



Session: 2021-2022
Date: 7 February 2022

**PROPOSED DECREE ON COMPLAINT MANAGEMENT IN THE GERMAN-SPEAKING
COMMUNITY**

PROPOSED AMENDMENTS,

Submitted by:

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Amendment No. I

OVERVIEW

The heading of the proposed decree contained in Document 138 (2020-2021) No. 1 shall be replaced by the following:

**"PROPOSAL FOR A DECREE ESTABLISHING VARIOUS
INSTRUMENTS FOR INFORMATION AND COMPLAINTS
MANAGEMENT IN THE GERMAN-SPEAKING
COMMUNITY".**

Amendment No. II

ENTIRETY OF THE PROPOSED DECREE

The entirety of the proposed decree contained in Document 138 (2020-2021) No. 1 shall be replaced as follows:

"CHAPTER 1 - GENERAL PROVISIONS

Article 1 - Definitions

For the purposes of this Decree, the following shall be understood as:

1. Authority:

- a) the German-speaking Community,*
- b) the institutions under public law that depend on the German-speaking Community,*
- c) the municipalities, public social welfare centres and other territorial authorities of the German-speaking area, with the exception of the multi-municipal police zones and assistance zones,*
- d) any institution, regardless of its type and legal form:*

- established for the specific purpose of meeting needs in the general interest that are not of a commercial nature, and
 - has legal personality, and
 - the activities of which are financed, for the most part, by the authorities or bodies referred to in points (a) and (b), or which are subject to management supervision by those authorities or bodies, or the majority of whose administrative, management or supervisory bodies consist of members appointed by those authorities or bodies,
- e) the associations formed by one or more of the authorities referred to in (a), (b), (c) or (d);
2. Person: natural or legal person as well as any non-incorporated association;
 3. Official act: act of a person working under the responsibility of one of the authorities mentioned in point 1 and which is related to:
 - a) the preparation of a decision,
 - b) the execution of a decision,
 - c) the decision itself or
 - d) of inactivity in relation to a decision;
 4. Mode of operation: Functioning or behaviour of authorities, officials or employees, regardless of whether such functioning or behaviour is related to a decision;
 5. Complaint: a written or personal reference to official acts, omissions or working practices which the complainant considers to be either unlawful, inappropriate, inadequate, incorrect or inequitable, provided that the complaint is not directed against statutory provisions;
 6. Ombudsdienst: Ombudsperson of the German-speaking Community appointed in accordance with the decree of 26 May 2009 establishing the office of an Ombudsperson for the German-speaking Community;
 7. General Data Protection Regulation: the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data, on the free movement of such data and repealing Directive 95/46/EC.

For the purposes of this Decree, the Parliament as well as the Government shall be deemed to be an authority within the meaning of paragraph 1(1)(a).

Art. 2 - Principle of active communication

The authorities actively and on their own initiative provide information on their policies, regulations and services, including a description of their tasks, powers, internal organisation and existing complaint procedures.

They ensure through adequate information strategies that:

- 1. the information reaches the largest possible number of affected persons;*
- 2. the information is easily accessible, correct, up-to-date, neutral, comparable and adapted to the target group and the topics.*

Art. 3 - Complaints management assistance

§1 - The government recognises only one institution as a one-stop-shop for assistance in matters of grievance management.

To be recognised as a one-stop shop, this facility must:

- 1. be organised as a non-profit association;*
- 2. offer their services throughout the German-speaking area;*
- 3. have a proven experience of ten years in the field of general information and advice to citizens and consumers.*

The central contact point receives the order:

- 1. To provide guidance and information free of charge to citizens seeking information or documentation in relation to public authorities, or who wish to make a notification or complaint, and to disseminate general information in this regard;*
- 2. to advise public authorities on their information policy and to provide free assistance in the practical implementation of complaint management;*
- 3. to develop and disseminate a uniform logo concerning the Complaints Management in the German-speaking Community;*
- 4. prepare and disseminate a complaint form containing at least the following elements:*
 - a) Information in accordance with the General Data Protection Regulation;*
 - b) Guidance on the classification of the complaints procedure in relation to administrative or judicial claims;*
 - c) the uniform logo concerning complaints management.*

§2 - The one-stop shop is neutral and has appropriate professional staff.

Without prejudice to the Decree of 28 June 2021 on open data and the re-use of public sector information, the one-stop shop is authorised to make documents available on whatever medium against payment of an amount based on a reasonable cost price.

CHAPTER 2 - COMPLAINT MANAGEMENT

Art. 4 - Goals

Any person who can show an interest has the right to lodge a complaint free of charge against an official act or against working methods of a public authority. He or she may grant a power of attorney to another person with legal capacity to represent this right.

The authorities shall establish a complaints procedure which shall at least comply with the provisions of this Chapter. They may, in addition, provide for more favourable arrangements for the complainant.

Art. 5 - Admissible complaints

A complaint shall be admissible if it:

- 1. concerns a specific official act or mode of operation;*
- 2. has been submitted in writing or made in person to the authority responsible for the official act or practice in question and recorded in accordance with Article 7(2)(3);*
- 3. it contains a description of the matter giving rise to the complaint;*
- 4. it has been filed in accordance with the language requirements laid down in the Coordinated Laws of 18 July 1966 on the Use of Languages in Administrative Matters.*

Art. 6 - Inadmissible complaints

The responsible authority may refuse to deal with a complaint if:

- 1. the complaint
 - a) is obviously unfounded;*
 - b) is essentially identical to a complaint already dealt with in terms of this chapter and there are no new facts;*
 - c) relates to facts that occurred more than one year prior to the filing of the complaint;**
- 2. the complainant has not exhausted existing organised administrative appeal procedures to obtain satisfaction;*
- 3. the grievance relates to personnel matters of the authority in which the grievant is employed, except for a grievance for which the grievant can credibly demonstrate that no other specific avenue of appeal is available to him or her;*
- 4. the name and address of the complainant are not known.*

The responsible authority shall refuse to deal with a complaint if an organised administrative appeal or a judicial appeal is pending in the complaint matter.

The one-year period referred to in paragraph 1(1)(c) shall be suspended for the period during which the ground of appeal is the subject of an organised administrative appeal or a judicial appeal.

Art. 7 - Filing the complaint

A complaint is submitted digitally or in paper form to the responsible authority.

Any authority:

- 1. publishes a complaint form at least in accordance with the requirements of Article 3 §1(3)(4) and makes it easily accessible in both digital and paper form;*
- 2. determines the person or persons to whom complaints may be submitted;*
- 3. ensures that the complainant is assisted, if necessary, in formulating the complaint in writing.*

Art. 8 - Acknowledgement of receipt

Immediately after the submission of the complaint, the complainant will receive an acknowledgement of receipt with the date of receipt of the complaint. This is done either digitally or in paper form, depending on the way in which the complaint was submitted.

Art. 9 - Information on the processing of the complaint

§1 - Within 14 calendar days after submitting the complaint, the complainant will receive an information letter about the further processing of the complaint.

The information letter referred to in paragraph 1 shall contain information on:

- 1. the admissibility or inadmissibility of the appeal;*
- 2. the contact person and the person responsible for handling the complaint as referred to in Article 36 §1(1).*

§2 - If the complaint is admissible, the time limit for processing, the way of processing and the way of informing about the result will be communicated in the information letter.

§3 - If the complaint is inadmissible or does not need to be further investigated, a statement of reasons for inadmissibility and the reference concerning the possibility of appeal to the ombudsman service are added to the information letter.

§4 - If a complaint is not further processed because it was filed with an authority that is not competent, the authority concerned shall forward the complaint as soon as possible to

the authority which, in its opinion, is competent, provided that the complainant does not object thereto.

The information letter mentioned in §1 paragraph 1 provides information on the forwarding of the complaint.

Art. 10 - Processing deadline

The appeal procedure shall be completed within 45 calendar days of the submission of the appeal.

If there are exceptional circumstances, the period referred to in paragraph 1 may be extended, after informing the complainant in writing, to a maximum of 90 calendar days in total.

Art. 11 - Investigation of the complaint

§1 - The responsible authority shall ensure that the complaint is investigated correctly, discreetly and neutrally. In doing so, it shall take into account the data protection provisions mentioned in Chapter 4, while granting the complainant the right to object to the processing and forwarding of his or her data.

Those investigating the complaint shall carry out their activities independently within the prescribed complaints procedure.

§2 - If the complainant has obtained satisfaction, the obligation to continue the complaint procedure in accordance with this decree shall cease.

Art. 12 - Information at the end of the appeal procedure

§1 - The responsible authority informs the complainant in writing about:

- 1. the result of their investigations, including the reasons on which this result is based, as well as any subsequent measures taken by the authority, without specifying the personnel law;*
- 2. the discontinuation of the proceedings pursuant to Article 11 §2 and states the relevant reasons on which the discontinuation is based.*

§2 - The responsible authority informs the complainant about the further possibilities of obtaining satisfaction, the relevant instances and the forms and deadlines to be observed.

In any case, it mentions that he has the right to address his complaint to the Ombudsman Service, should:

1. *he/she is dissatisfied with the handling of the complaint or*
2. *he does not obtain satisfaction in the matter in question.*

Art. 13 - Keeping of a register and communication

§1 - *Each authority shall keep a register of complaints received per calendar year.*

This register contains entries:

1. *concerning the number and subject matter of all complaints received in terms of this Chapter;*
2. *on their admissibility and the procedures for further processing;*
3. *on the corresponding examination results and*
4. *where appropriate, on the measures to be taken as a result.*

§2 - *By 31 March of the year following the reference year, authorities shall send an anonymised version of the register to their respective management or supervisory body and to the Ombudsman Service.*

CHAPTER 3 - PROTECTION OF WHISTLEBLOWERS

Section 1 - General provisions Art. 14 -

European clause

This Chapter partially transposes Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons reporting infringements of Union law.

Art. 15 - Scope of application

§1 - *This Chapter shall apply to the following infringements of Union law, insofar as the competences of the German-speaking Community are concerned:*

1. *Infringements falling within the scope of the European Union acts listed in the Annex to the Directive referred to in Article 14 and concerning the following areas:*
 - a) *public procurement,*
 - b) *Environmental protection,*
 - c) *public health,*
 - d) *Consumer protection,*
 - e) *Protection of privacy and personal data and security of network and information systems;*
2. *Violations against the financial interests of the European Union;*
3. *Infringements of internal market rules, including infringements of Union rules on competition and State aid, as well as infringements of internal market rules in relation to acts which*

The taxpayers are obliged to pay the corporate income tax in accordance with the provisions of the law on corporate income tax or in respect of agreements aimed at obtaining a tax advantage contrary to the objective or purpose of the applicable corporate income tax law.

Information concerning the following areas shall be excluded from the scope referred to in paragraph 1:

- 1. Protection of national security;*
- 2. Protection of classified information within the meaning of the Act of 11 December 1998 on Classification and Security Clearances, Certificates and -opinions;*
- 3. Protection of the attorney and medical professional secrecy;*
- 4. judicial secrecy of deliberations;*
- 5. Criminal Procedure Law.*

§2 - This Chapter is without prejudice to the applicable provisions on the exercise of the right of workers to consult their representatives or representative workers' organisations and on the protection against unjustified adverse action resulting from such consultation, as well as on the autonomy of the social partners and their right to conclude collective labour agreements.

This Chapter shall apply without prejudice to the applicable provisions concerning confidential counsellors within the meaning of Article 32sexies §2 of the Act of 4 August 1996 on the Welfare of Workers in the Performance of their Work.

§3 - This Chapter applies without prejudice to other decretal provisions that provide broader protection for whistleblowers.

Art. 16 - Special definitions

For the application of this chapter, the following shall be understood as:

- 1. Violations: Acts or omissions that:

 - a) are unlawful and related to the legal acts of the European Union and the areas falling within the scope referred to in Article 15, or*
 - b) conflict with the object or purpose of the provisions of the legal acts of the European Union and of the areas falling within the scope referred to in Article 15; and*
 - c) do not concern purely interpersonal conflicts;**
- 2. Information about violations: Information, including reasonable suspicion, regarding actual or potential violations that have been committed or are very likely to have been committed in the public authority where the whistleblower works or has worked or in another public authority with which the whistleblower is or has been in contact as a result of his or her professional activities.*

- and in relation to attempts to conceal such violations;*
3. *Notification: the oral or written communication of information about violations;*
 4. *internal message: a message within an authority;*
 5. *external report: a report to the ombudsman service;*
 6. *Disclosure: making information about violations publicly available;*
 7. *Whistleblower: a natural person who reports or discloses information about violations obtained in connection with his or her work activities;*
 8. *Internal whistleblower: a whistleblower who is employed as a staff member of a public authority;*
 9. *external whistleblower: a whistleblower with the following capacity:*
 - a) *Shareholders and persons who are members of the administrative, management or supervisory body of a public authority, including non-executive members, as well as volunteers and paid or unpaid trainees;*
 - b) *contractors, subcontractors and suppliers and the persons working under their supervision and direction;*
 - c) *Persons reporting or disclosing information about violations of which they have become aware in the course of an employment relationship that has since ended;*
 - d) *Persons whose employment relationship has not yet commenced and who have obtained information about violations during the recruitment process or other pre-contractual negotiations;*
 10. *Intermediary: a natural person who assists a whistleblower in the reporting process in a professional context and whose assistance should be confidential;*
 11. *occupational context: current or past work activities in the public or private sector through which persons, regardless of the nature of the activities, obtain information about violations and where these persons could face reprisals if they were to report this information;*
 12. *Data subject: a natural or legal person designated in the notification or disclosure as having committed the breach or with whom the designated person is associated;*
 13. *Reprisals: direct or indirect acts or omissions in a professional context that are triggered by an internal or external report or disclosure and that cause or may cause the whistleblower to suffer an unjustified disadvantage;*
 14. *Follow-up: action taken by the recipient of a report or by the ombudsman service to verify the validity of the allegations made in the report and, where appropriate, to address the reported breach, including through internal investigations, enquiries, prosecutions, (re-)recovery actions or closure of the case;*

15. *Feedback: informing the whistleblower of the follow-up action planned or already taken and the reasons for this follow-up.*

Section 2 - Reporting information on infringements

Art. 17 - Internal reporting

Without prejudice to Articles 18 and 28, internal and external whistleblowers may report information on infringements to the authorities. To this end, public authorities shall establish channels and procedures for internal reporting and follow-up in accordance with the provisions of this Section.

The authorities referred to in Article 1(1)(c) may operate a joint internal reporting channel in the form of a project association in accordance with Article L1512-2 of the Code of Local Democracy and Decentralisation.

The establishments referred to in Article 1(1)(d) and (e) which have fewer than 50 employees may:

- 1. optionally set up an internal reporting channel, or*
- 2. commission a third party to operate a common internal reporting channel for them.*

By way of derogation from Article 1(1)(1), the Media Council of the German-speaking Community and the Economic and Social Council of the German-speaking Community shall, for the purposes of this Article, be treated in the same way as the bodies referred to in paragraph 3.

Art. 18 - External messages

Without prejudice to Article 3 §3 of the Decree of 26 May 2009 establishing the Office of an Ombudsperson for the German-speaking Community and Article 28 point 2, internal and external whistleblowers may report information on violations to the Ombudsman Service.

The Ombudsman Service shall process the external reports in accordance with the requirements of the decree of 26 May 2009 establishing the office of an Ombudsperson for the German-speaking Community, unless the provisions of this section deviate from this.

In doing so, the ombudsman service ensures that the completeness, integrity and confidentiality of the information is guaranteed.

Art. 19 - Specifications for reporting channels

Reporting channels shall be designed, set up and operated in a secure manner so as to protect the confidentiality of the identity of the whistleblower and third parties mentioned in the report and to prevent unauthorised persons from accessing them.

is denied. In the case of external reports, the Ombudsman's Office shall ensure that the identity of the persons concerned remains protected for the duration of any investigation triggered by the report or disclosure.

When reporting channels are established, an impartial person or department is designated to follow up on the reports, which may be the same person or department that receives the reports and remains in contact with the whistleblower, asking for further information if necessary and providing feedback.

If a report is not submitted in accordance with the requirements of this section or is received by a person or department other than the person or department referred to in paragraph 2, the employees who received the report shall forward it without delay and without change to the person or department referred to in paragraph 2, without disclosing any information that could reveal the identity of the whistleblower or the persons concerned.

The reporting channels shall review their procedures for receiving and following up reports on a regular basis and at least every three years and adapt them accordingly, if necessary, on the basis of experience.

Art. 20 - Submitting a notification

§1 - Whistleblowers may submit reports in written and/or oral form. Oral reports may be made by telephone or other means of voice transmission and, at the whistleblower's request, by way of a physical meeting within a reasonable time frame.

Reports are only admissible if the name and contact details of the whistleblower are known.

§2 - In the case of reports made by telephone or other means of voice transmission that are recorded, the reporting channel may document the oral report in one of the following ways, subject to the consent of the whistleblower:

- 1. by making an audio recording of the conversation in a durable and retrievable form; or*
- 2. by the complete and accurate transcription of the interview by the staff responsible for processing the reports.*

In the case of reports made by telephone or other means of voice transmission which are not recorded, the reporting channel may document the oral report by means of an accurate record of the conversation prepared by the staff responsible for processing the reports.

§3 - *When a whistleblower requests a meeting to report a violation, the reporting channel shall, subject to the whistleblower's consent, ensure that complete and accurate records of the meeting are maintained in a permanent and retrievable form. It may document the meeting in one of the following ways:*

- 1. by making an audio recording of the conversation in a durable and retrievable form; or*
- 2. by an accurate record of the meeting drawn up by the staff responsible for processing the notification.*

§4 - *In the cases mentioned in §§2 and 3, the reporting channels shall give the whistleblower the opportunity to check the transcript, correct it if necessary and confirm it by his signature.*

Art. 21 - Acknowledgement of receipt

Within seven days of receipt of the report, the whistleblower shall receive an acknowledgement of such receipt by the reporting channel, unless the whistleblower has expressly objected or the reporting channel has reasonable grounds to believe that acknowledgement of receipt of the report would compromise the protection of the whistleblower's identity.

Art. 22 - Processing period

Within three months of the acknowledgement of receipt of the report, or after the expiry of the period of seven days from receipt of the report referred to in Article 21 if the receipt has not been acknowledged to the whistleblower, the whistleblower shall receive feedback.

In the case of external reports, the Ombudsman Service may, in exceptional circumstances, extend the period referred to in paragraph 1 to a total of six months.

Art. 23 - Investigation of the notification

The reporting channel investigates the reported information on violations and then takes the proper follow-up action.

Authorities that have received a report but do not have the power to take action against the reported infringement shall forward the report to the Ombudsman Service in a secure manner as soon as possible and shall inform the whistleblower of this forwarding without delay.

Art. 24 - Special provisions for external reports

§1 - The Ombudsman Service may, after due consideration of the facts, decide that:

1. a reported infringement is clearly minor and does not require any follow-up action other than the closure of the procedure;
2. a procedure may be closed in the case of repeated notifications which do not contain relevant new information on infringements compared to a previous notification for which the relevant procedures have been completed, unless new legal or factual circumstances justify a different course of action.

In these cases, the ombudsman service informs the whistleblower of its decision and the reasons for it.

§2 - The ombudsman service informs the whistleblower of the final outcome of investigations triggered by the report.

Art. 25 - Information obligations

§1 - On the website of the ombudsman service, at least the following information shall be published in a separate, easily recognisable and accessible section:

1. the conditions for protection under this Chapter;
2. the contact details of the ombudsman service, in particular the e-mail addresses and postal addresses as well as the telephone numbers with an indication of whether the telephone calls are recorded;
3. the applicable procedural rules for reporting infringements to the Ombudsman service or to institutions, bodies, offices or agencies of the European Union, in particular the way in which the Ombudsman service may request the whistleblower to clarify the information reported or to provide additional information, the timeframe for the feedback and the nature and content of that feedback;
4. the applicable confidentiality regime for notifications and in particular the information on the processing of personal data in accordance with the General Data Protection Regulation;
5. the type of follow-up action to be taken on incoming notifications;
6. the available remedies and procedures for protection against reprisals and the availability of confidential counselling for persons considering making a report;

7. *an explanation clearly stating the circumstances in which persons making a report to the ombudsman service cannot be held liable for breach of confidentiality under Article 33(1).*

At least the following information is published on the respective websites of the authorities:

- 1. the information listed in paragraph 1 and/or a reference to the section of the Ombudsman Service's website mentioned in paragraph 1;*
- 2. an indication that reporting through internal reporting channels is preferable to reporting through external reporting channels in cases where the violation can be effectively addressed internally and the whistleblower does not fear reprisals.*

§2 - The authorities shall provide comprehensive and independent information and advice on the available remedies and procedures against reprisals and the rights of the persons concerned, which shall be easily accessible to the public free of charge.

Art. 26 - Register and reporting obligations

The reporting channels shall keep a register of the reports received per calendar year in accordance with the confidentiality obligations pursuant to Article 27.

The Ombudsman Service continuously documents the following statistics:

- 1. the number of messages received;*
- 2. the number of investigations and legal proceedings initiated as a result of these reports and their outcomes;*
- 3. the estimated financial loss, if any, and amounts (recovered) following investigations and legal proceedings into the reported infringements.*

Art. 27 - Confidentiality

§1 - The identity of the whistleblower shall not be disclosed to any person other than the person or department referred to in Article 19(2). This also applies to any other information from which the identity of the whistleblower can be inferred directly or indirectly, unless:

- 1. the whistleblower expressly agrees to this;*
- 2. there is a necessary and proportionate duty in the context of investigations by the Ombudsman Service or court proceedings, in particular with a view to safeguarding the rights of defence of the persons concerned.*

In the case referred to in paragraph 1(2), the whistleblower shall be informed before his or her identity is disclosed, unless such information would jeopardise the relevant investigation or legal proceedings. When informing whistleblowers, the Ombudsman service shall provide them with a written explanation of the reasons for the disclosure of the confidential data concerned.

§2 - Where information on infringements contains business secrets, the Ombudsman Service shall not use or disclose such business secrets for purposes beyond what is necessary for proper follow-up.

Section 3 - Disclosure of information on infringements

Art. 28 - Disclosure

Whistleblowers may disclose information about violations in the following cases:

- 1. The whistleblower has initially made a report internally and externally or directly externally in accordance with Articles 17 or 18, but no appropriate action has been taken on his or her report within three or six months respectively.*
- 2. The whistleblower has sufficient reason to believe that:*
 - a) the breach may pose an immediate or obvious threat to the public interest, such as in an emergency situation or where there is a risk of irreversible damage, or*
 - b) there is a risk of reprisals in the event of an external report or, due to the particular circumstances of the case, there is little prospect of effective action being taken against the infringement, in particular because evidence could be suppressed or destroyed or if there could be collusion between a public authority and the author of the infringement or the public authority could be involved in the infringement.*

Section 4 - Protective measures

Art. 29 - Protected persons

The safeguards under this section are applicable to whistleblowers who meet the following conditions:

- 1. They have made a notification internally in accordance with Article 17 or externally in accordance with Article 18, made a disclosure in accordance with Article 28 or submitted a notification to European Union institutions, bodies, offices or agencies.*

2. *They had reasonable grounds to believe that the reported information on infringements was true at the time of reporting and that this information fell within the scope of this Chapter.*

The same protective measures are also applicable to:

1. *Mediator;*
2. *Third parties associated with the whistleblowers who could suffer reprisals in a professional context;*
3. *legal persons owned by the whistleblower or for whom the whistleblower works or with whom the whistleblower is otherwise associated in a professional context.*

Art. 30 - Reprisals - Prohibition

The authorities are prohibited from any form of reprisals against the persons mentioned in Article 29, including threats of reprisals and attempts at reprisals.

In particular, the following measures shall be considered as reprisals under paragraph 1:

1. *Suspension, dismissal or comparable measures;*
2. *Downgrading or refusal of a promotion;*
3. *Transfer of tasks, change of place of work, reduction of salary, change of working hours;*
4. *Refusal to participate in further training measures;*
5. *negative performance appraisal or issuing a bad reference;*
6. *Disciplinary action, Reprimand or other sanction, including financial sanctions;*
7. *Coercion, intimidation, bullying or exclusion;*
8. *Discrimination, disadvantageous or unequal treatment;*
9. *Failure to convert a fixed-term employment contract into an employment contract of indefinite duration in cases where the employee was entitled to expect to be offered an employment contract of indefinite duration;*
10. *Non-renewal or early termination of a fixed-term employment contract;*
11. *Damage and harm to reputation, especially on social media, or causing financial loss, including loss of orders or revenue;*
12. *Blacklisting of the whistleblower on the basis of an informal or formal sectoral or industry-specific agreement with the consequence that the whistleblower will no longer find employment throughout the sector or industry;*
13. *early termination or cancellation of a contract for goods or services;*
14. *Withdrawal of a licence or permit;*
15. *psychiatric or medical referrals.*

Art. 31 - Reprisals - Burden of proof

In administrative proceedings relating to adverse treatment suffered by the whistleblower and in which the whistleblower claims to have suffered such adverse treatment as a result of his or her report or disclosure, it is presumed that the adverse treatment was a reprisal for the report or disclosure.

In such cases, it is up to the authority that took the discriminatory measure to prove that this measure was based on sufficiently justified grounds.

Art. 32 - Reprisals - Assistance by the Om- budservice

The Ombudsman Service shall assist the persons referred to in Article 29 in contacting any authorities involved in the protection against reprisals.

Art. 33 - Liability actions

The authorities shall not initiate legal proceedings against the persons referred to in Article 29 with regard to any liability for:

- 1. the disclosure of information, unless it is information referred to in Article 15 §1(2) and the persons referred to in Article 33 had reasonable grounds to believe that the reporting or disclosure of the information was necessary to detect an infringement under this Chapter;*
- 2. obtaining or accessing information that has been reported or disclosed, provided that such obtaining or access does not in itself constitute a separate criminal offence.*

Art. 34 - Prohibition of derogations

The employment agreements or applicable terms and conditions of employment of the authorities shall not derogate from the rights under this section. Any such provisions shall be null and void by operation of law.

Art. 35 - Criminal sanctions

Punishable by imprisonment for a term of eight days to five years and a fine of 200 to 10,000 euros or any of these:

- 1. who obstructs or attempts to obstruct one or more notifications under Article 17 or 18;*
- 2. who violates the confidentiality obligations under Article 27;*
- 3. who takes reprisals against the persons mentioned in Article 29 in accordance with Article 30.*

CHAPTER 4 - DATA PROTECTION PROVISIONS

Art. 36 - Processing of personal data

§1 - The public authorities themselves are responsible for the processing of personal data referred to in Chapter 2 within the meaning of the General Data Protection Regulation. They shall expressly designate a data controller for this purpose. The public authorities themselves or the controllers designated by them shall be deemed to be controllers for this processing within the meaning of Article 4(7) of the General Data Protection Regulation for the performance of the tasks listed in the preceding chapter.

The reporting channels are responsible for the processing of personal data referred to in Chapter 3 within the meaning of the General Data Protection Regulation. They shall be considered as controllers of such processing within the meaning of Article 4(7) of the General Data Protection Regulation for the performance of the tasks listed in this Chapter.

§2 - The persons in charge mentioned in §1 may not use the collected data for purposes other than the execution of their legal or decree mandates in connection with the present decree.

Personal data is processed in compliance with the applicable data protection legislation.

Art. 37 - Categories of data

§1 - The controllers referred to in Article 36 §1(1) may process the following categories of personal data in accordance with Article 36:

- 1. Name, capacity and contact details of the complainant;*
- 2. Name and capacity of the persons who carried out the official act against which a complaint was lodged or against whose functioning a complaint was lodged;*
- 3. Name and capacity of other persons affected by or involved in the complaint procedure;*
- 4. Information about the matter that gave rise to the complaint;*
- 5. Name and capacity of any witnesses.*

The categories of data listed in paragraph 1 may be processed for the purpose of receiving and investigating complaints under Chapter 2 and taking follow-up action.

Personal data that is obviously not relevant for the processing of a specific complaint will not be collected or will be deleted immediately if it was collected unintentionally.

§2 - The controllers referred to in Article 36 §1(2), including the persons or departments referred to in Article 19(2), may process the following categories of personal data in accordance with Article 36:

- 1. Name, capacity and contact details of the whistleblower;*
- 2. Name, capacity and contact details of intermediaries and third parties associated with whistleblowers who may suffer reprisals in a professional context;*
- 3. the name and capacity of the data subjects and the information on the offences committed by them;*
- 4. Name and capacity of any witnesses;*
- 5. as the case may be, the written report, the audio recording of the conversation in the case of an oral report and the transcript of the meeting in the case of an oral report.*

The categories of data listed in paragraph 1 may be processed for the following purposes:

- 1. for receiving and investigating reports under Article 17 or 18 and taking follow-up action;*
- 2. for personal information and consultations in accordance with Art. 25 §2;*
- 3. for the assistance of the persons referred to in Article 29 by the Ombudsman Service in accordance with Article 32.*

Personal data that are obviously not relevant for the processing of a specific report will not be collected or will be deleted immediately if they were collected unintentionally.

Art. 38 - Duration of data processing

The data may be kept for a maximum of ten years after receipt of the complaint or notification.

Data relating to notifications shall be kept in a form which permits identification of the persons concerned, in accordance with the confidentiality obligations laid down in Article 27.

Without prejudice to the provisions relating to archiving, the data concerning complaints and notifications shall be destroyed at the latest after the expiry of these time limits.

Art. 39 - Security measures

The authorities shall determine, where appropriate, the necessary security measures for the processing of personal data provided for by this Decree.

CHAPTER 5 - FINAL PROVISIONS

Art. 40 - Amendment provision

Article 2(2) of the Decree of 16 October 1995 on the publicity of administrative documents is replaced by the following:

"Each administrative document with which a decision or individual administrative act emanating from an administrative authority is notified to a person concerned shall, where applicable, list specific possibilities of objection and appeal, the relevant objection and appeal bodies as well as the forms and time limits to be observed, otherwise the limitation periods for filing an objection or an appeal with a body of the German-speaking Community shall not commence until four months after the administrative act or decision has been brought to the attention of the person concerned".

Art. 41 - Amendment provision

Article 5 §1 indent 6 of the same Decree, inserted by the Decree of 21 March 2005, is replaced by the following:

"- the investigation or prosecution of acts which may give rise to criminal, administrative or disciplinary sanctions, as long as the imposition of a sanction remains possible."

Art. 42 - Amendment provision

In Article 44 §4 of the Decree of 25 May 2009 on the House Rules of the German-speaking Community, the following paragraph 2 is inserted:

"If the information concerns infringements which fall within the scope of Chapter 3 of the Decree of ... establishing various instruments of information and complaint management in the German-speaking Community, the staff member concerned may submit an internal or external report in accordance with the provisions of the same chapter."

Art. 43 - Amendment provision

In the heading of the Decree of 26 May 2009 establishing the office of an Ombudsman for the German-speaking Community, the words "of an Ombudsman" shall be replaced by the words "of an Ombudsperson".

Art. 44 - Amendment provision

Article 1 of the same decree is amended as follows:

1. In paragraph 1, which becomes the only paragraph, the words "an ombudsman" are replaced by the words "an ombudsperson".A
2. Paragraph 2 shall be repealed.

Art. 45 - Amendment provision

Article 2 of the same Decree, amended by the Decree of 25 January 2016, is amended as follows:

1. Paragraph 1(1) is replaced by the following:

"1. authority:

- a) the German-speaking Community,
- b) the institutions under public law that depend on the German-speaking Community,
- c) the municipalities, public social welfare centres and other territorial authorities in the German-speaking area, with the exception of multi-municipal police zones and assistance zones, insofar as they do not have their own ombudsperson or ombudsman service,
- d) any institution, regardless of its type and legal form:
 - established for the specific purpose of meeting needs in the general interest that are not of a commercial nature, and
 - has legal personality, and
 - the activities of which are financed, for the most part, by the authorities or bodies referred to in points (a) and (b), or are subject to supervision as regards their management by the latter, or the administrative, management or supervisory bodies of which are, for the most part, composed of members appointed by those authorities or bodies,
- e) the associations formed by one or more of the authorities referred to in points (a), (b), (c) or (d);'

2. Points 2 and 3 of paragraph 1 shall be repealed.

3. Paragraph 2 is replaced by the following:

"For the purposes of this Decree, Parliament as well as the Government shall be deemed to be an authority within the meaning of paragraph 1(1)(a)."

Art. 46 - Amendment provision

Article 2.1 of the same Decree, inserted by the Decree of 25 January 2016, is amended as follows:

1. In paragraph 1, the words "the ombudsman" shall be replaced by the words "the ombudsperson".
2. In paragraph 2, the words "the ombudsman" are replaced by the words "the ombudsperson".

Art. 47 - Amendment provision

Article 3 of the same decree, amended by the decree of 25 January 2016, is amended as follows:

1. In the heading of the Article, the words "of the Ombudsman" shall be replaced by the words "of the Ombudsperson".
2. In §1, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the words "of the Ombudsman" shall be replaced by the words "of the Ombudsperson".

3. *In §2, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".
by replacing "by him" with the phrase "by her".*
4. *In §2.1, the words "the ombudsman" shall be replaced by the words "the ombudsperson".*
5. *In the introductory sentence of §3 paragraph 1, the word sequence
The words "the Ombudsman" shall be replaced by "the Ombudsperson" and the words "Article 2(1)(1) and (2)" shall be replaced by "Article 2(1)(1)".*
6. *In §3, the following paragraph 2 is inserted:
"Without prejudice to paragraph 1, the Ombudsperson shall examine information on infringements falling within the scope of Chapter 3 of the Decree of ... establishing various instruments of information and complaint management in the German-speaking Community, in accordance with the provisions of the same Chapter. The provisions of the same chapter shall apply to the receipt, processing and investigation of such reports as well as to the taking of protective measures in this context.*
7. *In §4, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".*

Art. 48 - Amendment provision

Article 4 of the same decree is amended as follows:

1. *The phrase "of its duties" shall be replaced by the phrase replaced by "their tasks".*
2. *The phrase "the ombudsman" is replaced by the phrase "the ombudsperson".*
3. *Between the word "objective" and the comma, the words ", respecting the principles of good administration, the rule of law and the promotion of the protection of human rights" shall be inserted.*

Art. 49 - Amendment provision

In Article 5(1) of the same Decree, the words "the first Ombudsman" are replaced by "the first Ombudsperson" and the words "on whose" are replaced by "on whose".

Art. 50 - Amendment provision

Article 6 of the same decree, amended by the decree of 25 January 2016, is amended as follows:

1. *In the heading of the Article, the words "of the Ombudsman" shall be replaced by the words "of the Ombudsperson".*
2. *In paragraph 1, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".*

Art. 51 - Amendment provision

In the introductory sentence of Article 7 of the same Decree, as amended by the Decree of 25 January 2016, the words "To the Ombudsman" are replaced by the words "To the Ombudsperson".

Art. 52 - Amendment provision

In Article 8 of the same Decree, the words "his taking office" are replaced by the words "her taking office" and the words "the Ombudsman" are replaced by the words "the Ombudsperson".

Art. 53 - Amendment provision

Article 9 of the same decree, amended by the decree of 25 January 2016, is amended as follows:

- 1. In §1 paragraph 1, the words "his term of office" shall be replaced by the words "their term of office" and the words "their term of office" shall be replaced by the words "their term of office".
The words "the ombudsman" are replaced by "the ombudsman".*
- 2. In §1 paragraph 2, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the words "his mandate" shall be replaced by the words "her mandate".*
- 3. In §2, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson", the words "of his office" shall be replaced by the words "of her office" and the words "his" shall be replaced by the words "her".*
- 4. In §3 paragraph 2, the words "to the ombudsman" shall be replaced by the words "to the ombudsperson".*

Art. 54 - Amendment provision

*Article 10 of the same decree is replaced as follows:
"Art. 10 - Independence*

The Ombudsperson shall act with complete independence, impartiality and neutrality in the performance of his/her duties. He or she may not be relieved of his or her mandate for actions taken or opinions expressed in the course of the performance of his or her duties."

Art. 55 - Amendment provision

Article 11 of the same decree is amended as follows:

- 1. In paragraph 1, the words "The Ombudsman shall have his" shall be replaced by the words "The Ombudsperson shall have his".*
- 2. In paragraph 2, the words "the Ombudsman" shall be replaced by the words "the Ombudsperson" and the words "the Ombudsman" shall be replaced by the words "the Ombudsperson".
The words "of his office" shall be replaced by the words "of her office".*

Art. 56 - Amendment provision

In Article 12 of the same decree, the words "The Ombudsman and his" are replaced by the words "The Ombudsperson and his".

Art. 57 - Amendment provision

Article 13 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

- 1. In §1, the words "an ombudsman" shall be replaced by the words "an ombudsperson".*
- 2. In §2 paragraph 1, the words "of the ombudsman" shall be replaced by the words "of the ombudsperson", the words "on its" by the phrase "on her", the phrase "on her" by the phrase "on her", the phrase "on her" by the phrase "on her".
"if his" is replaced by the phrase "if their", the phrase The words "of his duties" shall be replaced by the words "of her duties" and the words "if he" shall be replaced by the words "if she".*
- 3. In §2 paragraph 2, the words "the ombudsman" shall be replaced by the words "the ombudsperson" and the words "the ombudsman" shall be replaced by the words "the ombudsperson".
The words "the ombudsman" are replaced by "the ombudsman".*
- 4. In §3 paragraph 1, the words "the acting ombudsman his" shall be replaced by "the acting ombudsman her", the words "his mandate" shall be replaced by "her mandate" and the words "an ombudsman" shall be replaced by "an ombudsperson".*
- 5. In §3(2), the words "the ombudsman appointed under this section" shall be replaced by the words "the ombudsperson appointed under this section".*

Art. 58 - Amendment provision

In Article 14 of the same decree, the words "The Ombudsman" are replaced by the words "The Ombudsperson".

Art. 59 - Amendment provision

Article 15 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

- 1. In paragraph 1, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the word "his" shall be replaced by the word "her".*
- 2. Paragraph 1(3) is replaced by the following:
"3. they have been established in accordance with the provisions laid down in the coordinated laws of 18 July 1966 on the use of languages in administrative matters;"*
- 3. The following paragraph shall be inserted between paragraph 1 and paragraph 2, which shall become paragraph 3:
"The Ombudsperson shall refuse to deal with a complaint if an organised administrative appeal or a judicial appeal is pending in the complaint matter."*

4. In paragraph 2, which becomes paragraph 3, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".
"the Ombudsperson" replaced.
5. In paragraph 2, renumbered 3, point 5 is replaced by the following:
 - "5. it refers to staff matters of the authority in which the complainant is employed, with the exception of: - a complaint formulated within the framework of Article 3 §3.
Complaints and
- an appeal for which the appellant can show that no other specific means of appeal is available to him or her;"
6. In paragraph 2, which becomes paragraph 3, the following point 6 is inserted:
 - "6. it is accompanied by the consideration of a judicial decision."

Art. 60 - Amendment provision

In Article 16 of the same Decree, as amended by the Decree of 25 January 2016, the words "a direct interest" are replaced by the words "an interest" and the words "with the Ombudsman" are replaced by the words "with the Ombudsperson".

Art. 61 - Amendment provision

Article 16.1 of the same Decree, inserted by the Decree of 25 January 2016, is amended as follows:

1. In the only paragraph that becomes paragraph 1, the indication
"Article 3 §3" is replaced by "Article 3 §3(1)", the words "the Ombudsman" are replaced by "the Ombudsperson", the words "the relevant administrative authorities and local administrative authorities" are replaced by "the relevant authorities" and the words ", rules on the burden of proof" are deleted.
2. The following paragraph 2 is inserted:
"In deviation from paragraph 1, the protective measures pursuant to Chapter 3, Section 4 of the Decree of ... establishing various instruments of information and complaint management in the German-speaking Community shall be applicable to the notifications mentioned in Article 3 §3, paragraph 2."

Art. 62 - Amendment provision

Article 17 of the same decree is amended as follows:

1. In §1 paragraph 1, the phrase "The Ombudsman" is replaced by the phrase "The Ombudsperson", the phrase "his decision" is replaced by the phrase "her decision" and the phrase "another Ombudsman or" is replaced by the phrase "another Ombudsperson or".

2. In §1 paragraph 3, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the word "he" shall be replaced by the word "she".
3. In §2, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".

Art. 63 - Amendment provision

Article 18 of the same decree is amended as follows:

1. In paragraph 1, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".
2. In paragraph 2, the words "He shall attempt" shall be replaced by the words "She shall attempt".

Art. 64 - Amendment provision

In the same decree, the following Article 18.1 is inserted:
" Art. 18.1 - Confidentiality

The documents and information within the scope of the review process are to be treated confidentially by all parties involved.

Art. 65 - Amendment provision

Article 19 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

1. In §1 paragraph 1, the words "The Ombudsman" shall be replaced by "The Ombudsperson", the words "Article 2 paragraph 1 points 1 to 3" shall be replaced by "Article 2 paragraph 1 point 1" and the words "to whom he shall address within the scope of his mandate" shall be replaced by "to whom she shall address within the scope of her mandate".
2. In §1 paragraph 2, the words "the ombudsman" shall be replaced by the words "the ombudsperson".
3. In §2, the words "the ombudsman within the scope of his duties" shall be replaced by the words "the ombudsperson within the scope of his duties" and the words "he" shall be replaced by the words "she".
4. In §3, the words "ombudsmen" shall be replaced by the words "ombudspersons".
5. In §4, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the words "Article 2(1)(1) to (3)" shall be replaced by the words "Article 2 paragraph 1, point 1" shall be replaced.

Art. 66 - Amendment provision

Article 20 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

1. In §1 paragraph 1, the words "the Ombudsman in the performance of his duties" are replaced by "the Ombudsperson in the performance of his duties" and the words "he shall inform the authorities and bodies referred to in Article 2 paragraph 1 numbers 1 to 3" are replaced by "the Ombudsperson in the performance of his duties".

may inform the authorities and bodies referred to in Article 2(1)(1)".

2. §1 Paragraph 2 shall be replaced by the following paragraphs 2 and 3:

"If, in the performance of its duties, it discovers facts that are criminal offences or that give rise to serious suspicions of such offences, it shall inform the King's Procurator thereof, in accordance with Article 29 of the Code of Criminal Procedure.

Without prejudice to Article 16.1, the Ombudsperson shall inform the complainant accordingly and shall discontinue its proceedings when it has informed the King's Procurator in accordance with paragraph 2."

3. In §2(2), the words 'Article 2(1) Num-' shall be replaced by 'Article 2(1) Num-'.

Article 2(1)(1)" shall be replaced by "Article 2(1)(1)" and the words "the Ombudsman" shall be replaced by "the Ombudsperson".

4. In §2 paragraph 3, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson".

5. In §2 paragraph 4, the words "the ombudsman" shall be replaced by the words "the ombudsperson".

6. In §3, the words "the ombudsman" shall be replaced by the words "the ombudsperson".

Art. 67 - Amendment provision

Article 21 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

1. In §1 paragraph 1, the words "the ombudsman" shall be replaced by the words "the ombudsperson" and the words "the him" shall be replaced by the words "the her".

2. In §1 paragraph 2, the words "informs him" shall be replaced by the words "informs her".

3. In §2 paragraph 1, the words "the ombudsman, in so far as his" shall be replaced by the words "the ombudsperson, in so far as his".

4. In §2 paragraph 2, the phrase "of the ombudsman does not, it shall inform him" shall be replaced by the phrase "of the ombudsperson does not, it shall inform her".

Art. 68 - Amendment provision

In Article 22 of the same Decree, the words "the Ombudsman" are replaced by the words "the Ombudsperson".

Art. 69 - Amendment provision

Article 23 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

1. Paragraph 1 is replaced by the following:

"The Ombudsperson shall submit a written report to Parliament no later than 30 April each year on his or her activities during the previous year. With the agreement of the Presidency, this report may be drawn up in a two-year period.

annual cycle. It may also, if it deems it appropriate, submit interim reports to Parliament."

2. In paragraph 2, the words "the ombudsman" shall be replaced by the words "the ombudsperson".
3. In paragraph 3, the words "by the Ombudsman" shall be replaced by the words "by the Ombudsperson" and the words "by the Ombudsperson" shall be replaced by the words "by the Ombudsperson".
The words "of its duties" shall be replaced by the words "of its duties".
4. In paragraph 6, the words "The Ombudsman" shall be replaced by the words "The Ombudsperson" and the words "at his request" shall be replaced by the words "at her request".

Art. 70 - Amendment provision

Article 24 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

1. In the title of the Article and in paragraph 1, the words "of the Ombudsman" shall be replaced in each case by the words "of the Ombudsman".
"the Ombudsperson" replaced.
2. In paragraph 2, the words "The Ombudsman" are replaced by the words "The Ombudsperson" and the words "for whom he" are replaced by the words "for whom she".

Art. 71 - Amendment provision

Article 25 of the same decree, as amended by the decree of 25 January 2016, is amended as follows:

1. In paragraph 1, the words "the Ombudsman" shall be replaced by "the Ombudsperson" and the words "his service" shall be replaced by "her service".
2. In paragraph 2, the words "The Ombudsman" are replaced by the words "The Ombudsperson" and the words "his accounts" are replaced by the words "her accounts".

Art. 72 - Amendment provision

Article 1(3) of the Decree of 25 February 2019 establishing a permanent civil dialogue in the German-speaking Community shall be replaced by the following:

"3. ombudsperson: the office bearer described in the decree of 26 May 2009 creating the office of an ombudsperson for the German-speaking Community,"

Art. 73 - Amendment provision

In Article 4 §2(2) of the same Decree, the word sequence "the Ombudsman" is replaced by "the Ombudsperson".

Art. 74 - Entry into force

This Decree shall enter into force on 1 September 2022."

REASON

Amendment No. I

The scope of application of the decree proposal from document 138 (2020-2021) no. 1 was extended in accordance with the following explanations, which made it necessary to adjust the title of the decree proposal.

In the course of the committee discussions, it turned out to be expedient to embed the organised complaint management in an overall concept. With these proposed amendments, a corresponding concept is being finalised.

The correspondingly envisaged construct is built up as follows:

1. At the grassroots level, one finds a first central point of contact for citizens and authorities, which on the one hand informs and on the other hand advises and supports in complaint matters. Indeed, on the one hand, complaints can be avoided through good information and guidance and, on the other hand, public authorities find assistance in setting up and managing their complaints management. (Line 0) - see Article 3 of the overall proposal as adapted by Amendment No. II.
2. The complaint should first be lodged at the place where the facts occurred against which the citizen wishes to complain - i.e. the competent/responsible authority. (First line) - see chapter 2 of the adapted decree proposal, which contains articles 4-13.
3. If the result of the complaint procedure submitted to the first line is not satisfactory, the citizen can turn to the Ombudsperson of the German-speaking Community in a second step. (Second line) - see the decree of 25 May 2009 creating the office of an Ombudsperson for the German-speaking Community, updated by articles 43-71 of the adapted decree proposal.

In addition to organised complaint management, these proposed amendments also aim to ensure the implementation of EU Directive 2019/1937 on the protection of persons who report infringements of Union law. The provisions concerning the protection of whistleblowers are listed in Chapter 3 of the adapted draft decree, which comprises Articles 14-35.

Chapter 4 of the adapted overall proposal (Articles 36-39) contains the data protection provisions that apply to both complaints management and whistleblower protection provisions.

Amendment No. II

In view of the above explanations on the new decree concept, the original proposal needs to be completely revised, so that the Committee decided, for the sake of better clarity, to replace the entire decree concept with a new one.

The following explanations focus on the innovations with regard to the proposed decree contained in document 138 (2020-2021) No. 1. The following explanations focus on the innovations with regard to the proposed decree contained in document 138 (2020-2021) No. 1. Further explanations are set out in the committee report on document 138.

ADAPTATION OF THE GENERAL PROVISIONS (CHAPTER 1)

Article 1:

Paragraph 1(1): The definition of "public authority" has been adapted to the definition used in several other decrees of the German-speaking Community (e.g. the Decree of 15 October 2018 on individual and public electronic communication of public authorities in the German-speaking area (Article 1(1)) and the Decree of 28 June 2021 on open data and the re-use of public sector information (Article 2(1)). Incidentally, the definition chosen there is based on the one contained in the legislation on public procurement.

For the purposes of this proposed decree, Parliament (including its organs and services) and the Government (including its cabinets and services) are considered public authorities within the meaning of Article 1(1)(1)(a) and are therefore concerned by the provisions on "complaint management" and "whistleblower protection". In addition, the Ombudsperson may in future accept complaints referring to Parliament or the Government (see also Article 45 of the present proposal).

With regard to Article 1(1)(1)(c), the following should be noted:

Other territorial authorities are mainly inter-municipalities, autonomous municipalities, police zones, church factory councils, etc. However, the multi-municipal police zones and assistance zones are to be explicitly excluded from the scope of application. (see State Council Opinion on Document 279 (2014-2019) No. 1).

Paragraph 1(3): The consultation with the authorities indicated that the concept of an official act should be clarified. The definition has been clarified accordingly by indicating that a complaint can only be made in relation to an official act that is related to:

- the preparation of a decision,
- the execution of a decision,
- the decision itself or
- of inactivity in relation to a decision.

"Inactivity" can mean both that an authority does nothing to bring about a decision it is obliged to take and that an authority refuses to execute a decision or delays the execution of the decision.

Paragraph 1, point 5:

The definition of the term complaint in the sense of the organised procedure also goes back to the wish expressed during the hearing. Since a complaint can be used to challenge official acts, i.e. administrative acts, or working methods, it is specified for the sake of clarity that it must not be directed against statutory provisions (i.e. laws or decrees).

Article 2, which establishes the principle of active communication, remains unchanged in content compared to Document 138 (2020-2021) No. 1.

Article 3:

This article introduces the so-called "0" line. In fact, the government is supposed to establish a single point of contact through which reliable information is actively disseminated and where both complainants and authorities can find support in complaint matters.

ADAPTATION OF THE PROVISIONS ON ORGANISED COMPLAINTS MANAGEMENT (CHAPTER 2)

Article 4 makes it clear that the proposed decree sets minimum standards, which means that the authorities themselves may introduce more far-reaching provisions.

What is new compared to the original proposal in document 138 (2020-2021) No. 1 is that the person who has an interest in an appeal may authorise a third person to exercise his or her right of appeal.

Articles 5 and 6 provide information on when a complaint is considered admissible and under what conditions an authority may (but is not obliged to) declare the complaint inadmissible.

The contents of both provisions were restructured, clarified and supplemented on the basis of comments made during the hearings.

In this sense, *Article 5* explicitly stated that a complaint must relate to official acts and working methods. So far, this was only stated in the article concerning the objective.

It also clarifies what it means to file a complaint in person. In fact, all complaints must be submitted in writing, although the complainant may ask for assistance in writing and submitting the complaint. In this case, the complainant submits the complaint in person, but the formulation of the complaint is done with the help of a designated employee of the authority.

The requirement that the name and address of the complainant must be known has been changed to an optional provision. This makes it clear that the authority itself may decide whether or not to allow anonymous complaints.

In the optional provision of Article 6, it is no longer stated that the complainant must show an interest, as this point is already addressed in Article 4 of the proposal.

The original draft decree only provided that neither an organised administrative appeal nor a judicial appeal could be pending in the same appeal matter and that appeals could otherwise be declared inadmissible. However, it was possible to file a complaint before an organised administrative appeal was filed. In the hearings and discussions, it became clear that this led to confusion, as it was not clear which complaint channel the citizen should best follow in order to obtain satisfaction. The current provision therefore provides that a complaint can be declared inadmissible insofar as the complainant has not exhausted existing organised administrative procedures to obtain satisfaction.

Finally, Article 6 is amended to allow an authority to declare a complaint on internal staff matters inadmissible, unless it is a complaint for which the complainant can show that he or she does not have a structured procedure (specific complaint procedure).

The procedure for submitting a complaint mentioned in *Article 7* is made more user-friendly. In fact, the complainant can now submit his complaint digitally, in addition to the traditional paper route. A complaint form will be made available to him/her for this purpose. The complaint form created in accordance with Article 3 §1(3)(4) is considered an offer to the complainant, but it is not obligatory to use it for submitting a complaint.

The acknowledgement of receipt provided for in *Article 8* is made in the same way as the submission of the complaint itself. Thus, complaints filed digitally will be acknowledged digitally and complaints filed in paper form will be acknowledged in paper form.

Article 9, which deals with information on the processing of the complaint, is only slightly amended: The deadline for sending the information letter is extended from ten to 14 days. This adjustment is due to the exchange of views during the hearing.

In the future, following a comment by the data protection authority, a person responsible for handling the complaint will also be indicated.

A further comment by the data protection authority is made in §4, by giving the complainant the right to object to data processing and the right to -forwarding.

The processing period (*Article 10*) remains unchanged at 45 calendar days, with the possibility of one extension.

The provision on the investigation of the complaint laid down in *Article 11* is also reworded in line with the observation of the data protection authority regarding the right of appeal. On the one hand, reference is made to Chapter 4 "Data protection provisions" and on the other hand, the right of appeal is explicitly granted.

As regards the information at the end of the complaint procedure described in *Article 12*, §1 explicitly mentions that the information does not contain any elements concerning specifics of personnel law. This means, for example, that the complainant will not be provided with information on possible disciplinary measures taken following a complaint. In §2, a further clarification has been made in connection with the now necessary prior exhaustion of administrative appeal procedures.

The date foreseen in *Article 13* §2 for the transmission of the anonymised registers to the competent administrative or supervisory bodies as well as to the Ombudsman Service shall be set by the

The deadline of 30 April has been brought forward to 31 March so that the information contained in the register can be processed in the Ombudsperson's report in a timely manner. In order to be able to implement this idea in practice, it is also stipulated that the Ombudsperson no longer has to deposit her written report with Parliament on 31 March, but only on 30 April (see the adjustment made in Article 69(1) of the present proposal).

INTRODUCTION OF PROVISIONS FOR THE PROTECTION OF WHISTLEBLOWERS (CHAPTER 3)

This Chapter implements *Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons reporting infringements of Union law* in the German-speaking Community.

1. Presentation of Directive 2019/1937

This Directive sets out the rules and procedures for the protection of *whistleblowers*, individuals who report information obtained in the course of their work on breaches of EU law in key policy areas. Violations include both unlawful acts or omissions and abusive practices.

Directive 2019/1937 applies to notifications of (1) breaches of rules in various areas of EU law, such as public procurement, financial services, environmental protection, consumer protection, etc. It also covers (2) infringements affecting the EU's financial interests and (3) infringements affecting the EU's financial interests.

(3) Infringements of internal market rules, including infringements of EU competition law and state aid, within the scope of application.

The Directive does not affect (1) the responsibility of Member States to ensure national security, (2) the application of EU or national law in relation to classified information, legal and medical confidentiality, judicial secrecy or criminal procedure, or (3) national rules on the exercise of the right of workers to consult their representatives or trade unions.

The rules apply to a wide range of people working in the private or public sector, including those who report information about violations of which they have become aware in the course of an employment relationship that has since ended. Thus, in addition to employees, servants or members of administrative, managerial or supervisory bodies in the public sector, persons who assist whistleblowers in a confidential manner or persons associated with the whistleblower who may suffer reprisals in a professional context are also affected.

These whistleblowers are protected under the Directive if (1) they make information public, provided they have first reported internally and externally and no action has been taken, and (2) they have reasonable grounds to believe that there is an imminent or manifest danger to the public interest, a risk of reprisal or a likelihood that their concern will not be adequately addressed.

The reporting procedures include first of all the internal channels; this means that in principle all public bodies must set up effective reporting channels and ensure confidentiality. Then there are the external channels, which the competent national authorities must set up.

Measures are provided for the follow-up of reports and deadlines for the handling of reports submitted through internal and external channels. These include

(1) the obligation to keep the identity of the whistleblower confidential, except in strictly limited circumstances, (2) the data protection provisions, and (3) the documentation of all reports made orally or in writing.

In order to be entitled to legal protection, whistleblowers must (1) have reasonable grounds to believe that the information reported is in accordance with the law and is true at the time of reporting.

and (2) report the breach to the competent authority through existing internal or external channels. Whistleblowers should prefer to report internally (i.e. within the organisation) if the breach can be effectively dealt with internally and if they do not fear reprisals. However, it is their choice whether to make the report internally or to contact the competent authorities directly externally.

Whistleblowers are protected from all forms of reprisals, including dismissal, demotion, intimidation and blacklisting. They have access to appropriate support measures, in particular independent information and advice, as well as legal aid in accordance with EU rules on legal aid in criminal and cross-border civil proceedings. They will also have access to appropriate remedies, such as interim relief and disclaimers of liability for breach of compliance agreements in their contracts.

2. Implementation in the German-speaking Community

Directive 2019/1937 must be implemented throughout Belgium. Implementation in the public sector is the responsibility of both the federal authorities and the communities and regions. In contrast, the implementation of these provisions in parts of the private sector is an exclusively federal competence.

The German-speaking Community must thus ensure that appropriate internal and external reporting channels are provided. It must also take necessary measures to protect whistleblowers from possible reprisals. Finally, effective, proportionate and dissuasive sanctions should be established for breaches of certain provisions of the Directive, e.g. for persons who obstruct reports or take reprisals against whistleblowers.

In this context, it should be mentioned that the German-speaking community already has a certain "*Whistleblower protection*" for public sector employees (Article 3 §3 of the Decree of 26 May 2009 establishing the Office of an Ombudsman for the German-speaking Community, inserted by the Decree of 25 January 2016). The present amendment strengthens this system.

In concrete terms, it is thus envisaged that all authorities in the area of competence of the German-speaking Community

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i.e. the services of the Ministry, the public interest bodies, the municipalities, the public social welfare centres, the autonomous municipalities, etc. - are obliged to set up "internal reporting channels" in the sense of the Directive. A number of minimum standards and procedural provisions are laid down, which are to be observed in the event of

of this institution must be complied with. The "external reporting channel" within the meaning of the Directive, on the other hand, is still to be guaranteed for all authorities by the Ombudsman Service of the German-speaking Community.

Whistleblowers will therefore be able to make use of both options as soon as they wish to submit a report on infringements of EU law, provided that the rules laid down in the Directive and reflected in the proposed amendment are respected. In this case, the safeguards already mentioned apply, including in particular protection against reprisals. Care has been taken to incorporate the provisions of the Directive as faithfully as possible.

Article 14:

This is the so-called European clause, which refers to the transposition of Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons reporting infringements of Union law (hereinafter: "the Directive"). This is done in accordance with Article 26(3) of the Directive.

Article 15:

§1(1) of this Article serves to implement Article 2

(1) of the Directive. This paragraph defines the scope of application of the chapter on the protection of whistleblowers. As far as the material scope of application is concerned, these are the areas of Union law listed in Article 2 (1) of the Directive, limited to the aspects for which the German-speaking Community is actually responsible (no transposition of the optional Article 2 (2)).

(2) of the Directive). Accordingly, for example, the areas of "product safety and conformity", "Road safety" or even "food and feed safety", which are also mentioned in the directive, are not listed here.

Recital 19 of the Directive explains how exactly the material scope is to be understood: "Article 2(1)(a) defines the material scope of this Directive by reference to a number of Union acts listed in the Annex. When the material scope of those Union acts is defined in turn by reference to Union acts listed in its Annexes, this means that those Union acts listed in the Annexes are also part of the material scope of this Directive. The reference to the acts in the Annex should also be interpreted as including any implementing or delegated measures adopted by the Member States and the Union pursuant to those acts. [...]"

§1(2) of this Article serves to implement Article 3

(2) and (3) of the Directive. A number of pieces of information that may be considered critical, for example because they may affect national security or the legal and medical profession, are not covered by the Directive.

professional secrecy shall be disclosed in accordance with Article 3.

(2) and (3) of the Directive are excluded from the scope of this Chapter. In concrete terms, this means that if a whistleblower discloses, for example, information that concerns national security and could potentially compromise it, he or she cannot claim the safeguards set out in section 4.

§2 of this Article transposes Article 3 (4) of the Directive. This states that the mechanisms provided for in collective labour law concerning the rights of workers and their representatives are not affected by this chapter. The same applies to persons of trust at the workplace.

§3 of this Article serves to implement Article 3 (1) of the Directive. This confirms that other provisions providing for broader protection for whistleblowers are not suspended by this chapter.

Article 16:

This Article transposes Articles 4 (1), (2) and (3) and 5 of the Directive. On the one hand, the definitions of the Directive are taken over. On the other hand, the elements of the personal scope of application are also listed here for the sake of clarity (see points 8 and 9 of this Article).

Article 17:

Paragraph 1 of this Article serves to implement Articles 7 (1) and 8 (1), (2) and (9) (1) of the Directive. This introduces the obligation for public authorities to set up internal reporting channels at the level of the German-speaking Community. This also affects the subordinate authorities of the German-speaking area, regardless of the number of inhabitants or employees. However, the latter may operate common reporting channels in accordance with paragraph 2 of this Article and in compliance with Article 8 (9)(3) of the Directive.

Paragraphs 3 and 4 exercise the optional application of Article 8(9)(2) of the Directive. Thus, the bodies which, according to the definitions in Article 1(1)(1)(d) and (e) of the proposed decree, carry out tasks in the public interest, but which are not public authorities in the strict sense, will only be able to set up an optional internal reporting channel. In implementation of Article 8 (5) of the Directive, they are also offered the possibility of operating common channels. The same shall apply by analogy to the Media Council of the German-speaking Community and the Economic and Social Council of the German-speaking Community.

Article 18:

Paragraphs 1 and 2 of this Article serve to implement Article 10 and Article 11 (1) and (2) a) of the Directive. The purpose is to establish the external reporting channel at the Ombudsman Service of the German-speaking Community, which processes the reports in accordance with the requirements of the Decree of 26 May 2009 establishing the Office of an Ombudsperson for the German-speaking Community, unless the provisions of this section deviate from this. In fact, the Ombudsman Service fulfils the requirements of independence and autonomy within the meaning of the Directive.

Paragraph 3 of this Article serves to implement Article 12 (1) a) of the Directive. This provides that the completeness, integrity and confidentiality of the information must be guaranteed.

Article 19:

Paragraph 1 of this Article transposes Article 9(1)(a), Article 12(1)(a) and Article 22(2) and (3) of the Directive. Paragraph 2 of this Article transposes Article 9(1)(c) of the Directive. Paragraph 3 of this Article transposes Article 12 (3) of the Directive. Paragraph 4 of this Article transposes Article 14 of the Directive. These are provisions of the Directive which specify the modalities according to which the reporting channels are to be established and operated.

Article 20:

§1 of this Article serves to implement Article 9 (2) and Article 12 (2) of the Directive. The latter provides that notifiers may submit their notifications in written and/or oral form. Oral transmission can be by telephone (or other voice transmission) as well as by a physical meeting.

§2(1) of this Article transposes Article 12(1)(b) and Article 18(2)(1) of the Directive. §2(2) of this Article transposes Article 18(3) of the Directive. These are the precise modalities of oral transmission by telephone (or other voice transmission).

§3 of this Article transposes Article 12(1)(b) and Article 18(4)(1) and (2) of the Directive. These are the exact modalities of the physical meeting and the documentation of this meeting.

§4 of this Article serves to implement Article 12 (1) b) and Article 18 (2) paragraph 2, (3) and (4) paragraph 3 of the Directive. This provides that the whistleblower must be given the opportunity to check the transcript, correct it if necessary and confirm it with his or her signature.

Article 21:

This Article transposes Article 9(1)(b) and Article 11(2)(b) of the Directive. It concerns the acknowledgement of receipt of a notification.

Article 22:

Paragraph 1 of this Article transposes Article 9 (1) f) of the Directive. It stipulates that the whistleblower must receive a response within three months of the acknowledgement of receipt.

Paragraph 2 gives the Ombudsman Service the possibility to extend this period to six months in exceptional circumstances, as provided for in Article 11 (2) d) of the Directive.

Article 23:

Paragraph 1 of this Article transposes Article 9(1)(d) and Article 11(2)(c) of the Directive. Paragraph 2 of this Article transposes Article 11(6) of the Directive. This concerns the investigation of the notification and the obligation to refer internal notifications which fall outside the competence of the authority to the ombudsman service.

Article 24:

§1 of this Article transposes Article 11 (3) and (4) of the Directive. §2 of this Article transposes Article 11 (2) e) of the Directive. These are provisions that are only applicable to the ombudsman service. Thus, the latter may close the file if an infringement is clearly minor or if a report is submitted repeatedly and without new elements. The ombudsman service informs the whistleblower of the final outcome of investigations triggered by the report.

Article 25:

§1(1) of this Article transposes Article 13 of the Directive. This lists a series of information that the ombudsman service must publish on its website in a separate and easily recognisable and accessible section.

§Paragraph 1(2)(1) of this Article transposes Article 9(1)(g) of the Directive, while paragraph 2 of the same Article transposes Article 7(2) and (3) of the Directive. This lists the information that the authorities must publish on their respective websites. This is a reference to the website of the ombudsman service and a note that recourse to internal reporting channels, insofar as they are effective and there is no fear of reprisals, is to be preferred.

§2 of this Article serves to implement Article 20 (1) a) of the Directive, which provides for the obligation for public authorities to offer comprehensive and independent information and advice on the subject matter at hand.

Article 26:

Paragraph 1 of this Article transposes Article 18(1) of the Directive and paragraph 2 transposes Article 27(2) of the Directive. These concern the obligation for reporting channels to keep a register and for the ombudsman service to document continuous statistics.

Article 27:

§1(1) of this Article transposes Article 16(1) and (2) of the Directive. §Paragraph 1(2) of this Article transposes Article 16(3) of the Directive. This is the important principle of confidentiality of the identity of the whistleblower. Even if the present amendment does not allow anonymous reports (no transposition of the optional Article 6 (2) and (3) of the Directive), the identity of the whistleblower enjoys the highest protection, in particular because possible reprisals may be feared.

§2 of this Article transposes Article 16 (4) of the Directive, which concerns the protection of business secrets.

Article 28:

This Article transposes Article 15 (1) of the Directive. It introduces the possibility for a whistleblower to disclose information on breaches. This is only possible if the internal and external reporting channel has not taken appropriate measures or if there is sufficient reason to believe that the breach may pose an imminent or manifest threat to the public interest or, due to the special circumstances in the case of an external report, there is a risk of reprisals.

Article 29:

Paragraph 1 of this Article transposes Article 6 (1) and (4) of the Directive. It specifies that a whistleblower can only make use of the safeguards if he complies with the rules on internal reporting, external reporting and disclosure set out in this chapter.

Paragraph 2 of this Article transposes Article 4 (4) of the Directive and extends the safeguards to intermediaries and other third parties within the meaning of the Directive.

Article 30:

This Article transposes Article 19 of the Directive and states that public authorities are prohibited from any form of reprisals in relation to whistleblowers, including threats of reprisals and attempts at reprisals.

Article 31:

This Article transposes Article 21(5) of the Directive. It provides that in the context of administrative procedures (e.g. disciplinary), there is a rebuttable presumption of reprisal if the person concerned so claims. In these cases, it is up to the authority that took the adverse action to prove that this action was based on sufficiently justified grounds.

Article 32:

This Article implements Article 20(1)(b) of the Directive and provides that the Ombudsman Service shall assist the persons referred to in Article 29 in contacting any authorities involved in the protection against reprisals.

Article 33:

This Article implements Article 21 (2) and (3) of the Directive. It provides that liability actions against the persons referred to in Article 29 are inadmissible if the notification or disclosure was made in accordance with the requirements of this Chapter.

Article 34:

This Article implements Article 24 of the Directive. It stipulates that the employment agreements or applicable terms and conditions of employment of public authorities shall not derogate from the rights in the field of protection of whistleblowers. Corresponding provisions are null and void by operation of law.

Article 35:

This Article transposes Article 23 (1) (a), (b) and (d) of the Directive. Member States are obliged to provide for effective, proportionate and dissuasive sanctions in order to ensure an effective application of the protection of whistleblowers. Article 23 (1) c) and (2) of the Directive do not need to be transposed as these offences are already covered by ordinary criminal law (Article 780bis of the Judicial Code and Article 445 of the Criminal Code).

INTRODUCTION OF COMMON DATA PROTECTION RULES (Chapter 4)

The data protection provisions originally envisaged in the draft decree for complaint management have been largely extracted from the proposal, adapted where possible to the comments of the data protection authority and inserted into a separate chapter that both

applies to the provisions on complaints management as well as to the provisions on whistleblowers .

ADJUSTMENT OF THE CONCLUSIONS (Chapter 5)

The original Article 13 of the proposed decree, which aims to adapt the general provision for complaints to a body of the German-speaking Community contained in the decree of 16 October 1995 on the publicity of administrative documents to the provision existing in the coordinated laws of the Council of State, was worded in an ambiguous manner.

It gave the impression that regional or federal administrative appeals were also affected by the amendment. The new wording (*Article 40* of Amendment No. II) specifies that the amendment only concerns objections or appeals to be lodged with a body of the German-speaking Community.

Article 41 is intended to clarify one of the exceptional cases for the inspection of an administrative document within the meaning of the Decree of 16 October 1995 on the publicity of administrative documents at two levels.

On the one hand, the provision, which previously only applied to criminal sanctions, is also expressly extended to administrative and disciplinary sanctions. This closes an interpretation gap. This exceptional case is intended to prevent the proper conduct of the criminal and administrative investigation or the disciplinary investigation from being impeded or the rights of the defence from being impaired. A similar adjustment has already been made in Flanders (Bestuursdecreet of 7 January 2018, Article II.34(4) and (5)) and Brussels (Décret et ordonnance conjoints de la Région de Bruxelles-Capitale, la Commission communautaire commune et la Commission communautaire française relatifs à la publicité de l'administration dans les institutions bruxelloises of 16 May 2019, Article 19 §2(1)(3)). As confirmed by the Constitutional Court in its Decision No. 43/2020 of 12 March 2020, such a provision does not violate the rights of the defence, since access to documents drawn up solely for the purposes of the possible imposition of criminal penalties, administrative sanctions or disciplinary measures is governed by the specific rules provided for in the rules on access to criminal, administrative or disciplinary files (para. B.44.2).

Secondly, it takes into account the finding of the Constitutional Court in the same decision no. 43/2020 that access to these documents need only be denied as long as the imposition of a sanction remains possible. In fact, the Court concluded that Article II.34(4) of the er-

Flemish Decree is unconstitutional in so far as this restriction, which the Flemish Decree-maker had only provided for disciplinary proceedings, was not also extended to criminal and administrative proceedings (paras. B.45.3 and B.45.4). Accordingly, the provision of the German-speaking Community is not intended to provide for such discrimination.

Article 42 contains an adaptation of the Financial Regulation which becomes necessary in view of the introduction of the whistleblower provisions.

The Ombudsman Decree of 26 May 2009 is adapted in several points.

First, the term "ombudsman" is replaced by the term "ombudsperson" in all necessary places in the decree (*Articles 43-63* and *Articles 65-71*).

In addition, alignments between the provisions of the first and second complaint lines are introduced:

- a. *Article 45*: Definition of the Authority
- b. *Article 59*: Provisions under which a complaint is acceptable (concerns language, pending cases and staff matters)
- c. *Article 60*: The obligation for the complainant to show a "direct interest" is changed to the obligation to show an "interest" on the basis of a comment by the Council of State on document 279 (2008-2009) No. 1.

In addition, new paragraphs 2 are added to Article 3 §3 and 16.1 of the so-called Ombudsman Decree (see *Article 47* and *Article 61* of the present amendment proposal, respectively) in order to anchor the external whistleblower procedure in the Decree of 26 May 2009.

Further adjustments to the Ombudsman's Decree are proposed based on comments made by the Ombudsperson:

1. *Article 48*: The targets contained in Article 4 of the Decree of 26 May 2009 are to be supplemented by an explicit obligation to respect good administration, the rule of law and the promotion of the protection of human rights.
2. *Article 59*: In analogy to other ombudsman decrees or -The Ombudsperson may refuse a complaint if it is accompanied by the consideration of a judicial complaint.
3. Via *Article 64* of the proposal, a confidentiality provision for the investigation procedure should be inserted into the decree of 26 May 2009. Currently, the ombudsperson is bound by the confidentiality of the information; this should also be expressly included for the complainant in the sense of finding a solution. The authority, for its part, is bound by official secrecy. Should it nevertheless breach official secrecy, the complainant can decide for himself or herself whether to continue the proceedings.

or does not wish to pursue the matter further. If the complainant does not respect confidentiality, the procedure will be terminated in accordance with the applicable rules of procedure of the Ombudsperson. The obligation of confidentiality usually only applies to information exchanged during the ombudsman procedure. The fact that the complainant has contacted the ombudsman service and the outcome of the mediation itself are not covered by this confidentiality clause.

4. *Article 66* extends Article 20 of the Ombudsman's Decree to the effect that the information of the public prosecutor's office should already take place when there is a serious suspicion of criminal offences and not, as is currently the case, only when criminal offences have already been committed.

In the decree of 25 February 2019 on the introduction of a permanent citizens' dialogue in the German-speaking Community, the term "ombudsman" is currently used several times. In parallel to the decree of 26 May 2009, the term "ombudsperson" must henceforth be used in this decree. *Articles 72 and 73* of Amendment No. II provide for the corresponding adjustment.

Article 74

Due to the necessary lead time for the preparation of the implementation of information obligations and complaint and whistleblower procedures, the decree is to enter into force on 1 September 2022.

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ANNEX CONVERSION**TABLES**

Provisions in Directive 2019/1937	Provisions in the present decree
Article 1	<i>No need for implementation</i>
Article 2 (1)	Article 15 §1(1)
Article 2 (2)	<i>Optional implementation</i>
Article 3 (1)	Article 15 §3
Article 3 (2) and (3)	Article 15 §1(2)
Article 3 (4)	Article 15 §2
Article 4 (1), (2) and (3)	Article 16
Article 4 (4)	Article 29(2)
Article 5	Article 16
Article 6 (1)	Article 29, paragraph 1
Article 6 (2) and (3)	<i>Optional implementation</i>
Article 6 (4)	Article 29, paragraph 1
Article 7 (1)	Article 17, paragraph 1
Article 7 (2) and (3)	Article 25 §1(2)(2)
Article 8 (1) and (2)	Article 17, paragraph 1
Article 8 (3) and (4)	<i>Federal competence</i>
Article 8 (5)	Article 17(3) and (4)
Article 8 (6), (7) and (8)	<i>Federal competence</i>
Article 8 (9) paragraph 1	Article 17, paragraph 1
Article 8 (9) paragraph 2	Article 17(3) and (4)
Article 8 (9) paragraph 3	Article 17(2)
Article 9 (1) a)	Article 19, paragraph 1
Article 9 (1) b)	Article 21
Article 9 (1) c)	Article 19, paragraph 2
Article 9 (1) d)	Article 23, paragraph 1
Article 9 (1) e)	<i>Optional implementation</i>
Article 9 (1) f)	Article 22, paragraph 1
Article 9 (1) g)	Article 25 §1(2)(1)
Article 9 (2)	Article 20 §1
Article 10	Article 18, paragraph 1
Article 11 (1)	Article 18, paragraph 1
Article 11 (2) a)	Article 18(1) and (2)
Article 11 (2) b)	Article 21
Article 11 (2) c)	Article 23, paragraph 1
Article 11 (2) d)	Article 22(2)
Article 11 (2) e)	Article 24 §2
Article 11 (2) f)	<i>No need for implementation</i>
Article 11 (3) and (4)	Article 24 §1
Article 11 (5)	<i>Optional implementation</i>
Article 11 (6)	Article 23, paragraph 2
Article 12 (1) a)	Article 18(3) and Article 19, paragraph 1
Article 12 (1) b)	Article 20 §2, §3 and §4
Article 12 (2)	Article 20 §1
Article 12 (3)	Article 19, paragraph 3
Article 12 (4) and (5)	<i>No need for implementation</i>
Article 13	Article 25 §1(1)
Article 14	Article 19, paragraph 4
Article 15 (1)	Article 28

Article 15 (2)	<i>Federal competence</i>
Article 16 (1) and (2)	Article 27 §1(1)
Article 16 (3)	Article 27 §1(2)
Article 16 (4)	Article 27 §2
Article 17	Articles 36, 37, 38 and 39
Article 18 (1)	Article 26, paragraph 1
Article 18 (2) paragraph 1	Article 20 §2(1)
Article 18 (2) paragraph 2	Article 20 §4
Article 18 (3)	Article 20 §2(2) and §4
Article 18 (4) paragraphs 1 and 2	Article 20 §3
Article 18 (4) paragraph 3	Article 20 §4
Article 19	Article 30
Article 20 (1) a)	Article 25 §2
Article 20 (1) b)	Article 32
Article 20 (2)	<i>Federal competence</i>
Article 20 (3)	<i>Optional implementation</i>
Article 21 (1) and (4)	<i>No need for implementation</i>
Article 21 (2) and (3)	Article 33
Article 21 (5)	Article 31
Article 21 (6), (7) and (8)	<i>Federal competence</i>
Article 22 (1)	<i>Federal competence</i>
Article 22 (2) and (3)	Article 19, paragraph 1
Article 23 (1) a), b) and d)	Article 35
Article 23 (1) c)	<i>Federal competence</i>
Article 23 (2)	<i>Federal competence</i>
Article 24	Article 34
Article 25	<i>No need for implementation</i>
Article 26 (1)	<i>No need for implementation</i>
Article 26 (2)	<i>Federal competence</i>
Article 26 (3)	Article 14
Article 27 (1), (3) and (4)	<i>No need for implementation</i>
Article 27 (2)	Article 26, paragraph 2
Article 28	<i>No need for implementation</i>
Article 29	<i>No need for implementation</i>

Provisions in the present decree	Provisions in Directive 2019/1937
Article 14	Article 26 (3)
Article 15 §1(1)	Article 2 (1)
Article 15 §1(2)	Article 3 (2) and (3)
Article 15 §2	Article 3 (4)
Article 15 §3	Article 3 (1)
Article 16	Article 4 (1), (2) and (3) and Article 5
Article 17, paragraph 1	Article 7 (1) and Article 8 (1), (2) and (9) paragraph 1
Article 17(2)	Article 8 (9) paragraph 3
Article 17(3) and (4)	Article 8 (5) and (9) paragraph 2
Article 18, paragraph 1	Article 10 and Article 11 (1) and (2) a)
Article 18, paragraph 2	Article 11 (2) a)
Article 18, paragraph 3	Article 12 (1) a)
Article 19, paragraph 1	Article 9 (1) a), Article 12 (1) a) and Article 22 (2) and (3)
Article 19, paragraph 2	Article 9 (1) c)
Article 19, paragraph 3	Article 12 (3)
Article 19, paragraph 4	Article 14
Article 20 §1	Article 9 (2) and Article 12 (2)
Article 20 §2(1)	Article 12 (1) b) and Article 18 (2) paragraph 1
Article 20 §2(2)	Article 18 (3)
Article 20 §3	Article 12 (1) b) and Article 18 (4) paragraphs 1 and 2
Article 20 §4	Article 12 (1) b) and Article 18 (2) paragraph 2, (3) and (4) paragraphs 3
Article 21	Article 9 (1) b) and Article 11 (2) b)
Article 22, paragraph 1	Article 9 (1) f)
Article 22(2)	Article 11 (2) d)
Article 23, paragraph 1	Article 9 (1) d) and Article 11 (2) c)
Article 23, paragraph 2	Article 11 (6)
Article 24 §1	Article 11 (3) and (4)
Article 24 §2	Article 11 (2) e)
Article 25 §1(1)	Article 13
Article 25 §1(2)(1)	Article 9 (1) g)
Article 25 §1(2)(2)	Article 7 (2) and (3)
Article 25 §2	Article 20 (1) a)
Article 26, paragraph 1	Article 18 (1)
Article 26, paragraph 2	Article 27 (2)
Article 27 §1(1)	Article 16 (1) and (2)
Article 27 §1(2)	Article 16 (3)
Article 27 §2	Article 16 (4)
Article 28	Article 15 (1)
Article 29, paragraph 1	Article 6 (1) and (4)
Article 29(2)	Article 4 (4)
Article 30	Article 19

Article 31	Article 21 (5)
Article 32	Article 20 (1) b)
Article 33	Article 21 (2) and (3)
Article 34	Article 24
Article 35	Article 23 (1) a), b) and d)
Articles 36, 37, 38 and 39	Article 17