**GENERAL INFORMATION**

*Title of Consultancy:* Developing a methodology to assess whistleblowing legislation  
*Application Closing Date:* 7 April 2020  
*Consultancy Start and End Date:* 13 April – 8 June 2020  
*Duration:* 10 working days  
*Location of Consultancy:* Flexible

**BACKGROUND**

Whistleblowers are important players in national and global efforts to detect and prevent corruption and other malpractice. Their disclosures have exposed wrongdoing and fraud, and helped save public funds and avoid disasters for health and the environment. Unfortunately, reporting often comes at a high price: whistleblowers risk their career, their livelihood and sometimes their personal safety to expose wrongdoing that threatens the public interest.

To protect whistleblowers from retribution, a strong legal framework is an important precondition. In most European countries, blowing the whistle is a risky decision to make, first and foremost because there is no, or insufficient, legal protection for whistleblowers. Only 11 EU Member States offer comprehensive legal protection (France, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Sweden, Slovakia and the United Kingdom). Even in these countries, loopholes remain and enforcement is lacking.

On 7 October 2019, the European Union adopted a Directive on the “Protection of persons reporting on breaches of Union law” (Whistleblower Protection Directive) and the EU Member States have to implement it into national law by December 2021. This is an opportunity for all EU countries to bring their national legal framework on whistleblower protection in line with international standards and best practice.

The Directive contains very advance provisions, but it also has gaps. Transparency International will conduct advocacy to that EU Member States adopt national legislations on whistleblower protection that not only meet the minimum standards of the Directive (“bad” transposition of EU Directives is not uncommon) but also go beyond the Directive, to meet international standards and best practices.

**OBJECTIVE**

TI would like to develop a methodology for TI chapters (primary audience) and other civil society organisations/other stakeholders (secondary audience) advocating for a “good” transposition of the EU Directive to assess legislation on whistleblower protection against (1) the minimum standards set by the Directive and (2) best practice. The methodology should allow chapters to assess current national legislation, but also draft laws and amendments throughout the legislative process.

The objective is to help chapters to publically report on strength and weaknesses of (proposed) legislation and to formulate policy recommendations as well as concrete legislative text. The
methodology should be a flexible tool that can be used to produce a variety of products to support advocacy, from comprehensive reports to targeted communication on specific issues.

**PROPOSED APPROACH**

- Identify/update the best practice criteria for whistleblowing legislation, based on TI policy position and past methodologies used by TI-S and Chapters
- For each criteria, develop questions to assess (proposed) legislation against best practice, as well as guidance on what “good” and “bad” answers would look like.
- Assess the Directive against the best practice criteria to identify where the Directive meets, falls short or goes beyond the best practice criteria (resource: TI position paper on the EU Directive)
- Identify articles of the Directive that are relevant for this exercise (the text of the Directive is rather long, so there will be a need to prioritise)
- Develop questions and guidance to assess (proposed) legislation against the EU Directive

*Style:* The users of the methodology will not necessarily be whistleblower protection experts. They might even be quite new to the issue. This should be considered when developing the methodology.

*Format:*
- The format should be as user friendly as possible. Consider the use of tables.
- The format should help users to assess their legislation simultaneously against the EU Directive and best practice

**EXPECTED DELIVERABLES AND TIMELINE**

**Final outputs:** A methodology to assess (proposed) legislation against best practice (primary audience: any TI chapter), with a special module for TI chapters in the EU to assess (proposed) legislation against both the EU directive on whistleblower protection

The final outputs should be delivered by 8 June 2020.

**Intermediary deliverables:**
- proposed best practice criteria for agreement & questions and guidance for 1-2 criteria
- 1st draft methodology for assessment against best practice
- Rough assessment of EU Directive and selection of articles
- 1st draft methodology for assessment against both best practice and EU Directive
- 2 webinars to present the methodology to chapters, collect feedback and answer questions

**REFERENCES**


SELECTION CRITERIA

The Consultant should have the following qualifications:

- Minimum of 7 years research experience in issues related to whistleblower protection, governance and anti-corruption.
- Experience/knowledge with legislation gap analysis methodologies would be an advantage.
- Experience of working with clients in civil society, particularly advocacy-oriented NGOs;
- Excellent English language skills

REMUNERATION AND COSTS

The Consultants should provide their estimated total fee as a lump sum or as standard daily or hourly rates, before any VAT or other charges.

For Consultants based in the EU, EEA and Switzerland

Transparency International e.V. (Secretariat), (TI-S) is registered as a Business Entity in Germany with VAT identification number DE273612486. In order to determine the Value Added Tax (VAT) implications of this tender, we kindly request that Consultants fill out the VAT Form for Tenders/Vendor Form (instructions inside the form) and submit the completed and duly signed form along with their email application.
The link to the VAT Form for Tenders/Vendor Form is available below.

**CONTACT INFORMATION**

The application should include the following documents in English in a single PDF file:

- A proposal including a detailed timeline and estimated fee
- Curriculum Vitae
- Cover letter describing your motivation, qualifications for the assignment.
- At least one sample of relevant previous work (confidentiality guaranteed).
- Two contacts of two people willing to be contacted for their reference.
- Completed VAT Form for Tenders (Only for Consultants based in the EU, EEA and Switzerland)

Please indicate “Whistleblowing Consultancy” in the subject line of your email application. Applications should be sent in English by email at whistleblowing@transparency.org by close of business of 7 April 2020.

Please note that only shortlisted applicants will be contacted.

**Data protection**

When you respond to this tender and submit your application, you provide consent that Transparency International e. V. keeps your application materials for the period of ten years according to German legal requirements. Afterwards Transparency International will delete your application and any personal data included in it. If you have any questions please reach out to dataprotection@transparency.org

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**Guidelines for handling overhead and travel expenses**

1. **Overhead**

   Regular overhead expenses associated with the Consultants maintaining their place of business, such as rent, telephone, utilities or stationary, are included in the Consultant’s professional fee, except where explicitly agreed otherwise in the contract.

2. **Travel**

   2.1 Travel and accommodation expenses will as far as possible, and where applicable, be recovered from the institutions and companies hosting events or using the outputs provided by the Consultant.

   2.2 Where such cost recovery is not possible, all travel is subject to prior approval by TI-S staff responsible for the financial management of the Project or TI Budget Line that will support the costs of travel. TI shall not issue travel advances to the Consultants. For accommodation or travel by air, rail or coach, they will instead have to contact TI-S that will make travel arrangements on the Consultant’s behalf.
2.3 All travel booked by TI-S will include travel health and accident insurance with worldwide coverage and Economy class only; accommodation will aim to achieve best value for money up to a 4-star category.

2.4 Consultants shall be entitled to invoice TI-S only for local transportation and visa cost (if applicable).

2.5 Subsistence allowance (per diems) and expenses for individual meals cannot be claimed. These are part of Consultant’s business expenses.