporters' stories](#)

[EU and Mexico trade relations](#)