



PROCEDURE

WHISTLEBLOWING MANAGEMENT PROCEDURE UNDER THE FRENCH SAPIN II LAW

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I. SCOPE OF THE WHISTLEBLOWING PROCEDURE

French "Sapin II" Law no. 2016-1691 of 9 December 2016 on transparency, anti-corruption and modernisation of economic life, requires all legal entities to implement procedures for receiving and managing whistleblowing reports from:

- its staff, in the event of behaviour or situations which violate the Anti-Corruption Code of Conduct (Article 17);
- and, whistleblowers, if a crime or offence has been committed, or in the event of a serious and clear violation of an international commitment that has been legally ratified or approved by France, a unilateral act by an international organisation taken on the basis of such a commitment, a law or a regulation, or in the event of a serious threat or harm to the general interest (Article 6).

In other words, failure to comply with the code of conduct may be reported by CEA staff (regardless of their employment status: permanent/temporary contract, internship, etc.), whereas whistleblowing as per Article 6 of the Law may be reported by CEA staff (regardless of their employment status: permanent/temporary contract, internship, etc.) or by an external and occasional partner.

The CEA has chosen to implement a specific procedure for receiving the abovementioned instances of whistleblowing, to the exclusion of any other incident reporting.

II. ADMISSIBILITY CONDITIONS

To raise a concern, a whistleblower must:

- be a natural person;
- have first-hand knowledge of the events reported. This means reporting events that have been observed first-hand as opposed to reporting events observed by a third party.
- act without conflict of interest. The individual may not receive any advantage or remuneration in return for raising a concern. Any support that the whistleblower may seek to obtain, (e.g. support from a trade union) shall not constitute a conflict of interest;

- act in good faith. When a concern is raised, the events reported must appear to be in violation of the anti-corruption code of conduct, or events that could justify whistleblowing, such that after the event, the whistleblower may not be accused of seeking to injure others.

III. WHISTLEBLOWING CONTENT

In the event of whistleblowing, the following information must be provided:

- the whistleblower's identity, job title and contact information (particularly, the personal address to send a letter confirming receipt of the report);
- where possible, the job title and contact details of the individuals targeted in the report;
- description of the reported events.

Whistleblowing may not concern any information protected by a military classification, or covered by medical confidentiality or lawyer/client confidentiality. However, the French Military Applications Division (DAM) is covered by the whistleblowing procedure, provided that the incident reported does not fall under classified defence activities.

IV. WHISTLEBLOWING: HOW TO RAISE A CONCERN

The Whistleblowing Procedure Officer, appointed by the CEA, shall receive all whistleblowing reports. Any concern must be reported:

- by post, addressed to the Whistleblowing Procedure Officer, ensuring that the back of the envelope is clearly marked with "A N'OUVRIR QUE PAR LE DESTINATAIRE OU SON SUPPLEANT ("TO BE OPENED BY ADDRESSEE OR HIS/HER REPRESENTATIVE ONLY");
- or by email, preferably in an encrypted message, to signalement@cea.fr. The email must state "Personnel et confidentiel" ("Personal and confidential") in the subject line.
- or by telephone. In this case, the concern must be formalised in writing at a later date;
- or handed over in person.

Any other means of whistleblowing does not sufficiently ensure that confidentiality will be protected.

Where applicable, the whistleblower shall provide information or documents to support their accusation.

V. CONFIDENTIALITY

The identity of the whistleblower, the individuals targeted in the report, and all information collected from the report shall remain strictly confidential.

With the exception of the legal authorities, any information that could be used to identify the whistleblower may only be shared with his/her consent.

With the exception of the legal authorities, any information that could be used to identify the individual targeted in the report may only be shared once grounds for the accusation have been established.

VI. RECEIVING WHISTLEBLOWING REPORTS

The whistleblowing letter/email may only be opened by the Whistleblowing Procedure Officer or, where applicable, his/her Representative, subject to the same confidentiality requirements.

Whatever the method used for whistleblowing, the Officer or, where applicable, his/her Representative, shall send the whistleblower:

- within 7 working days: a letter constituting proof of receipt;
- within one month: a letter constituting proof of receipt, stating the predicted length of time required to assess the admissibility of the report and the means by which he/she will be kept informed of any follow-up actions (refusal for inadmissibility, or transferred to the Whistleblowing Management Committee (see below).

VII. INFORMING THE INDIVIDUAL TARGETED IN THE REPORT

The individual targeted in the report shall be informed by the Whistleblowing Procedure Officer or, where applicable, his/her Representative as soon as any personal data is recorded, whether in digital or paper format, to give him/her the chance to oppose said data processing on legitimate grounds.

When precautionary measures are required, in particular, to prevent the destruction of proof pertaining to the report, the individual shall be informed after said measures have been taken.

This information shall be given in a meeting with the individual targeted in the report (who may be accompanied by another CEA employee if the Officer is informed in advance), and shall include:

- the name of the Whistleblowing Procedure Officer;
- the events at the root of the report;
- any services or departments targeted in the report;
- and the procedures for exercising the right to access and rectify data.

After the meeting, minutes shall be drawn up by the Officer or, where applicable, his/her Representative, and sent to the individual in question.

VIII. WHISTLEBLOWING MANAGEMENT – ANALYSIS AND INVESTIGATION

Reports shall be examined via preliminary analysis by the Officer or, where applicable, his/her Representative, subject to the same confidentiality rules, to determine their admissibility, and whether any precautionary measures are required.

Should a report be deemed admissible by the Officer, the Whistleblowing Management Committee (CTS) shall be convened in order to:

- take note of all reports, regardless of their origin;
- approve the legal admissibility of each report and determine its criticality;
- decide on any additional precautionary measures to be taken and establish an appropriate investigation plan (appointment of a coordinator, review of the main actions to be carried out under the investigation);
- after the investigations, recommend follow-up actions, and where applicable, any sanctions or disciplinary measures;
- officially close cases.

Members of the Committee analyse which follow-up actions need to be carried out. They ensure that information concerning the whistleblower and accused employee is adequate, relevant and not excessive with respect to the purposes for which it is collected. Otherwise, this information shall be destroyed.

Members of the Committee may decide that an investigation should be carried out to determine the reality and materiality of the events reported. Any investigations shall initially be managed internally. External assistance may be solicited for investigations, subject to the same confidentiality rules.

Members of the Committee are appointed by the Chairman. They are bound by a duty of non-disclosure, as are all individuals involved in managing the report.

IX. CLOSING THE PROCEDURE

The Whistleblowing Management Committee shall be responsible for deciding to close a case. The Officer shall inform the whistleblower and any individuals targeted by the report by letter that the case has been closed within 15 days of the closure decision.

X. DATA CONSERVATION

If reports are considered inadmissible by the Officer or Committee because they do not fall under the scope of the whistleblowing procedures, any associated data shall be immediately destroyed.

When whistleblowing is not followed up by disciplinary procedures or legal proceedings, any data shall be deleted within two months after investigation into the report has been closed, as per the conditions herein.

When disciplinary procedures are initiated against the accused individual or the whistleblower, any data associated with the report and its management shall be conserved, in a separate restricted-access information system, for a duration not exceeding the statute of limitations to contest any disciplinary measures.

In the event of legal proceedings against or on the initiative of the individual targeted in the report or the whistleblower, any data associated with the report and its management shall be conserved, in a separate restricted-access information system, until the conclusion of all legal proceedings and appeal procedures.

Data subject to archiving measures shall be conserved, in a separate restricted-access information system, for a period not exceeding the duration of the litigation process.

XI. AUTOMATED WHISTLEBLOWING PROCESSING

This procedure requires the implementation of automated whistleblowing processing. Said processing meets the criteria prescribed in the single authorisation AU-004 on automated processing of personal data used in professional whistleblowing procedures for the French Data Protection Authority (CNIL).