

# Code of conduct for the prevention of breaches of probity

This Code of Conduct has been drafted in accordance with Article 17 of the Law of 9 December 2016, known as 'Sapin 2', and based on the recommendations of the French Anti-Corruption Agency.

It applies to all CEA employees, irrespective of their hierarchical level or status. The Anti-Corruption Code of Conduct helps you to adopt the appropriate response to risks. It presents a series of examples illustrating the different types of behaviour to be proscribed as being likely to form acts of corruption or influence peddling that employees may encounter in the course of their duties.

**All CEA employees must behave in accordance with the provisions of this anti-corruption code of conduct.**

**In addition to any criminal penalties that may apply depending on the nature of the breach of probity, any breach of this code of conduct may result in disciplinary action up to and including dismissal.**

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# I- PROHIBITED BEHAVIOUR

CEA employees are required to **comply with the laws and regulations** in the context of their duties within the organisation, in particular those governing their conduct with regard to probity. The following chapter lists the types of behaviour that are contrary to probity.

## 1- UNDER FRENCH LAW

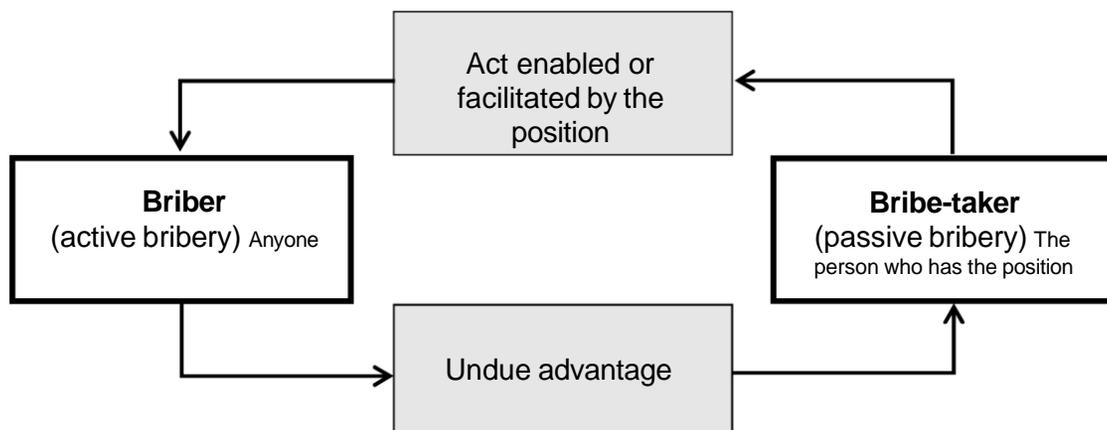
Various types of behaviour are prohibited and punishable by law. The legal references for these behaviours are given in the appendix.

These include the following behaviours:

a- **Bribery:**

**Bribery** takes two forms:

- **Active bribery** is the offence of bribing ('buying someone off'). It is the act by any person of knowingly offering an advantage of any kind whatsoever, either directly or indirectly, of yielding to the solicitation of such an advantage or of granting such an advantage in order to obtain a guarantee from a person that they will or will not perform an act enabled or facilitated by their position.
- **Passive bribery** is the offence of the bribe-taker ('being bought off by someone'). This is the act of knowingly soliciting an advantage of any kind, either directly or indirectly, accepting the offer of such an advantage or receiving such an advantage, for oneself or for another person, in return for an act enabled or facilitated by one's position.



**The act enabled or facilitated by the position** may consist of awarding a public contract, granting additional time for payment, not applying the rules of public procurement, etc.

**The undue advantage** may consist of a donation, a promise, a gift, a sum of money, an invitation to an event, etc.

Bribery may be **public** or **private**. It is public when the bribe-taker is a public servant. A private agent is defined by elimination as any person who is not a public servant.

Note: A **public servant** includes:

- persons in a position of public authority, i.e. those with powers of coercion (e.g. military personnel);
- persons entrusted with a public service mission, i.e. who are responsible for fulfilling a mission of general interest (e.g. director of a hospital or a CEA employee involved in signing public contracts or examining applications for public aid);
- persons holding a public elective office, i.e. national or local elective office (e.g. president of a departmental council, regional councillor, president of an inter-municipal syndicate, member of parliament, senator, mayor or deputy mayor).

The public servant may be national, international (international public organisation, etc.) or foreign.



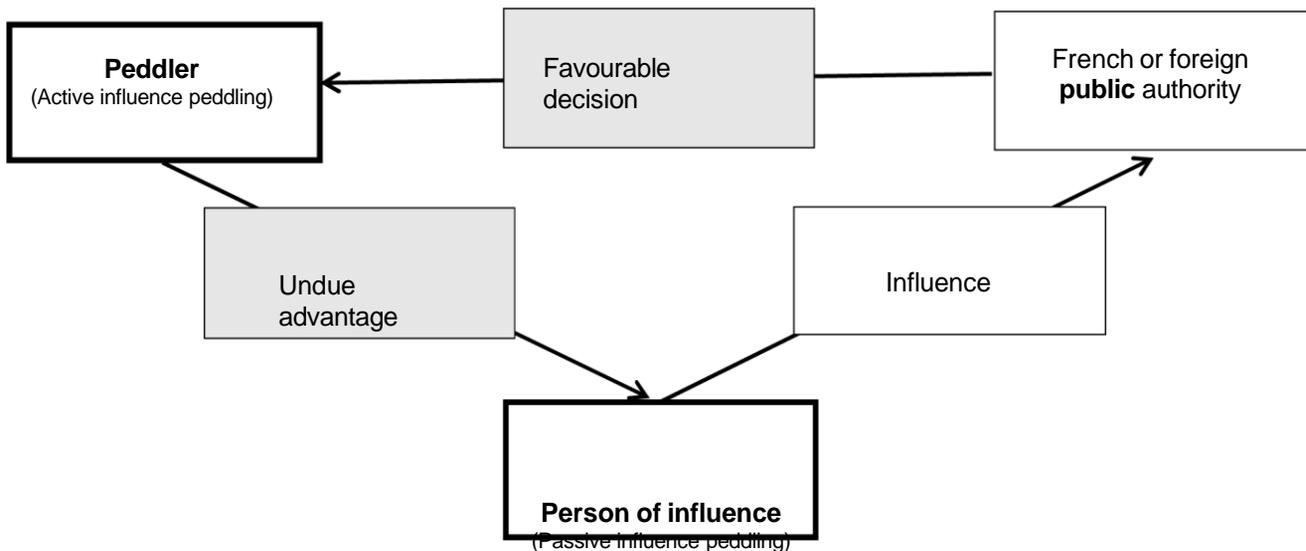
Public bribery	Private bribery
10 years' imprisonment and a fine of €1,000,000, which may be increased to double the proceeds of the offence.	5 years' imprisonment and €500,000, which may be increased to double the proceeds of the offence.

Penalties are doubled for public bribery.

b- **Influence peddling:**

**Influence peddling** takes two forms:

- **Active influence peddling** is the offence of the peddler. This is the act of offering an advantage of any kind, yielding to the solicitation of such an advantage or granting such an advantage in order to obtain a guarantee from the person of influence that they will use their real or supposed influence with a public authority so that it takes a decision favourable to the peddler or to a third party.
- **Passive influence peddling** is the offence of the person of influence. It is the act of soliciting an advantage of any kind, agreeing to the offer of such an advantage or receiving such an advantage in order to use one's real or supposed influence with a public authority so that it takes a decision in favour of the peddler or a third party.



The influence peddling can be **public** or **private**. It is public when the person of influence is a public servant and private when the person of influence is a private agent. However, the authority must always be public. Consequently, a person of influence who uses their influence to benefit a private authority is not committing an offence.



Public influence peddling	Private influence peddling
10 years' imprisonment and a fine of €1,000,000, which may be increased to double the proceeds of the offence.	5 years' imprisonment and a fine of €500,000, which may be increased to double the proceeds of the offence.

Penalties are doubled for public influence peddling.

c- **Peculation:**

**Peculation** is a breach of the duty of professional ethics which occurs both when the perpetrator acts for personal enrichment and when they act for disinterested purposes.

For a person acting on behalf of a public authority or entrusted with a public service mission, it consists of the following:

- o receiving, demanding or ordering to be collected as duties, contributions, taxes or public charges, a sum which they know is not due or exceeds what is due;
- o granting any form of exemption or relief from duties, contributions, taxes or public charges, in violation of legal or regulatory texts.



5 years' imprisonment and a fine of €500,000, which may be increased to double the proceeds of the offence.

d- **Illegal taking of interests:**

**Illegal taking of interests** is an offence of bias that punishes a public servant who has an interest in a matter under their supervision.

It prohibits any **public servant in active employment** from taking, receiving or retaining, either directly or indirectly, an interest of such a nature as to compromise their own impartiality, independence or objectivity in an undertaking or transaction of which they are responsible, in whole or in part, for the supervision, administration, liquidation or payment.

It also prohibits, **for a period of three years after ceasing to hold office** as a member of the Government, a member of an independent administrative authority or an independent public authority, a holder of a local executive office, a civil servant, a member of the military or an agent of a public administration, a public establishment or a public company, from taking or receiving a shareholding by way of work, advice or capital in a private company of which they have, in particular, during their previous office, exercised supervision or control or in respect of which they have entered into contracts.



For public servants in active employment	For public servants who have ceased to hold office
5 years' imprisonment and a fine of €500,000, which may be increased to double the proceeds of the offence.	3 years' imprisonment and a fine of €200,000, which may be increased to double the proceeds of the offence.

e- **Embezzlement of public assets:**

**Embezzlement of public assets** is the act by a person holding public authority or entrusted with a public service mission, a public accountant, a public custodian or one of their subordinates, of destroying, misappropriating or removing public or private funds, deeds or securities or any other object entrusted to them by virtue of their duties or mission.



10 years' imprisonment and a fine of €1,000,000, which may be increased to double the proceeds of the offence.

f- **Favouritism:**

The offence of **favouritism** concerns any person holding public authority or entrusted with a public service mission or exercising the duties of a representative of a public establishment and any person acting on behalf of the latter.

It consists of procuring or attempting to procure for others an unjustified advantage, by violating the laws and regulations designed to guarantee the **freedom of access and equality of candidates in public procurement and concession contracts**.



2 years' imprisonment and a fine of €200,000, which may be increased to double the proceeds of the offence.

g- **Receiving stolen goods:**

**Receiving stolen goods** requires the prior commission of a crime or offence. It involves taking advantage of an offence that has already been committed, with full knowledge of the facts.



5 years' imprisonment and a fine of €375,000. These penalties may be increased, particularly where the stolen goods are received using the facilities provided by the exercise of a professional activity, to 10 years' imprisonment and a fine of €750,000. These penalties can be increased above €375,000 up to half the value of the stolen goods.

h- **Forgery and use of forgeries:**

**Forgery** is the production or use of a false document or other medium of expression in order to obtain a right or to prove certain facts.

The forgery can be:

- material, i.e. accurate content but a forged medium (e.g. copied contract, forged signature, etc.).
- intellectual, i.e. an accurate medium but forged content (e.g. an attendance report showing the presence of people who were in fact absent).



3 years' imprisonment and a €45,000 fine.

## 2- UNDER FOREIGN LAW

The CEA's activities may be subject to foreign legislation, either because of the application of local law when the activities are conducted in the country concerned, or because of the extraterritorial application of certain legislation such as the US Foreign Corrupt Practices Act 1977 (FCPA) or the UK Bribery Act 2010 (UKBA).

If there is any doubt about the application of foreign practices or legislation, employees must alert their **line manager** and, where appropriate, the **representative of the legal functional chain** or the **compliance officer**, in order to check the applicable rules beforehand and ensure that they are complied with.

## II- RISKY SITUATIONS AT THE CEA

The tightening of legislation and regulations in the fight against corruption requires **vigilance** in professional relations, both in France and abroad. All CEA employees must guard against any risk of being implicated, directly or indirectly, in corruption or any other breach of the duty of probity.

The situations described below are not exhaustive examples of the risky situations that employees may encounter.

As a general rule, if employees are in any doubt about their assessment of these risky situations, they are invited to contact their **line manager** or the **compliance officer**.

## 1- ENTERING INTO A BUSINESS RELATIONSHIP AND ENTERING INTO A CONTRACT

It is essential to be vigilant when entering into a professional relationship with a third party. The third party, whether French or foreign, may be a supplier, a service provider, a subcontractor, a client, a consultant, an intermediary or a partner in the broadest sense.

### **Points to watch**

The points to watch relate to the aspects which make it possible to assess the level of risk of the relationship envisaged, such as:

- the third party's reputation and financial soundness;
- checks on the transparency of the shareholder base and of the accounts, when the third party is a legal entity;
- the compliance policy of the third party concerned;
- the anti-corruption legislation in force in the country to which the third party belongs.

### **Behaviour to adopt**

Each employee may be faced with a large number of very different situations, and it is not possible to draw up an exhaustive list. If in doubt, employees should contact their line manager and, where appropriate, the representative of the legal functional chain or the compliance officer.

As a general rule, all employees must comply with the following points:

- inform their line manager of any risk of which they are aware or which they suspect may arise from the relationship;
- report to their line manager any situation concerning them which may constitute a conflict of interest (on this concept, see Paragraph 3 Conflicts of interest);
- scrupulously comply with internal rules and procedures, in particular those relating to purchasing, sales and collaborative activities;
- refuse to solicit, accept or offer any sum of money or any undue advantage in the context of a professional relationship (on this concept, see Paragraph 2.2 Gifts and invitations);
- resist any form of solicitation or inappropriate behaviour.

For any relationship with companies located in non-cooperative or high-risk tax countries and territories, or with shell companies, or any company on the blacklists of the World Bank or the European Bank for Reconstruction and Development (EBRD), an in-depth review is required. The final decision to hire the CEA will be taken by the Executive Board.

### **Example**

You are planning to buy some equipment for your laboratory and are about to issue a call for tenders. To find out what is available in the field and to be able to draw up specifications, you're going to a trade show. An exhibitor suggests that you buy the equipment in several separate orders which are apparently unrelated to each other, so as to avoid having to put it out to tender in the proper way.

What do you need to identify? The supplier is encouraging you to contravene the public procurement rules. By accepting this proposal you are making yourself liable for the offence of favouritism.

## 2- GIFTS AND INVITATIONS

Gifts can take many forms and are generally considered to be advantages or favours granted without quid pro quo or compensation. These may be items given occasionally or periodically in the context of professional relations, business meals, invitations to events or exhibitions, sports events, trips that combine leisure and professional activities, preferential commercial or pricing conditions, etc.

### **Points to watch**

These gifts and invitations given by suppliers, service providers, subcontractors or partners, or which on the other hand, you may give to them, can contribute to a good professional relationship. They are relatively common expressions of courtesy and mutual appreciation, which may sometimes be customary in certain countries.

Care must be taken to ensure that gifts and invitations do not involve any form of quid pro quo, whether explicit or implicit.

In particular, they must in no way influence or give the impression of altering CEA employees' ability to make judgements or decisions.

These gifts and invitations must be given in a professional context, remain reasonable in terms of both frequency and amount, be accepted in a transparent manner and, if possible, be shared as a team.

Particular attention must be paid in cases where the beneficiary has decision-making power or influence over an action that may affect the CEA's interests, in particular through the granting of an authorisation, the signing of a contract or the awarding of a contract.

### **Behaviour to adopt**

Under no circumstances may CEA employees personally accept or give gifts of a monetary nature, gift vouchers, discounts, price advantages or financial rewards. Similarly, gifts or invitations during tender periods should be avoided, whether the employee is directly or indirectly involved in the procedure.

In other cases, the following rules apply:

- gifts or invitations with an estimated value of less than €50 may be given or received without the line manager's knowledge or authorisation;
- gifts or invitations with an estimated value of between €50 and €150 may be given or received. They must be reported to the line manager;
- the principle is that gifts or invitations with an estimated value of more than €150 must be refused and may not be given. However, if for specific reasons (cultural or economic), the employee finds themselves obliged to accept, they must report this to their line manager and to the CEA compliance officer, providing the necessary justification. Similarly, if, for specific reasons, an employee is considering giving a gift or invitation for an amount in excess of €150, they may only do so after obtaining authorisation from the CEA compliance officer.

In all cases, you should keep a record of these gifts to avoid any suspicion in the future.

In the event of repeated gifts or invitations from the same person or entity, the threshold to be applied is assessed on the basis of the total amount corresponding to the gifts and invitations received or given in the same year.

If in doubt, or to obtain further information, employees should contact their line manager or the compliance officer.

## Example

Can you accept a VIP invitation from a supplier to go and see an exhibition, a show or a match for two people?

What are the points to watch?

- The nature of the gift: It is an invitation to an event, and a **VIP** one at that.
- Estimated value of the gift: As the amount is likely to be around **€150**, it is essential to inform your line manager.
- The context in which the gift was given: It is essential to be at **a distance from any tender or negotiation period** in which you are involved.
- Frequency: This type of invitation should **not be extended more than once a year**.

### **3- CONFLICTS OF INTEREST**

A conflict of interest is likely to affect a person's objectivity and therefore their ability to fulfil their duties.

An employee is in a conflict of interest situation when they have personal, financial or commercial interests that may influence the objectivity of the decisions they take or recommend or the opinions they issue in the performance of their duties. This situation may arise, for example, when the employee:

- engages in extra-professional or professional activities outside the CEA;
- has friends or relatives who work for suppliers (or service providers, or subcontractors) of their business unit.

This situation may lead the employee concerned to breach their duty of loyalty to the CEA. They can also constitute preparatory acts for corruption and other related offences.

#### **Points to watch**

Before taking any decision involving the CEA, each member must ask themselves about the existence of any links, personal or otherwise, of any nature whatsoever, likely to have an influence on their decision, recommendation or opinion.

In the same way, outside the professional context, each person must take care not to create a situation or make commitments likely to cause them to breach their duty of loyalty to the CEA.

#### **Behaviour to adopt**

If an employee is faced with a conflict of interest situation that directly or indirectly concerns them, they must alert their manager and, where applicable, the compliance officer, to:

- any suspected or identified conflict of interest;
- any solicitation or inappropriate behaviour likely to create such a conflict;
- any internal or external pressure, threat or blackmail.

Information relating to situations of conflict of interest must be recorded in writing and kept within the units concerned. It must be available to be shown at any subsequent inspection. If the employee is transferred and the conflict of interest persists, they must make a new statement.

The employee must also withdraw from any decision-making, recommendation or advisory process that may be affected by this conflict of interest.

#### **Example**

A conflict of interest may arise when:

- as a buyer or specifier at the CEA, a member of your family works for a company that is bidding on a call for tenders issued by the CEA;
- as a manager, you are considering offering to employ a member of your family to take up a position in the unit you manage or with which you have an ongoing relationship;
- you develop a friendly relationship with a supplier, service provider or subcontractor who works in your unit;
- you take a financial stake in or responsibilities with a supplier, service provider, subcontractor, CEA partner or any organisation or company with which the CEA has a relationship (start-up or investment fund in particular).

In the event of any conflict of interest, you must report it to your line manager and obtain information on how to proceed, in particular from the compliance officer.

## 4- FACILITATION PAYMENTS

Facilitation payments consist of small sums paid to public servants to secure or speed up the performance of standard administrative acts or the necessary formalities for which they are responsible.

### **Points to watch**

Although the use of facilitation payments is common practice in some countries, it remains a form of extortion that can be assimilated to corruption.

### **Behaviour to adopt**

The CEA prohibits this practice, which constitutes a form of bribery. Using facilitation payments can make CEA employees liable for criminal prosecution and damage the CEA's reputation. In such a situation, CEA employees must contact their line manager.

### **Example**

- A public servant applies for a commission in a personal capacity to issue the visa required for a professional assignment;
- As part of a forum taking place abroad, you need to transfer a demonstration prototype. In the location, a local public servant asks you for payment for the technical approval of this equipment;
- You are asked to make payments to speed up the clearance of equipment through customs.

In all these situations where payments are prohibited by the CEA, you must not pay and you must contact your line manager.

## 5- SPONSORSHIP AND PATRONAGE

**Patronage** is financial or material support given, without any direct quid pro quo on the part of the beneficiary, to a piece of work or person for the pursuit of activities of general interest.

**Sponsorship** is financial or material support given by a natural or legal person to an event, person, product or organisation with a view to deriving a direct benefit.

As part of its activities, the CEA may participate in associations whose purpose is directly related to its activities and, exceptionally, make donations or accept gifts or bequests.

Depending on the amount, the Chief Executive Officer or the operational departments are responsible for authorising the CEA to make donations.

Conversely, the CEA is entitled to receive any donation or bequest in money or kind. Any acceptance of gifts or bequests by the CEA must be authorised by the CEA Board of Directors, subject to the delegation of powers granted to the Chief Executive Officer, up to a certain amount.

### **Points to watch**

Even if, under certain conditions, patronage or sponsorship activities may appear to be natural extensions of the CEA's general interest activities, they may provide fertile ground for acts of or attempts at corruption.

In addition to complying with the procedures applicable to the CEA for authorising these actions, it is necessary to check that they do not in fact constitute a way of receiving or granting undue advantages, or of favouring influence operations or personal pecuniary interests.

### **Behaviour to adopt**

Any employee involved in the acceptance of donations or bequests for the benefit of the CEA or, on the contrary, in the granting of donations by the CEA for the benefit of a third party, must comply with the applicable internal procedures.

They must also check, at their level, that these operations comply with the principle of probity and the CEA's policy in this area, in particular by ensuring that the sponsorship or patronage concerned:

- is directly linked to the CEA's activities;
- is concluded with a third party whose reputation and integrity have been verified beforehand;
- is not concluded in the presence of a conflict of interest;
- does not favour transactions of influence or personal or extra-professional pecuniary interests;
- does not constitute an undue advantage.

If there is any doubt about the application of these principles, the employee concerned must alert their manager before proceeding with any sponsorship activity.

### Example

Increased vigilance of sponsorship operations is required when certain indicators are present, for example when:

- the association or foundation to which a donation from the CEA is being considered carries out activities that are different from those of the CEA;
- the head of a foundation or association to which a donation from the CEA is being considered is one of your close relations or a member of your family, or is also a supplier or partner of the CEA;
- there are suspicions about the reputation and integrity of an association or foundation, or its staff, to which a CEA donation is being considered;
- it is proposed that the CEA receive a donation as part of its sponsorship, in exchange for an undertaking from the CEA to carry out certain activities not directly related to the donation;
- suspicions exist as to the reputation and integrity of an entity that has expressed a wish to make a donation or bequest to the CEA.

If you have any doubts about the application of these principles, you must alert your line manager before proceeding with any sponsorship activity or contact the compliance officer.

## 6- REPRESENTATION OF INTERESTS (LOBBYING)

Under the Sapin II law, the CEA is an 'interest representative' (lobbyist). It employs people whose main or regular activity is to influence public decisions, in particular the content of a law or regulatory act (lobbying). To influence the decision, these employees can communicate with members of government, members of parliament or key local elected representatives and public decision-makers.

As such, the CEA fulfils its reporting obligations, including the registration of its employees involved in lobbying activities, in the digital directory of the French High Authority for Transparency in Public Life (HATVP), as well as the presentation of an annual report outlining the actions carried out over the past year and the amount of the corresponding expenditure.

### **Points to watch**

Anyone may have relations with members of government, members of parliament, local elected representatives and, more generally, public decision-makers, either in a professional capacity or as a result of private activities.

In the professional context, any CEA employee not involved in lobbying activities and not registered in the digital directory of the French High Authority for Transparency in Public Life (HATVP) must inform their line manager if contact with public decision-makers becomes frequent, to the point of constituting a principal or regular activity within the meaning of the law.

### **Behaviour to adopt**

All lobbying of public authorities must be carried out in a loyal and responsible manner, excluding any practice that could be assimilated to bribery or influence peddling.

No employee of the CEA is authorised to directly or indirectly involve the organisation in any activity in support of a political party or organisation, and may not use their position as a CEA employee for this purpose.

### **Example**

The mayor of your municipality, whom you know personally, calls on you at election time to express your support as a CEA employee. What attitude should you adopt?

Such a request must be refused, as the CEA must observe a principle of absolute neutrality and therefore cannot, either directly or indirectly, lend its support to anyone. The same applies if you are standing for election. If in doubt, you should refer the matter to your line manager or the compliance officer.

### **III- THE WHISTLEBLOWING SYSTEM**

In accordance with Article 17 of Law 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life, the CEA has set up a whistleblowing system for reporting conduct and situations that contravene this anti-corruption code of conduct.

#### **HOW TO BLOW THE WHISTLE**

**The internal whistleblowing procedure is the same as that described in V- of the appendix to the centres' internal rules regulations, entitled CEA Internal Whistleblowing System.**

#### **HOW DO YOU BENEFIT FROM THE WHISTLEBLOWER PROTECTION SCHEME?**

Anyone reporting conduct or situations contrary to this anti-corruption code of conduct may benefit from the **legal protection** granted to whistleblowers **if they meet the conditions set out in II- of the appendix to the centres' internal rules and regulations entitled CEA Internal Whistleblowing System.** These protections are listed in III- of this appendix.

## **IV- APPENDIX**

### **1- GLOSSARY**

**Ethics** is the set of values and moral principles that underlie a person's conduct and serve as a foundation for life in society.

**Professional ethics** refers to the values and moral principles that motivate the conduct of people in the professional environment, whether they belong to the same profession or carry out their activity in a given organisation.

**Duty-based ethics** is the set of rules and duties governing the conduct of members of a profession or people working in a given organisation.

**Conformity** is the action taken to ensure that measures or behaviour, both within a given structure and with regard to third parties, comply with a standard (external and/or internal) applicable to the place and in the fields in which this organisation carries out its activity.

**Compliance**, inspired by practices in English-speaking countries and very similar to conformity, is defined as the set of processes which ensure that the standards applicable to a given structure are respected by all its members, as well as the values and ethical mindset instilled by its managers.

**Probity** is the character of a person who must not pursue a personal interest within their duties and who therefore acts in a disinterested manner.

**Integrity** is the character of a person who is faithful to their duties and commitments, and incorruptible, whose conduct and actions are beyond reproach.

**Scientific integrity** is defined as the set of rules and values that should govern research activity, to ensure that it is honest and scientifically rigorous.

## **2- REFERENCES TO OFFENCES**

**Bribery:**

	Active	Passive
Private bribery	Art. 445-1 of the French Criminal Code	Art. 445-1 of the French Criminal Code
Bribery of a French public servant	Art. 433-1, 1 of the French Criminal Code	Art. 432-11, 1 of the French Criminal Code
Bribery of foreign public servants	Art. 435-3 of the French Criminal Code	Art 435-1 of the French Criminal Code
Bribery of a judicial officer	Art. 434-9 of the French Criminal Code	Art. 434-9 of the French Criminal Code

**Influence peddling:**

	Active	Passive
Private influence peddling involving the French public authorities (person of influence = private agent)	Art. 433-2 of the French Criminal Code	Art. 433-2 of the French Criminal Code
Public influence peddling involving the French public authorities (person of influence = public servant)	Art. 433-1, 2° of the French Criminal Code	Art. 432-11, 2° of the French Criminal Code
Public and private influence peddling involving a foreign public authority (person of influence = public servant or private agent)	Art. 435-4 of the French Criminal Code	Art 435-2 of the French Criminal Code
Influence peddling involving a judicial officer	Art. 434-9-1 of the French Criminal Code	Art. 434-9-1 of the French Criminal Code

**Peculation:** Art. 432-10 of the French Criminal Code.

**Illegal taking of an interest:** Art. 432-12 of the French Criminal Code; Art. 432-13 of the French Criminal Code.

**Embezzlement of public assets:** Art. 432-15 of the French Criminal Code.

**Favouritism:** Art. 432-14 of the French Criminal Code.

**Receiving stolen goods:** Art. 321-1 of the French Criminal Code.

**Forgery and use of forgeries:** Art. 441-1 of the French Criminal Code.