



## CEA INTERNAL WHISTLEBLOWING SYSTEM PROCEDURE FOR RECEIVING AND PROCESSING INTERNAL REPORTS

This procedure for receiving and processing internal whistleblowers' reports has been put in place pursuant to Article 8 of Law 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life, known as the Sapin II Law, as amended by Law 2022-401 of 21 March 2022 aimed at improving the protection of whistleblowers, known as the Wasserman Act, and Decree no. 2022-1284 of 3 October 2022 on procedures for receiving and processing whistleblower reports and drawing up the list of external authorities established by Act no. 2022-401 of 21 March 2022, which require legal entities to have a procedure for receiving and processing internal whistleblower reports.

### I- WHO CAN FILE AN INTERNAL REPORT?

- CEA **staff members**, irrespective of their status (fixed-term contract, permanent contract, intern, temporary worker, etc.);
- **Persons whose employment relationship has ended at the CEA**, where the information was obtained in the course of that relationship;
- People who have **applied for a job at the CEA**, where the information was obtained as part of the application;

As well as:

- Members of the CEA Board of Directors;
- External and occasional employees of the CEA;
- The CEA's co-contractors, sub-contractors or, in the case of legal entities, the members of the administrative, management or supervisory bodies of these co-contractors and subcontractors, as well as the members of their staff.

**PLEASE NOTE: The person filing an internal report is not necessarily a whistleblower. To qualify for whistleblower status and the associated protections, the person filing the report must, within the meaning of the law, comply with a set of conditions set out in Point II of this procedure.**

### II- WHAT CONDITIONS MUST BE MET TO QUALIFY FOR WHISTLEBLOWER STATUS AND THE ASSOCIATED PROTECTION SCHEME?

When a person files an internal report in accordance with this procedure, they benefit from whistleblower status and the associated protections provided that the following conditions are met:

- 1- **Being a natural person listed in Title I- of this procedure**
- 2- **Having reported information concerning the events listed below, which have occurred or are very likely to occur at the CEA:**

- An offence or crime (bribery, influence peddling, favouritism, psychological harassment, sexual harassment, etc.);
- A threat or harm to the general interest (harm to public health or the environment, etc.);
- Breach or attempted concealment of a breach of an international undertaking duly ratified or approved by France, a unilateral act of an international organisation taken on the basis of such an undertaking, European Union law, the law or regulations (irregularities and fraud in nuclear matters, etc.)



Please note: The facts, information and documents reported or disclosed, irrespective their form or medium, must not be covered by:

- national defence secrecy,
- medical confidentiality,
- the secrecy of judicial deliberations,
- the confidentiality of judicial investigations,
- lawyer-client privilege.

It should be noted that business secrecy cannot be invoked against whistleblowers.

**3- Having been made aware of the information reported as part of their professional activities:**

This means that it is not necessary for the person who filed the report to have personal knowledge of the information reported. The information may be known to the person who filed the report via a third party. It is therefore possible for the person who filed the report to report information on events that they have not personally observed.

**4- Acting without direct financial consideration:**

This means that receiving payment for whistleblowing is not covered by the whistleblower protection scheme.

**5- Acting in good faith:**

This means that the person filing the report has reasonable grounds for believing that the information they reported was true at the time they filed the report.

### **III- WHAT PROTECTION IS THERE FOR INTERNAL WHISTLEBLOWERS?**

Internal whistleblowers who are granted whistleblower status benefit from a protective scheme.

In particular, they benefit from a **total exemption** from:

- **Civil liability** for damage caused by their report if they had reasonable grounds to believe that reporting all the information revealed was necessary to safeguard the interests in question;
- **Criminal liability** for a breach of secrecy protected by law, where such disclosure is necessary and proportionate to safeguard the interests in question, as well as for the removal, misappropriation or concealment of documents or any other medium containing information of which they have lawfully become aware, and the disclosure of which was, again, necessary and proportionate to safeguard the interests in question.

Whistleblowers **may not be subject, either directly or indirectly, to retaliatory measures** or to threats of or attempts at retaliation. In the event of an appeal by a whistleblower against a retaliatory measure, where the whistleblower presents evidence from which it may be assumed that they reported information under the conditions set out in Title II of this procedure, the onus shall be on the defendant to prove that their decision is duly justified.

*Examples of retaliatory measures: Suspension, dismissal, redundancy or equivalent measures; Demotion or refusal of promotion; Transfer of duties, change of workplace, reduction in salary, change in working hours; Negative performance appraisal or work certificate; Disciplinary measures imposed or administered, reprimand or other sanction, including a financial sanction; Coercion, intimidation, harassment or ostracism; Discrimination, disadvantageous or unfair treatment; Non-conversion of a temporary employment contract into a permanent contract, where the worker had a legitimate expectation of being offered permanent employment; Non-renewal or early termination of a temporary employment contract; Damage, including damage to the person's reputation, in particular on an online public communication service, or financial loss, including loss of business and loss of income.*

Whistleblowers can benefit from **two financial support measures**:

- financial assistance to cover their subsistence needs if **their financial situation has seriously deteriorated** as a result of the report;
- assistance with legal costs in the event of legal action by the whistleblower **against a retaliatory measure** or a ‘gagging’ procedure.

Note: It should be noted that the judge can make these provisions final at any time, regardless of the outcome of the trial, i.e. even if the whistleblower loses the case.

If a whistleblower’s employment contract is terminated as a result of a report, they can take the matter to the **industrial tribunal (Conseil de prud’hommes – CPH) for summary proceedings**. The latter may, in addition to any other sanction, require the employer to top up the personal training account of the employee who filed the report, up to the cap mentioned in Article L. 6323-11-1 of the French Labour Code.

In addition, if a person **obstructs the report**, they are liable for a penalty of up to 1 year’s imprisonment and a €15,000 fine.

In the event of **abusive or dilatory proceedings against a whistleblower**, the person concerned is liable for a civil fine of up to €60,000. This penalty may be supplemented, where appropriate, by damages and the posting or publication of the court decision.

**NB**: Where a report has been filed anonymously, a whistleblower whose identity is subsequently revealed benefits from the same protections.

#### **IV- EXTENSION OF THE PROTECTIVE SCHEME TO PROTECTED THIRD PARTIES**

The Act of 21 March 2022 created the concept of the ‘protected third party’, which now appears in Article 6-1 of the Act of 9 December 2016.

Protected third parties include:

- **Facilitators** defined as any natural or legal person under private, non-profit law who helps the whistleblower to file a report or make disclosure in compliance with the procedure (e.g. trade unions, associations, friends and relatives, etc.);
- **Individuals connected** to the whistleblower who are at risk of retaliation in the course of their professional activities from their employer, their client or the recipient of their services (e.g. colleagues, etc.);
- **Legal entities** controlled by the whistleblower (within the meaning of Article L. 233-3 of the French Commercial Code) for which they work or with which they have a professional relationship.

As a result, **certain** protective **measures**<sup>1</sup> benefiting whistleblowers, including civil and criminal non-liability and protection against all forms of retaliation, have been extended to protected third parties.

**However, these people do not have whistleblower status.**

#### **V- HOW TO FILE AN INTERNAL REPORT**

##### **1. To whom do I address an internal report?**

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<sup>1</sup> The measures in question are those in Article 10-1, Article 12, Article 12-1 and Article 13 II of Law 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life, known as the Sapin II Law.

The whistleblower has the option of addressing their report to the Internal Whistleblowing System Coordinator and/or their deputy via several channels, either in writing or verbally.

Whistleblowers may choose to identify themselves (surname, first name, position, email and postal addresses, telephone number, etc.) or to file an anonymous report.

The Internal Whistleblowing System Coordinator and/or their deputy are the **sole addressee** of the internal report. The report must be sent to them:

- either by post to the 'Réfèrent du dispositif de signalement' (Whistleblowing System Coordinator) at the following address: Bâtiment 206, point courrier n°61 CEA Saclay 91191 GIF/Yvette Cedex, making sure to write on the front of the envelope '**A N'OUVRIR QUE PAR LE DESTINATAIRE ET/OU SON SUPPLEANT (TO BE OPENED ONLY BY THE RECIPIENT AND/OR THEIR DEPUTY)**';
- or by e-mail, preferably encrypted, to **signalement@cea.fr**. The message must include the words 'Personal and confidential' in the subject line;
- or by telephone and, at the request of the person filing the report, during a videoconference or an organised face-to-face meeting. In this case, the report will be recorded in writing;
- or by hand-delivered letter to the Coordinator and/or their deputy. The letter must be marked 'Personal and confidential'.

Any other channel used to send a report will not guarantee the integrity and confidentiality of the information received.

Specific detail for reports made verbally: With a request for a verbal report via videoconference or a physical meeting, the Coordinator and/or their deputy will organise an interview with the person filing the report within 20 working days of receipt of the request.

All verbal reports will be recorded as follows:

- When it is received on an unrecorded telephone line, a precise record of the conversation must be made.
- When it is received during a videoconference or physical meeting, by drawing up a precise record, with the filer's consent.

The person filing the report has the opportunity to check, correct and approve the transcript of the conversation or the minutes by signing them.

Transcripts and reports will only be kept for as long as is strictly necessary and proportionate to the processing of the report and the protection of their filers, the persons they refer to and the third parties they mention.

## **2. What information should be sent to the Coordinator and/or their deputy?**

The person who files the report must include the following information in their report:

- Their **contact details** (including personal address for sending the acknowledgement letter).  
  
In the event of an anonymous report, the filer may provide a contact e-mail address that does not allow them to be identified.
- **The identity or precise facts** making it possible to identify the persons who are the subject of the report, and as far as possible, their positions and contact details;
- **The most precise description possible** of the facts and information reported and any documents **required to safeguard the interests in question**, in whatever form or on whatever medium, to substantiate the report of events referred to in Title II- 2- of this procedure, which have occurred or are very likely to occur at the CEA;
- The **date of the events** reported, if known.

Except in the event of anonymous reports, the person who files the report must, at the same time as the report, send any information proving that they are one of the persons authorised to file an internal report.

## **3. Receipt of the internal report**

**Only the Coordinator and/or their deputy, who is subject to the same confidentiality requirements, may:**

- Open the report letter/email in accordance with the procedures set out in Title V-;
- Receive a verbal report, in accordance with the procedures set out in Title V-.

Provided that the report contains sufficient identification details, and that it is sent in accordance with the procedures set out in V-, the Coordinator or their deputy will send a letter acknowledging receipt of the alert **within 7 working days of the date on which the alert is received**.

Please note: Acknowledgement of receipt does not mean that the report is admissible.

When a report has been issued anonymously, the person who files the report does not benefit from the right to feedback.

# **VI- VERIFICATION OF ADMISSIBILITY AND PROCESSING OF THE INTERNAL REPORT**

## **1- VERIFICATION OF ADMISSIBILITY**

Initially, the **Internal Whistleblowing System Coordinator** and/or their deputy is/are responsible for **checking** that the conditions for admissibility of the report have been met. These conditions are as follows:

- Satisfy all the conditions set out in Title II of this procedure;
- Have carried out internal reporting in accordance with this internal procedure.

**Anonymous** reports will only be processed by the Report Processing Committee (CTS – comité de traitement des signalements) if they:

- Satisfy all the conditions of Title II- of this procedure, with the exception of 1-;

- Internal reporting has been carried out in accordance with this internal procedure;
- Sufficiently detailed facts have been gathered to be able to establish their potential veracity and materiality.

Additional information may be requested from the person filing the report.

In the event of slanderous denunciation, the perpetrator is liable for a penalty of up to 5 years' imprisonment and a €45,000 fine<sup>2</sup>.

If the report is **not admissible**, the Coordinator and/or their deputy will inform the person who filed the report and give the reasons why. The data will be rendered anonymous and destroyed under the conditions set out in Point 5- of this Title.

When a **report is deemed admissible by the Coordinator** and/or their deputy, they must convene a meeting of the **Report Processing Committee (CTS)** to confirm that the report is admissible and, if necessary, to ensure that the report is processed.

## 2- PROCESSING INTERNAL REPORTS

The coordinator and/or their deputy and the members of the CTS have, by virtue of their position or status, the competence, authority and resources required to carry out their duties. In order to guarantee their impartiality, the coordinator and/or their deputy as well as the members of the CTS must sign a sworn statement that they have no ties of interest for each report processed.

Internal reports are processed in accordance with the procedures set out in DARCI (Audit, Risk and Internal Audit Department) circular no. 2 'REPORT PROCESSING COMMITTEE Duties – Composition – Operation'.

The Coordinator or their deputy will provide an initial response in writing, within a reasonable period of time not exceeding **3 months from the date of acknowledgement of receipt**, indicating the action planned or taken in response to the report.

If the CTS considers that the allegations are inaccurate or unfounded or that the alert has become devoid of purpose, it will close the report procedure. The Coordinator and/or the deputy shall then inform the person who filed the report and the persons concerned in writing.

## 3- INFORMATION FOR THE PERSON CONCERNED BY THE REPORT

The person concerned by the report is informed by the Coordinator and/or the deputy as soon as data concerning them is recorded, so that they can object, on legitimate grounds, to the processing of this data.

The person identified by a report has the right to access the information concerning them and to ask the Coordinator and/or their deputy to modify or delete it if this information proves to be inaccurate, incomplete, ambiguous or out of date.

Where precautionary measures are necessary to prevent the destruction of evidence relating to the report, this person is informed after these measures have been taken.

This information, which is given in the course of an interview with the person to whom the report relates, specifies in particular:

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<sup>2</sup> Article 226-10 of the French Criminal Code.

- The name of the Coordinator and/or their deputy, who is/are responsible for the scheme;
- The alleged facts;
- How to exercise your right to access and rectify data.

**Important:** On the other hand, the information given to the person to whom the report relates **may not**, without the consent of the person who filed the report, **include information that could identify the person who filed the report.**

The person concerned by the report may be accompanied by a CEA employee, after informing the Coordinator and/or deputy in advance.

At the end of the interview, a report is drawn up by the Coordinator and/or deputy and sent to the person concerned.

#### 4- CONFIDENTIALITY

The Coordinator, the deputy, the members of the CTS and any third party appointed to provide support in the conduct of the investigation are bound by a strict obligation of confidentiality with regard to:

- ✓ **The identity of the person who filed the report.** In the event that the identity of the person who filed the report is subsequently revealed as part of the processing of the report, confidentiality will also be observed.
- ✓ **The identity of the persons to whom it relates** and of any third parties mentioned in it.
- ✓ **The information gathered** by all the recipients of the report.

As a result:

- Only the **persons in charge of receiving and/or processing reports** are authorised to access the information collected.
- This obligation of confidentiality also applies to **members of staff who are not authorised to know** and cannot access information relating to reports. Therefore, if the report is received by a person or department that is not authorised to do so, they must forward the report without delay to the Coordinator and/or their deputy and keep confidential any information to which they have had access.
- The information received may **only be disclosed to third parties if this disclosure is necessary** for the report to be processed and under the following conditions:
  - Information that could identify the person who filed the report may only be disclosed with that person's consent.

However, it may be disclosed to the judicial authorities if the persons responsible for receiving or processing the reports are required to report the facts to the judicial authorities. The person who filed the report is then informed in writing by means of an explanatory note, unless there is a risk that this information could compromise the judicial proceedings.

Information identifying the person against whom a report has been filed may not be disclosed, except to the judicial authorities, until it has been established that the report is well-founded.

**Disclosing the confidential information** defined above is punishable by two years' imprisonment and a fine of €30,000.

## 5- DATA RETENTION PERIOD

Reports may only be kept for as long as is strictly necessary and proportionate for its processing and for the protection of the persons who have filed them, the persons they concern and the third parties they mention, taking into account the time required for any further investigations. However, data relating to reports may be kept beyond this period, provided that the individuals concerned are neither identified nor identifiable.

A register of reports held in a safe with restricted access is managed by the Internal Whistleblowing System Coordinator and kept up to date according to the nature of the report, its admissibility and any follow-up (legal or disciplinary proceedings, internal investigations, etc.). The Whistleblowing System Coordinator will determine how long this data is to be kept, depending on the purpose for which it was collected.

The register is drawn up in accordance with the European General Data Protection Regulation (GDPR) and may prevent the deletion of certain anonymous information required for archiving purposes in accordance with the DARCI circular on the operation of the Report Processing Committee within the time limit of legal proceedings.

## VII- WHAT ARE THE OTHER CHANNELS FOR REPORTING AND DISCLOSURE?

**Initially**, you can choose to file a report:

<p><b>EITHER</b> by following <b>this internal procedure</b>.</p> <p>In this case, the report must be sent to the Coordinator and/or their deputy following the processes set out in section V- of this procedure.</p>	<p><b>OR</b> by sending an <b>external report</b>:</p> <ul style="list-style-type: none"><li>• Either after an internal report has been filed;</li><li>• Or directly to the external authorities listed below:<ul style="list-style-type: none"><li>➤ The <b>competent authorities</b> listed in the Appendix to Decree no. 2022-1284 of 3 October 2022. Examples: depending on the subject of the report, the French Financial Markets Authority (AMF), the French Prudential Supervision and Resolution Authority (ACPR), the French Data Protection Authority (CNIL), the French Defender of Rights, the French Directorate General for Labour (DGT), the French Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF), the French Anti-Corruption Agency (AFA), or the French Competition Authority;</li><li>➤ The <b>Defender of Rights</b>;</li><li>➤ The <b>judicial authorities</b>;</li><li>➤ A <b>European Union institution, body or organisation</b> with the remit to receive information on breaches falling within the scope of Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019.</li></ul></li></ul> <p><i>Note:</i> The external authorities may, where appropriate jointly, put in place <b>psychological support</b> measures for persons who have issued an alert under the conditions set out in Articles 6 and 8 of the Sapin II Law and grant them <b>temporary financial</b> assistance if they consider that their financial situation has seriously deteriorated as a result of the report.</p>
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It is also possible to make a **public disclosure**:

<p><b>As a last resort</b> (i.e. after first filing a report under the <b>EXTERNAL</b> procedure, <u>whether or not preceded by a report under the internal procedure</u> in the following case:</p> <p>➤ If no appropriate action has been taken in response to the report:</p>		<p><b>In the first instance</b> (i.e. directly, without the need for prior notification under the <b>EXTERNAL</b> procedure, <u>whether or not preceded by a report under the internal procedure</u>) in the following cases:</p> <p>➤ Provided that disclosure does not harm national defence and security interests.</p> <p>➤ <u>AND</u>:</p>		
<p>by the competent authorities listed in the Appendix to Decree no. 2022-1284 of 3 October 2022.</p>	<p>by the <b>Defender of Rights; the judicial authorities</b> or a competent <b>European Union institution, body or organisation</b> mentioned above.</p>	<p>If the report concerns information obtained <b>in the course of professional activities</b></p>	<p>If the report concerns information obtained <b>outside the scope of professional activities*</b></p>	<p><b>Irrespective of the context</b> in which the information was obtained:</p>
<p>within:</p> <p>➤ 3 months in principle; ➤ 6 months by derogation if justified by the circumstances of the case (you will then be informed).</p>	<p>within 6 months.</p>	<p>in the event of imminent <b>OR</b> obvious danger to the public interest, in particular where there is an emergency situation or a risk of irreversible harm.</p>	<p>in the event of 'serious <b>AND</b> imminent danger'</p>	<p>If referring the case to one of the <b>EXTERNAL</b> authorities:</p> <p>– Would either cause the whistleblower to run the risk of retaliation;</p> <p>– Or would not effectively remedy the subject of the disclosure, due to the particular circumstances of the case, in particular if evidence can be concealed or destroyed;</p> <p>– Or if the person making the report has serious grounds for believing that the authority may be in a conflict of interest, in collusion with the perpetrator of the acts or implicated in these acts.</p>
		<p>* For the distinction between information obtained in the course of professional activities and information obtained outside the course of professional activities, see page 10.</p>		

**The person filing an external report and/or who makes a public disclosure may benefit from the protection of whistleblower status** mentioned in Title III of this procedure.

**However**, the **conditions** under which whistleblowers may benefit from whistleblower status and the associated protections **differ** in part from the conditions set out in Title II.

The conditions are therefore as follows:

- 1- **Being a natural person;**
- 2- **Having reported information relating to the events listed in II- 2-, which have occurred or are very likely to occur at the CEA, with the same limitations as regards secrets;**
- 3- **Having had knowledge of the information reported in the course of their professional activities or having had personal knowledge of it outside the course of their professional activities:**

This means that:

- **If the information was obtained in the course of their professional activities, it is not necessary for the person who filed the external report or made the public disclosure to have had personal knowledge of the information reported. The information may be known to the person who filed the report via a third party. It is therefore possible for the person who filed the report or made the public disclosure to report **information on events that they have not personally observed.****
  - **If the information was obtained outside the scope of their professional activities, the person filing the external report or making the public disclosure must have had **personal knowledge** of it. The information **must** be known **in person** to the person who filed the report.**
- 4- **Acting without direct financial consideration** under the same conditions as II- 4-;
  - 5- **Acting in good faith** under the same conditions as II- 5-;
  - 6- Having filed the external report under the conditions set out in II of Article 8 of the Sapin II Law or disclosure under the conditions set out in III of Article 8 of the Sapin II Law, as listed in the table above.

Note: Where a public disclosure has been made anonymously, a whistleblower whose identity is subsequently revealed enjoys the same protection, subject to compliance with the conditions set out above.

## VIII- COMMON PROVISION

- The rights relating to the protection of whistleblowers may not be waived or limited in law or in fact in any way whatsoever. Any stipulation or act taken in disregard of this prohibition is automatically null and void.