

# Submission on whistle-blowing protections

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The Council of Bars and Law Societies of Europe (CCBE) represents the Bars and Law Societies of 32 countries (including the 28 EU Member States and Norway, Iceland, Liechtenstein and Switzerland) and a further 13 associate and observer countries, and through them more than 1 million European lawyers.

- The CCBE does not seek to comment on the merits of the Commission's consultation on whistle-blowing but wishes to underline the importance of the preservation of the rights of all citizens to the protections of professional secrecy in their dealings with lawyers, as a cornerstone of the rule of law.
- The CCBE accepts the general principle that those who selflessly reveal information for the public benefit should be protected in their employment, provided the public benefit outweighs any harm which may result from the disclosure and their actions are legal.
- However just as some human rights are evaluated as taking precedence over others, it can never be the case that the universal public benefit of professional secrecy, which is the cornerstone of the rule of law, can be prejudiced in the interests of individual employment protection from whistle-blowing and the CCBE strongly urges the Commission to consider that if any new legislation in relation to whistle-blowing is contemplated there should be specific provisions preventing information protected, by reason of professional secrecy, from being disclosed or prejudiced as a result of whistle-blowing. Accordingly, if the rule of law is to be upheld it is essential that the confidentiality attached to the relationship between lawyers and their clients be protected.
- In the course of their work it is essential that citizens should be able to assert and preserve the professional secrecy to which they and their lawyers are entitled. Professional secrecy is an obligation that, in many Member States, is protected under sanctions in the criminal law codes. It is important to note that professional secrecy cannot be used to protect or disguise illegality or to circumvent the law
- Without professional secrecy, the rights of citizens to obtain legal advice, assistance and representation, and the right for their lawyers not to be identified with those citizens, would not be adequately protected against improper interference from the state.