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<Commission>{PETI}Committee on Petitions</Commission>

<Date>{19/09/2022}19.9.2022</Date>

<TitreType>NOTICE TO MEMBERS</TitreType>

Subject: <TITRE>Petition No 0284/2022 by Gelu Sofica (Romanian) on the transposition of Directive (EU) 2019/1937 into Romanian national law</TITRE>

1. Summary of petition

This petitioner alleges that Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law has not been transposed into national law, even though the deadline to do so lapsed on 17 December 2021. The petitioner argues that the non-transposition of this Directive has negative effects on him, as he is a person who reported illegalities committed at his employer, the Romanian railway company. He states that he is subject to continuous harassment, is not promoted, had been demoted and subsequently reinstated following court orders. The petitioner also claims that the harassment is also directed at his twin brother, also working for the same employer. The petitioner states that there are currently six court cases being tried regarding his professional evaluations by his employer and he alleges that there were 16 court cases already tried. He states that the harassment is due to the fact that he is a whistle-blower witness in three corruption cases.

2. Admissibility

Declared admissible on 24 June 2022. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 19 September 2022

The Commission’s observations

Directive (EU) 2019/1937[[1]](#footnote-1) aims to guarantee a consistently high level of protection for whistleblowers who report information on breaches of Union law in specific policy areas which they acquired in their work-related activities, by setting European Union-wide minimum standards. The policy areas falling within its scope are set out in Article 2 and the Annex of that Directive. As to the personal scope, Article 4(4)(b) of the Directive extends the protection of reporting persons, where applicable, to third persons connected with a whistleblower and who could suffer retaliation in a work-related context, which includes relatives.

The Directive had to be transposed by Member States into national law by 17 December 2021. In January 2022, the Commission initiated an infringement procedure against Romania for failure to notify the complete transposition of the Directive. Once the national measures transposing the Directive will have been notified, the Commission will analyse the completeness and conformity of these measures in view of further steps to be taken.

The petitioner states that he has initiated legal proceedings in front of the competent national courts, several of which are currently pending. It is indeed for the national authorities, including national courts, to analyse the issues of individual cases in light of the national legal framework providing for whistleblower protection, if applicable. Before the transposition of the Directive into national law, certain of its provisions may enjoy direct effect if they are, *inter alia*, clear, precise and unconditional in line with the case law developed by the Court of Justice of the European Union. It is for the national courts, in cooperation with the Court of Justice of the European Union, to assess which provisions meet these conditions, taking into account the circumstances of each individual case.

Conclusion

For the reasons set out above, the Commission has no basis to follow up on the issues raised by the petitioner.

1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law,OJ L 305, 26.11.2019, p. 17–56. [↑](#footnote-ref-1)