



CONSOLIDATED LEGISLATION

Law 11/2016, dated November 28, of the Agency for the Prevention and Fight against Fraud and Corruption of the Valenciana Community.

Comunitat Valenciana
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CONSOLIDATED TEXTS

Last amendment on: December 28, 2018

We widely make known to all citizens that Les Corts have approved and I, in accordance with the provisions of the Constitution and the Autonomy Statute, in the name of the king, I enact the law as follows:

PREAMBLE

I. Many of the causes of corruption arise from the lack of development of the democratic system, because no real mechanisms of citizen participation have been created in the effective control of their institutions, as well as in the absence of accountability of political representatives before the citizens and their representative entities.

II. Corruption deteriorates the rule of law and does not allow its normal function. The principles that inspire it are threatened by corruption. Corruption is protected by opacity and secrecy to perpetuate itself, distorting the essence of democracy and perverting the democratic system by using the rules of the democracy game, which makes public institutions and whatever is public be within their power of disposal for private or personal benefit .

III. The creation of the Agency for the Prevention and Fight against Fraud and Corruption is carried out under the Article 49.1.1.^a of the Autonomy Statute, which grants exclusive competence to the Valencian Government in the organization of its self-government institutions. With the creation of this agency, the Generalitat complies with Resolution 58/4 of the General Assembly of the United Nations, dated October 31, 2003, which approves the United Nations Convention against Corruption, in the Article 6 which states the need to create entities responsible for preventing corruption in the different States parties.

Likewise, as reference for this proposal, we have the Article 36 of Resolution 58/4 that refers, specifically, to the creation of specialized agencies and the incorporation of other important anti-corruption agreements within the framework of the European Union and the Council of Europe as the Council of Europe's civil convention on corruption, dated November 4, 1999; and the Article 325 of the Treaty on the Functioning of the European Union, which imposes on the Commission and the Member States the obligation to fight against fraud and any illegal activity that harms the financial interests of the European Union. Likewise, the Resolution 24/97 of the Council of Europe on the twenty guiding principles of the fight against corruption; recommendation number R (2000) 10, on the code of public officials behavior, and number R (2003) 4, on the common rules against corruption in the financing of political parties and electoral campaigns.

As background, we must also mention the similar anti-fraud and anti-corruption institutions (independent and unrelated to the judiciary or police) created at European, national or regional level, which serves to underline the importance of the organization and justify why they are needed and their opportunity. In this regard, we must mention the European anti-fraud office (OLAF) created by decision of the Commission on April 28, 1999, the Autorità Nazionale Anticorruzione in Italy (ANAC), created by Italian law 190/2012, of the Antifraud Agency of Catalonia (OAC), created by the Catalan Law 14/2008, dated November 5. At the municipal level, the recently created Anti-Fraud Office of the Madrid City and the Office for Transparency and Good Practices of the Barcelona City Council stand out.

I. The agency is created as an instrument of prevention, investigation and fight against fraud and corruption, and also to protect whistleblowers. Its main purpose is to enforce the performance of Valencian public institutions to prevent a moral deterioration and financial impoverishment that results in the detriment of Valencian citizenship.

II. This law is split in five chapters, one sole additional provision, three transitory provisions, one derogatory provision and one final provision.

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Chapter I, "General Provisions" rules the creation, legal nature, object, legal regime, scope and functions.

Chapter II, "Procedure" rules the beginning of the procedure and investigation, the processing, procedural guarantees and the livelihood of the whistleblower

Chapter III, "Sanctioning system" states the classification of infractions and sanctions and sanctioning competence.

Chapter IV, "Results" refers to the reports, reports to be made, content and accountability to citizens.

Chapter V, "Personal and material means of financing" refers to the means in order to be able to adequately undertake the function assigned thereto.

Finally, this law includes a set of provisions which are additional, transitory, derogatory and final, that affect other norms of our legal system and that facilitate the implementation comply with objectives of the agency.

CHAPTER I

General Provisions

Article 1. Objective and Legal Nature

1. The objective of this law is the creation of the Agency for the Prevention and Fight against Fraud and Corruption in the Valencian Region, which is under the authority of Les Corts. It constitutes an entity with own legal personality and full capacity to act for the fulfillment of its purposes.

This law rules the legal regime, operation and sanctioning procedure of the agency. It also states the criteria for the appointment of the management staff and personnel of the agency.

2. The agency acts independently from the Government in the exercise of their functions and is related to the Consell, local governments and the rest of Valencian institutions according to this Law.

3. The agency is created to prevent and eradicate fraud and corruption in Valencian public institutions and to promote integrity and public ethics. In addition, it was created for the promotion of a culture of good practices and rejection of fraud and corruption in the design, execution and evaluation of public policies, as well as in the management of public resources.

Article 2. Legal Regime

The agency will be ruled by the provisions of this law. Regarding the matters not foreseen in this law and in its development regulations, the current regulations regarding common administrative procedure will apply.

For the imposition of the sanctions stated in chapter III, the provisions set forth in this law as well as in the common administrative procedure of the public administrations shall be reviewed or, in the case of infractions attributable to personnel at the service of these entities, the disciplinary regime official, statutory or labor that in each case is applicable.

Article 3. Scope of actions of the agency

The scope of actions of the Generalitat:

a) The administration of the Generalitat.

b) The instrumental public sector of the Generalitat, at the terms defined in the article

2.3 of Law 1/2015, of the Generalitat, of public finances, of the instrumental public sector and of subsidies.

c) The Valencian Corts, the Síndic de Greuges, the Sindicatura de Comptes, the Consell Valencià de Cultura, the Valencian Academy of Language, the Economic and Social Committee, the Consell Jurídic Consultiu and any other similar statutory institution that can be created in the future, in relation to its administrative and budgetary activity.

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- d) The entities that belong to the local governance of the Valencian Community and the related or dependent public sector entities.
- e) Valencian public universities and related or dependent public sector entities
- f) Corporations of public law, regarding the activities subject to administrative law.
- g) The associations constituted by the public administrations, the organisms and the public entities.
- h) The activities of individuals or legal entities that are concessionaires of services or recipients of public subsidies, in order to verify the destination and use of the aids or subsidies.
- i) The activities of contractors and subcontractors that execute works of public administrations and entities of the public sector of the Generalitat, or activities that have been entitled the management of public services or the execution of public works by any other title, in relation to the accounting, economic and financial management of the service or work, and to the other obligations that arise from the contract or from the law.
- j) Political parties, trade union organizations and business organizations.
- k) Any entity, regardless of the type or legal form, that is financed mostly by public administration or is subject to effective control of them.

Article 4. Objectives and Functions

The purposes and functions of the agency are as follows:

- a) The prevention and investigation of possible cases of illegal use or allocation of public funds and of behaviors contrary to the integrity or to the principles of objectivity, effectiveness and full submission to the law and rights.
- b) The prevention and warning in relation to the behavior of the personnel at the service of public entities that involve the use or abuse, for private benefit, of information they have because of their duties or that they may have as a result in the illegal use or allocation of public funds or any other use contrary to the legal system.
- c) Investigate actions or omissions that could be submitted to administrative, disciplinary or penal infraction and, depending on the results of the investigation, accelerate the relevant procedures to purge the responsibilities that may correspond.
- d) The evaluation, in collaboration with the current control entities, of the effectiveness of legal instruments and current measures in the area of prevention and fight against fraud and corruption, in order to warranty the highest levels of integrity, efficiency and transparency, especially on matters of public procurement procedures, decision-making procedures, public services provision and of public resources management, and access and provision in public employment to ensure respect for the principles of publicity, equality, merit and capacity.
- e) Carry out studies and analysis of previous risks in activities related to public procurement procedures, public services provision, public subsidies or subsidies and decision-making procedures, in collaboration with audit or intervention services. In particular, it will study the reports referred to in article 218 of Royal Legislative Decree 2/2004, which approves the consolidated wording of the Law regulating local treasury offices, and of which the intervention will send an annual copy to the agency and the evaluation of his referral to the anti-corruption prosecutor's office.
- f) Carry out advisory functions and present proposals and recommendations to Les Corts, the Consell de la Generalitat and the entities included in the scope of action in matters of integrity, public ethics and prevention and fight against corruption.
- g) Attend, when so requested, the parliamentary research commissions through non-binding opinions on matters regarding which there are indications of illegal use or allocation of public funds or of illegitimate use of the public status of a position.

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- h) Collaborate with the organs and entities of internal and external control of the administrative action in the establishment of previous, clear and stable criteria control of public action.
- i) Collaborate with the competent entities in the training of personnel on matters of integrity and public ethics through the preparation of training guides and specialized advisory on the fight against fraud and corruption.
- j) Collaborate with the competent entities on matters of conflicts of interest and incompatibilities to prevent and correct actions that may infringe the applicable regime in each case.
- k) Establish collaborative relationships and preparation of action proposals with organizations that have similar functions in the State, in the autonomous communities or in the European Union.
- l) The contribution that the agency can create a social culture of corruption rejection, either with specific programs of awareness for the citizens or in coordination with governments or other public or private organizations.
- m) Those other actions which content and purpose can be considered preventive actions against fraud and corruption.
- n) Promote spaces for meetings and exchange of opinions with civil society on regular basis, where their contributions will be collected.
- o) All other attributions assigned by law.

Article 5. *Delimitation of functions and collaboration*

1. It is understood in all cases that the functions of the agency are, without prejudicing their current duties, in accordance with the specific regulatory statutes, the Comptroller's Office, the Ombudsman, the Transparency Council, access to Public Information and Good Government, the intervention of the General Comptroller of the Generalitat, the General survey of Services, the competent entities on matters of incompatibilities and conflicts of interest and the control, supervisory and protectorate institutions of the entities included in the corresponding scope of action, and that acts in any case in collaboration with these institutions and entities. The agency will provide all the information available and will provide the necessary support to the institution or entity that carries out the corresponding investigation or inspection.

In compliance with its duties, the agency may provide collaboration, assistance and exchange of information with other institutions, organizations or public entities through joint plans and programs, agreements and protocols of functional collaboration, within the framework of the applicable regulations.

2. The agency has no competence in the functions and matters that correspond to the judicial authority, the prosecutor's office and the judicial police, and nor can investigate the same facts that have been the object of its investigations. In the event that the judicial authority or the public prosecutor's office starts a procedure to determine the criminal relief of some facts that constitute at the same time the object of investigation actions carried out by the agency, this latter should interrupt its proceedings and immediately provide all the information available, in addition to providing the necessary support, being an support entity and of collaboration with the judicial authority and the prosecutor when it is required. The agency will ask the prosecutor's office for periodic information regarding the status of the proceedings initiated upon their request.

3. When the agency's investigations affect Les Corts, the statutory relief institutions, the local government, the Valencian public universities and, in general, anyone who enjoys constitutional or statutory recognized autonomy, these investigations shall be carried out warranting due respect to its autonomy.

4. The agency is related to Les Corts through the parliamentary committee that is established. This commission is responsible for the agency's performance control and the approval of the requirements demanded to the candidate or director candidate before the election by the Les Corts Plenary. The agency, whenever it is required, shall cooperate with the parliamentary committees of investigation by giving its opinions on matters within its scope of action. In addition, the director of the agency shall attend the parliamentary

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Commission for which he received a notice of Appear, to inform about the status of their actions and may request, when it deems appropriate, to appear.

5. The agency is related to the Council of the Generalitat through the person in charge of the competent council on matters of transparency and to the rest of public entities through the single-member entity representing them. All of this without prejudicing the fact that, by exercising its functions, the agency can direct communications and requests directly to the superior and directive departments of this entity.

6. At the local level, it shall ensure the independent and effective exercise of control and legality and control functions in the field of local governance, including dependent and instrumental entities, through the access to information issued by the supervisory entity, according to provisions in the article 218 of the consolidated wording of the local treasury regime.

7. The agency shall cooperate with the general administration of the State, to which it may request, under the terms and conditions established by the legal system, the data and background information necessary to fulfill the functions and powers that this law entitles the agency within its scope of action and within the competences established by the Autonomy Statute of the Valencian Community and by the rest of the legal system.

8. The agency is related to the regional, state, community and international institutions that have competences or that fulfill analogous functions. It is also related to any person, group or entity that wants to make suggestions, proposals or request their action on matters of fraud and corruption prevention and control.

CHAPTER II

Investigation Procedure

Section 1. Investigation and survey capacity

Article 6. *Investigation and survey capacity*

1. With investigation and survey functions, the agency can access any information that is in power of legal persons, public or private, subject to its scope of action. In the event of individuals, the power of survey shall be strictly limited to activities related to public entities. In any case, access to information will be ruled by the principles of necessity and proportionality. The relationship with the investigated activity must be motivated and recorded in the file.

2. The director of the agency or, by express delegation, any officer of the agency that has been assigned to research or survey functions, may:

a) Appear, certifying the condition of authority or agent of the agency, at any office or unit of the administration or center destined to a public service to request information, make on-the-spot verifications and examine the documents, the files, the books, the records, accounting and databases, whatever the support are in which they are registered, as well as the physical and logistical equipment used.

b) Carry out personal interviews that are considered appropriate, both in the corresponding administrative units and at the headquarters of the agency. The people interviewed may attend accompanied and be assisted by the people they designate. They shall also have the rights and guarantees established by the current legislation, including the right to remain silent and to have legal assistance.

c) Access, if permitted by the current legislation, to the information of current bank accounts in entities in which payments deposits of funds have been made related to procedures for the awarding of public sector contracts or granting of subsidies or public subsidies upon request.

d) To agree, for the purpose of guaranteeing the indemnity of the data that may be collected, to issue copies or photocopies of the documents obtained, regardless of the type of records in which these documents.

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3. The public officials and the officers at the service of the agency who have been assigned to surveying competences, shall have the condition of agents of the authority. The documents that they formalize in which, according to the corresponding legal requirements, the facts verified by them are collected, shall serve as evidence, unless it is proven otherwise.

Article 7. *Collaboration Duty*

1. The public entities and private individuals or legal entities included in the scope of action of the agency must assist the agency promptly and diligently, exercising the functions that correspond thereto, and they shall immediately communicate any information available they may have, related to facts which knowledge is or may be competence of that agency.,.

2. The staff at the service of public entities, the public work positions and individuals included in the scope of action of the agency that prevent or hinder the exercise of their functions or those who refuse to provide reports, documents or files that they were requested to provide with, shall have the responsibilities that the current legislation states.

3. The agency shall expressly record the unjustified breach or the contravention of the duty to cooperate and they notify it to the affected person, authority or entity, so that this can claim what it is considered convenient. Likewise, this circumstance may be stated in the agency's annual report or in the extraordinary report submitted to the corresponding parliamentary commission, if so.

Article 8. *Confidentially*

1. The actions of the agency must ensure, in any case, the maximum reserve to avoid harm to the person or entity under investigation and as a safeguard of the effectiveness of the jurisdictional or administrative procedure that may be started as a result arisen from these proceedings.

2. The personnel of the agency, to warranty the confidentiality of the proceedings, is subject to the duty of secrecy on everything that they know due to their duties, duties that lasts after even though they does not work at the agency any more. Failure to this duty shall lead to open an internal investigation and the beginning, if appropriate, of the relevant disciplinary file, which the director of the agency shall report to the corresponding parliamentary commission within 30 days.

3. The duty of secrecy and maximum reserve are especially required in cases of data protected by commercial, industrial and business secrecy and in the alleged cases of bids and other contractual procedures in which confidentiality is capable of providing the holder with competitive advantages. In these cases, the information requested by the agency must be the necessary to carry out the investigative and surveying function and the treatment of the information must ensure that no harm is caused limiting competitiveness and that the effective protection against unfair competition is not affected.

Article 9. *Data protection and transfer*

1. The processing and transfer of data obtained by the agency as a result of its actions, especially those of a personal nature, are subject to the current regulations on data protection. The agency cannot disclose the data or inform other persons or institutions other than those who, in accordance with current regulations, may know about these data due to their duties, and neither these data may be used or transferred for purposes other than those stated in this law.

2. The agency, entities and institutions with control, supervision and protection functions of the entities included in its scope of action, may reach collaboration agreements for the communication of data and relevant information within the scope of their competences.

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3. The data and information requested by the agency in the exercise of its powers shall be sent to the relevant authority to start the disciplinary, sanctioning or criminal procedures that may result.

Article 10. Procedural Guarantees.

1. The regulation of internal operation and system of the agency shall rule the procedure to carry out the survey and investigative functions in a way that warrants the right to defense and the right to the presumption of innocence of the persons investigated, respecting in all case, the provisions of this article.

2. When the agency determines the possibility of individual involvement in an event that is subject to investigation, they shall immediately inform the affected person and shall start processing the hearing.

3. In the event an absolute secrecy is required to remain for the benefit of the survey, the communication and the hearing process may be deferred. In no case, they agency formulate or issue personalized conclusions or make nominal references in the reports and reasoned statements, if the affected person has not previously had the real possibility of knowing the facts, so that he / she can present allegations and provide the documents that consider proper, and these will be attached to the file.

4. If the investigations of the agency personally affect senior officials, officials, managers or public or private employees, the person responsible for the institution or entity under which authority they are or for which they provide services shall be informed, except for the cases that demand to keep an absolute secret for the benefit of the investigation, in which this communication should be deferred.

Section 2. Procedure

Article 11.

1. The actions of the agency shall be start ex officio, after approval of the director, after determining the likelihood, when the agency is aware of facts or behaviors that must be investigated, surveyed or when they advise to follow-up these facts and also when, after performing a risk analysis, risk indicators, advise to arrange the survey or the follow-up of certain events or activities.

The beginning of ex officio actions shall take place on their own initiative, as a result of a request made by Les Corts or by any other public entity or institutions, or upon whistleblowing.

2. Anyone can contact the agency to inform about behaviors that may be subject to investigation or survey to be carried out by the agency. In this case, a receipt of acknowledgment of the letter received shall be given. The informant may request that confidentiality be warranted about his or her identity, and the agency is obligated to do so, except for the cases where a judicial request is received.

3. The authorities, public employees and all those who perform public functions or carry out work in public entities and institution must immediately inform the agency, as soon as they are aware, about the facts that may be subject to investigation or survey to be carried out by the agency, without prejudicing the notification obligations of the criminal procedure legislation. In this case, the informant can also request that the confidentiality of his or her identity be ensured and the personnel of the agency are obliged to protect this confidentiality, except for the cases in which a judicial request is received.

Article 12. Determination of likelihood and term to start proceedings.

1. The proceedings shall start on behalf of the agency only when it has been proven that there are reasonable evidences of the veracity of the acts or behaviors that have been reported

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2. The resolution of the director about the beginning of the procedure or to create a file as a result of a whistleblowing or upon request may not exceed 30 working days from the presentation to the agency.

To this end, rectification or extension of the data provided shall open a new term.

Article 13. *Duration of the proceedings and processing*

The duration of the investigation carried out by the agency may not exceed six months from the acceptance of the beginning agreement, unless the circumstances or the complexity of the case suggest an extension of the deadline, in any case, must be motivated and it may not overcome six more months.

During the procedure, the common administrative proceeding shall apply.

Article 14. *Whistleblower Status*

1. *Whistleblower Status*

a) The action of the agency shall be specially aimed to protect the whistleblowers. A whistleblower is considered, to the effects of this law, any natural or legal person who informs or reports facts that may lead to legal liabilities.

b) The statute of the whistleblower stated in this law shall not apply when the whistleblowing is made and provides false, misrepresented or illicitly obtained information. In such cases, the agency may, after a hearing reserved for the whistleblower, file the report without further procedures, maintaining confidentiality, and the agency shall warn that if this information reported is made public, the statute of the whistleblower stated in this law shall not apply. Disciplinary or criminal liability could be arisen against the false whistleblower.

c) The agency must establish confidential procedures and channels to present whistleblowing that ensures strict confidentiality when the whistleblower requests the application of the statute ruled in this article. These procedures and channels may also be used by those who have already acted as whistleblowers to report reprisals or other harmful actions arising from the presentation of the whistleblowing.

d) Without the need for prior declaration or recognition, the whistleblowers, in good faith, shall receive immediate legal advice for the facts related to the whistleblowing and they shall have the guarantee regarding their identity.

The agency shall ensure that these whistleblowers do not suffer, during the investigation or after it, any kind of isolation, persecution or deterioration of working or professional conditions, or any kind of measure that implies any form of prejudice or discrimination.

If the agency is aware that the whistleblower has been victim, directly or indirectly, of intimidation or reprisals for having presented the whistleblowing, the agency may exercise corrective or restorative actions that they consider, which shall be recorded in the annual report. In particular, upon request of the whistleblower, the agency may ask the relevant entity to transfer him or her to another position, provided that it does not prejudice their personal status and professional career and, exceptionally, the agency may also ask the relevant institution to grant permission for a determined paid period of time. Likewise, the whistleblower may request from the agency advice on the procedures that are filed against him due to the whistleblowing.

e) The protection can be maintained, through a resolution of the agency, even beyond the culmination of the investigation processes the agency is undertaking, without prejudicing provisions in the sixth section of this article. In no case, the protection derived from the application of the whistleblower's statute, shall exempt him from the responsibilities he may have incurred due to events other than those that constitute the object of the whistleblowing

f) The statute of the whistleblower stated in this article shall be understood without prejudicing the provisions stated by the state regulations. In any case, when the agency reports before the relevant authority events which may be related to a crime which was

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that have been reported by persons who have undertaken themselves the statute of the whistleblower in accordance with this law, must expressly indicate it and make it clear when it may exist, in their opinion, the risk of serious danger for the person, freedom or property of the whistleblower or the witness, the spouse or the person to whom she or she is connected by analogous relationship of affectivity or the ascendants, descendants or siblings.

2. The virtual office of the public employee shall be created, allowing these personnel to confidentially show the administrative files that they consider irregular.

3. The lack of express resolution in the procedures related to the protection of the whistleblower referred in this article shall have dismissive effects.

Article 15. *Precautionary measures*

During the sanctioning and disciplinary procedures, the director of the agency can motivationally request the relevant entity to adopt the appropriate precautionary measures, if the effectiveness and the result of the investigations in progress or the public interest require it. The relevant entity, if they deem it appropriate, may agree and maintain these measures until the director of the agency provides the results of the proceedings.

Article 16. Completion of trial

Once the processing is finished, the director of the agency shall:

1. issue a reasoned report on the findings of the investigations, which must be processed by the correspond entity in each case, which, subsequently and within the period stated in the report, the director of the agency must inform on the measures adopted or, where appropriate, the reasons that prevent the agency from acting in accordance with the recommendations made.

2 finish the procedure, where appropriate, with file of the proceedings. The file shall be advised to the whistleblower or applicant in a written document.

3. Initiate a sanction procedure in accordance with the provisions of this law.

4. If, during the actions undertaken by the agency, there are evidences that disciplinary infractions have been committed, the director of the agency must notify the relevant entity in each case. If there are evidences that behavior or acts which presumably shows that an offense has been committed, it shall be immediately transferred to the prosecutor's office or to the judicial authority and, in case a possible accounting responsibility can arise, it shall be transferred to the jurisdiction of the Court of Justice of Accounts

5. The agency can send motivated recommendations to administrations and public entities suggesting the amendment, annulment or incorporation of criteria in order to avoid dysfunctions or administrative practices susceptible to improvement, in the cases and areas of risk of irregular behaviors detected.

6. If the social relevance or the importance of the facts that have motivated the action of the agency require so, the director may submit to the corresponding parliamentary commission, on his own initiative or by resolution of Les Corts, the report or extraordinary reports related thereto.

CHAPTER III Sanctioning regime

Article 17. *Liability*

Infringements, even by way of simple non-compliance, natural or legal persons are responsible, whatever their nature, the authorities, managers and personnel at the service of the entities envisaged in article 3, who carry out actions or incur the omissions typified in this law, with malice, guilt or negligence.

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Article 18. Offenses

I. The intentional acts or omissions are punishable infractions to the effects of this law, with any degree of negligence that are typified and sanctioned as such in this law. In particular, these acts are to:

1. Obstruct the investigation procedure:
 - a) Unjustifiably refuse to send information within the period established for this purpose in the application for the agreement to start the investigation file.
 - b) Unjustifiably delay sending the information within the period established for that purpose in the agreement to start the file.
 - c) Submit information incompletely.
 - d) Make difficult the access to the files or administrative documentation necessary for the investigation.
 - e) Not unjustifiably attend the hearing requested by the agency.
2. Not to comply with the protection measures of the whistleblower when the lack of collaboration has caused damage to the whistleblower or to the investigation.
3. Not to report the facts which are likely to be considered acts of corruption or fraudulent or illegal behavior contrary to the public interest.
4. Filter information during the investigation and / or lack of diligence in the custody of the file.
5. Allegedly false whistleblowing

II. Types of infractions.

Infractions are classified as minor, serious and very serious.

1. Serious infractions:
 - a) Failure to comply with the protection measures of the whistleblower when the lack of collaboration has caused serious damage to him or her or to the investigation.
 - b) The leak of information during the investigation when it causes serious damage to the investigation or to the whistleblower.
 - c) Failure to report the facts that are likely to be considered as fraudulent behavior or corruption or contrary to the public interest, when there is no judicial investigation open before the judge or prosecutor.
 - d) Clearly false whistleblowing that causes serious damage to the reported person due to the whistleblowing.
2. Serious infractions:
 - a) Failure to comply with the stated obligations of active collaboration or provision of information when the express requirement of the agency has been disregarded after a first delay.
 - b) Unjustifiably refuse to send information that delays the investigation.
 - c) Unjustifiably delay sending the information, causing damage to the investigation process.
 - d) Make difficult the access to the files or administrative documentation necessary for the investigation.
 - e) Not attend unjustifiably the hearings arranged by the agency.
3. Minor infractions:
 - a) The incomplete remission of information intentionally.
 - b) The lack of diligence in the custody of the documents under investigation.

Article 19. Sanctions

The following penalties apply to infractions of the previous article:

1. Minor sanctions:
 - a) Warning

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- b) Fine from 200 to 5,000 euros.
- 2. Serious sanctions:
 - a) Breach of duty Declaration
 - b) Fine from 5,001 up to 30,000 euros.
- 3. Very serious sanctions:
 - a) Breach of duty declaration.
 - b) Fine from 30,001 to 400,000 euros.
- 2. Any act or resolution adopted as a basis for corrupt or fraudulent behavior classified as serious and very serious shall be null and void.
- 3. For leveling of sanctions, the relevant entity shall comply with the principles of proportionality and they shall assess the degree of culpability and, if appropriate, the damage caused or the risk produced or derived from the infractions and their transcendence.
- 4. Penalties for serious or very serious infractions established by the agency, shall be published in the "Official Gazette of the Generalitat Valenciana" for general knowledge.

Article 20. Disciplinary regime

- 1. To the personnel included within the scope of application of the Royal Legislative Decree 5/2015, dated October 30, which approves the consolidated wording of the Basic Statute Law for public employees, the corresponding sanctions shall be applied according to the disciplinary regime that results in each case.
- 2. The agency, when it finds out breaches susceptible to be qualified as one of the infractions foreseen in this chapter and that could derive in disciplinary responsibility, shall present the proposal to the competent superior entity to begin the disciplinary procedure. In this last case, the relevant entity shall be obliged to notify the agency the result of the procedure.
- 3. The competence for the imposition of disciplinary sanctions shall correspond to the entity determined by the regulations applicable in the administration or organization in which the infringing person provides services.

Article 21. Sanctioning competence and procedure

- 1. The entity responsible for imposing sanctions as a result of the commission of the offenses set forth in article 18 of this law, is the directorate of the agency.
- 2. The sanctioning procedure shall be ruled by the provisions of this law, the common administrative procedure and the sanctioning administrative procedure.
- 3. The duration of the sanctioning actions of the agency may not exceed six months from the adoption of the agreement to start sanctioning procedures, unless the complexity of the case suggests an extension of the timelines that, in any case, may not exceed six months. The resolution must be motivated.

CHAPTER IV

The results

Article 22. Annual report.

- 1. Annually, within the first three months, the agency shall report the activity carried out through the preparation of a report that shall include the actions developed during the previous year in the scope of its functions.

This report shall include, at least, the number and nature of the filed whistleblowing activity and also those that were the object of the investigation and the result thereof, specifying the suggestions or recommendations made to the administration and the number of open procedures upon request of the agency, both of an administrative nature and of a judicial nature, against officials and public officials.

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2. The report shall not contain personal data and references that show the identity of the affected persons, except for the fact that they are already public as a result of a final criminal or administrative sentence.

3. The annual report shall be sent to Les Corts upon prior appearance of the director before the corresponding commission. The annual report shall be public and shall also be sent to the Consell de la Generalitat, the Sindicatura de Comptes, the Síndic de Greuges and the Transparency Council, Access to Public Information and Good Government Council. A copy of this report shall also be sent to the public prosecutor's office, to the provincial audiences of Castellón, Valencia and Alicante and to the Superior Court of Justice of the Comunitat Valenciana.

Article 23. Special and extraordinary reports.

1. When special circumstances arise, the agency, by own initiative or upon request of Les Corts or the Consell de la Generalitat, may prepare and submit to the corresponding parliamentary committee of the Valencian Corts or, as the case may be, to its Permanent Deputation, special or extraordinary reports.

2. Both the annual report and the special or extraordinary report shall be published in the official «Butlletí de les Corts» and in the transparency portal of the agency's website.

Article 24. Recommendations and opinions

The agency, upon request of the parliamentary commissions may draw up recommendations and non-binding opinions on matters related to fraud and corruption.

Article 25. Citizens Accountability

The agency shall report to the citizenship the statements of its management in the field of prevention, investigation and evaluation of policies and practices related to fraud and corruption in the Valencian public administration and their instrumental public sector. To this end, the agency shall use as many means as possible so that citizens can be duly informed. The agency shall provide with the results of its action to the media, and it shall also organize meetings with civil society to directly participate in the results of its activity and the actions carried out, indicating the difficulties or reticence.

CHAPTER

Personal and material means

Section 1. Personal means

Article 26. Personal status of the agency management

1. The agency shall be run by a director, who shall exercise the position with full independence, irrevocability and with objectivity in the performance of the functions and within the scope of the agency's own powers, and shall always act with full submission to the law and to the right. The director shall have the status of public authority and shall be entitled to a senior position with the rank of general director.

2. The director's term in the position is seven years from the date of his election by Les Corts and shall not be renewable.

3. The director is elected by the Valencian Corts among citizens of legal age who enjoy the full exercise of their civil and political rights and who meet the conditions of suitability, probity and professionalism necessary to exercise the position. They must be in possession of a higher university degree that is suitable for the functions assigned thereto, and they must have more than ten years of work or professional activity related to the functional scope of the agency. They must also have the administrative neighborhood of the Valencian Community.

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4. The candidates for the position shall be proposed to Les Corts by social organizations that currently work against fraud and corruption in the Valencian Community and by parliamentary groups. Candidates must appear before the corresponding parliamentary commission within the framework of a public announcement to be evaluated in relation to the conditions required for the position. The agreement reached in this commission will be transferred to the Plenary of the Valencian Corts.

5. The director shall be elected by the Plenary of Les Corts by a majority of 3/5. If the required majority is not obtained, new proposals shall be made by the same procedure within a maximum period of one month.

6. The director of the agency, after being elected by Les Corts, is appointed by the person who is the Presidency of Les Corts and must accept the position within one month from the date of the appointment publication, in the «Official Journal of the Generalitat Valenciana».

Article 27. Incompatibilities

1. The condition of director of the agency is incompatible with:

- a) Any representative position.
- b) The status of member of the Constitutional Court, Síndic de Greuges, Comptroller's Office, Consell Valencià de Cultura, Valencian Language Academy, Economic and Social Commission, Consell Jurídic Consultiu or any position designated by Les Corts, by the Congress or the Senate.
- c) Any political position or administrative function of the State, the autonomous communities, the local entities and of the entities related thereto or that depend on them, and also of the international community organizations or institutions.
- d) The exercise of any professional, commercial or labor activity.
- e) The active exercise of the judicial and fiscal career.
- f) Any running or advisory position in associations, foundations and other non-profit entities.
- g) Affiliation with any political party, trade union or professional or business association.

2. The incompatibility regime stated by the legislation applicable to senior officials and the provisions of this law are applicable to the director of the agency.

3. The director of the agency in a situation of incompatibility that affects him or her, must present his or her resignation of the incompatible activity within the month following the appointment and before taking possession. If do not, it is understood that he or she does not accept the appointment. In the case of supervening incompatibility, you must regularize your

Article 28. Resignation or dismissal

1. The director of the agency shall leave his/her position for any of the following causes:

- a) Resignation
- b) Extinction of the mandate for its completion.
- c) Supervening incompatibility. In this case, he shall be given a prior hearing.
- e) Disqualification for exercising political rights declared by a final judicial decision.
- f) Imputation with adoption of precautionary measures, opening of oral trial or conviction by final sentence for committing a crime.
- g) Notorious and serious negligence meeting the obligations and duties of the position.
- h) Loss of the administrative neighborhood of the Valencian Community.

2. In the event that the cause is determined by letter g of section 1, the removal of the director must be proposed and approved by the corresponding parliamentary commission. Prior to the vote in commission, the director shall be called to hearing and then, the voting

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shall be carried out by the absolute majority. The dismissal proposal must be submitted to the Les Corts Plenary and approved by 3/5 of the majority. In the other cases, the cessation shall correspond to the Presidency of Les Corts.

3. Once the dismissal or resignation of the director is done, the procedure for a new appointment begins. In case of termination for the cause determined in letter b of section 1, the director must continue exercising his duties until the new appointment is made. In the rest of the cases, if there is not a new appointment and an acceptance of the position by the new director, the Presidency of Les Corts shall appoint an acting director among the agency's personnel.

4. In order to ensure due publicity and transparency in the process of appointing a new director, Les Corts shall publish a call for applications in the «Official Journal of the Generalitat Valenciana» at least six months before the end of the term of the active director.

Section 2. Personnel of the agency

Article 29. Appointment, principles, incompatibilities and dismissal.

1. The job positions at the agency shall be exercised by civil servants and career civil servants.

The personnel are obliged to keep the secrecy of the data, information and documents that they may know to meet their duties.

2. The personnel at the service of the Agency shall be chosen, in accordance with the principles of equality, publicity, merit and capacity, appropriate to the function assigned thereto, from the officials of the different public administration entities; and is subject to the regulations ruling the personnel of Les Corts, without prejudicing the provisions which may specifically be stated in the internal regulations and operation of the Agency.

The job positions shall be classified and provided in accordance with the rules of the Valencian Public Function Law.

3. The list of positions shall be prepared and approved by the agency.

4. The same causes of incompatibility applying to public officials shall apply to the personnel at the service of the agency.

5. The personnel working for the agency shall be removed or shall present the resignation, according to the reasons determined by the regulations applicable to them respectively.

6. In order to ensure that the personnel assigned to the agency have the technical training and due ongoing training, some agreements or teaching protocols may be reached with the Valencian Institute of Public Administration (IVAP), the Valencian public universities or any other another entity of higher education and offices of similar nature, of an autonomous, state, community or international nature.

Section 3. Material and financing means

Article 30. Budget and accounting

1. The financial allowance necessary for the operation of the agency shall be independent funds in the general budgets of the Valencian Courts.

2. The management of the agency shall prepare and approve the draft operating budget referred in the previous section and they shall send it to the Bureau of Les Corts to the appropriate purposes, to be integrated with due independence in the budget project of the Generalitat, in accordance with the regulations on budgetary matters.

3. The agency must have the necessary and adequate financial resources for the effective fulfillment of the assigned functions.

4. The management, administration and disposition of the assets and the rights of the agency as well as the assets of the Generalitat that are assigned to agency to comply with the purposes, shall be subject to the Property Law of the Generalitat.

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5. The budget of the Agency shall be adjusted to the budgets of the Valencian Courts.
6. The accounting of the Agency is subject to the principles of public accounting and the system of authorization, provision, obligation and payment to ensure budgetary control. The Agency is subject to the Intervention of Les Corts, as they determine, and the Agency shall justify the management, annually, before the Comptroller's Office.
7. The annual report of the agency shall contain the liquidation of the budget.

Sole additional provision.

The hiring of the agency will be adjusted to the provisions stated in the legislation on public sector contracting process which are applicable in each case.

First transitory provision.

One. During 2016, the financial resources of the agency shall be integrated by:

1. The corresponding budgetary allocations charged to the budget of the Valencian Government.
2. The income coming from the assets and rights assigned thereto.
3. Any other income that corresponds by virtue of this law, contract and agreement.

Two. The director of the agency, within six months from the date of his or her appointment, shall prepare and submit to the Corts Valencianes the draft regulation of operation and internal regime of the agency for the subsequent approval by the agency. This regulation shall be published in the Official Newsletter of the Corts and in the Official Journal of the Generalitat Valenciana.

Second transitory disposition.

The provisory organizational structure for 2016 shall be drawn up and approved within one month from the date of the appointment, by the Directorate of the agency.

Third transitory provision.

For the start-up of the agency shall be offered among the officials of the levels assigned in the approved work positions, the assignment in commission of services in the aforesaid positions.

Derogatory provision.

All provisions of the same level position or of a lower position that are contrary to the provisions of this law are derogated.

Final provision.

This law shall come into force the day after its publication in the "Official Journal of the Generalitat Valenciana".

Therefore, I order that all citizens, courts, authorities and public authorities to whom it corresponds, observe and enforce this Law.

Valencia, November 28, 2016.

The President of the Generalitat,
Ximo Puig I Ferrer.

This consolidated wording has no juridical validity