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WHEN SILENCE IS NOT AN OPTION:

The whistleblower's right to a public interest defence

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Abstract

Whistleblowers are individuals who by virtue of their work duties come across information about wrongdoings and decide to bring the information to the public's attention. Public servants who by such disclosures breach their duty of loyalty and confidentiality put themselves at risk of both criminal sanctions and dismissal.

Recent regional developments however now offer protection under the European Convention. It has however been noted by the Parliamentary Assembly of the Council of Europe that disclosures of information relating to national security generally falls outside the protections available on a national level.

This thesis aims to research if it under regional human rights standards can be necessary to enact national legislation providing a 'public interest defence' in order to protect national security whistleblowers. Both binding and non-binding standards originating from the Council of Europe are studied in order identify which requirements that are imposed on the member states. Sweden is furthermore studied as a case due to the fact that a new whistleblower protection law recently entered into force.

Although the requirements imposed on the member states seem clear, it will in the discussion become evident that human rights standards are potentially not being fulfilled even though this problem easily could be addressed and corrected.

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