



Decision of the Management Board 21/2021/MB

**CONCERNING THE TERMS AND CONDITIONS
FOR INTERNAL INVESTIGATIONS AT CEPOL IN RELATION TO THE PREVENTION
OF FRAUD, CORRUPTION AND ANY ILLEGAL ACTIVITY DETRIMENTAL TO THE
INTERESTS OF THE UNION AND REPLACING AND REPEALING DECISION
01/2006/GB**

Adopted by the Management Board

on 23 November 2021

THE MANAGEMENT BOARD,

Having regard to Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/681/JHA¹ hereinafter referred to as the 'CEPOL Regulation', in particular Article 29 thereof,

Having regard to the accession of CEPOL to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF)²,

Having regard to Decision of the Governing Board of the European Police College 01/2006/GB concerning the terms and conditions for internal investigations in relation to prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests, adopted on 13 January 2006,

Having regard to Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (hereinafter referred to as 'OLAF')³,

Having regard to the Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999⁴, hereinafter referred to as the 'OLAF Regulation',

Having regard to Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁵,

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC⁶, hereinafter referred to as 'Regulation 2018/1725',

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, EURATOM, ECSC) 259/19687 (hereinafter referred to as the 'Staff Regulations and CEOS'), and last amended by Regulation (EU, EURATOM)

¹ OJ L 319, 4.12.2015, p. 1–20.

² OJ L 136, 31.05.1999, p. 15–19.

³ OJ L 136, 31.05.1999, p. 20–22.

⁴ OJ L 248, 18.9.2013, p. 1–22.

⁵ OJ L 292, 15.11.1996, p. 2–5.

⁶ OJ L 295, 21.11.2018, p. 39–98.

⁷ OJ L 56, 4.3.1968, p. 1–7.

1023/2013 of the European Parliament and the Council of 22 October 2013, and in particular Articles 11 to 26a, Title VI and Annex IX of the Staff Regulations applicable by analogy to temporary agents and contract agents by virtue of Articles 11, 50a, 81 and 119 of the CEOS,

Whereas:

- (1) The terms and conditions for internal investigations at CEPOL by OLAF were firstly adopted by Decision 01/2006/MB. To comply with the new legal framework and terminology, it is necessary to adopt a new decision,
- (2) Article 1(4) of the OLAF Regulation provides that OLAF shall conduct internal administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union, within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties. To that end, OLAF shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, their alternates, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations,
- (3) The responsibilities of OLAF, as established by Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999, extend beyond the protection of financial interests to include all activities related to the need to safeguard the Union's interests against irregular conduct liable to give rise to disciplinary or criminal proceedings.
- (4) Pursuant to Article 2(1) last subparagraph of Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999, OLAF may be entrusted by the European Commission or by the other institutions or bodies with investigations in other areas than the ones referred to in recital (2) above.
- (5) The scope of the fight against fraud should be broadened and its effectiveness enhanced by exploiting existing expertise in the area of administrative investigations,
- (6) Pursuant to Article 29 of the CEPOL Regulation, in order to facilitate the fight against fraud, corruption and any other illegal activity under Regulation (EU, Euratom) No 883/2013, CEPOL shall adopt appropriate provisions applicable to all employees of CEPOL,
- (7) Therefore, on the basis of its administrative autonomy, CEPOL entrusts OLAF with the task of conducting internal administrative investigations with a view to bringing to light serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials and other servants of the Union, as referred to, in particular, in Articles 11 to 26a of the Staff Regulations and Articles 11 and 81 of the Conditions of Employment of Other Servants of the European Union, detrimental to the Union's interests and liable to result in disciplinary or, in appropriate cases, criminal proceedings, or serious misconduct and/or failure, as referred to, in particular, in Articles 22, 22(a) and 22 (b) of the Staff Regulations and Articles 11 and 81 of the CEOS, or a failure as referred to in Article 86 of the Staff Regulations and Articles 50a and 119 of the CEOS, or an equivalent failure to comply

with the analogous obligations of the members of the Management Board, their alternates and members of staff of CEPOL not subject to the Staff Regulations or the CEOS;

- (8) Such investigations should be conducted in full compliance with the Treaties, and in particular Protocol No 7 on the privileges and immunities, the texts implementing them and the Staff Regulations and CEOS,
- (9) Such investigations should be carried out under equivalent conditions in all the Union institutions, bodies, offices and agencies; assignment of this task to OLAF should not affect the responsibilities of CEPOL and should in no way reduce the legal protection of the persons concerned,
- (10) Practical arrangements stipulating how the Executive Director of CEPOL, members of the Management Board, their alternates, and of the staff of CEPOL are to cooperate with the staff of OLAF in the smooth operation of the internal investigations as well as specifying the procedural guarantees applicable to investigations conducted by OLAF are required.

HAS ADOPTED THIS DECISION:

Article 1
Duty to cooperate with the OLAF

- (1) The Executive Director of the European Union Agency for Law Enforcement Training (hereinafter referred to as “CEPOL”) and any member of staff of the CEPOL (hereinafter referred to as “member of staff of CEPOL”) shall cooperate fully with the staff of the European Anti-fraud Office (hereinafter referred to as “OLAF”) and shall lend any assistance required to the investigation related to fraud or corruption or to any other illegal activity detrimental to financial interests of the Union or to serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of the members of the Management Board, their alternates and the staff members of CEPOL not subject to the Staff Regulations. With that aim in view, they shall supply the staff of OLAF with all useful information and explanations.
- (2) Without prejudice to the relevant provisions of the Treaties and of the texts implementing them, members of the Management Board and their alternates shall cooperate fully with OLAF and shall lend assistance as provided in paragraph (1) above.

Article 2
Duty to supply information

- (1) The Executive Director of CEPOL, members of the Management Board, their alternates and any member of staff of the CEPOL who, in course of or in connection with the performance of his/her duties, becomes aware of information and/or evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the interests of the Union, or of serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials or other servants of the Union liable to result in disciplinary or, in appropriate cases, criminal proceedings, or a failure to comply with the analogous obligations of the members of staff not subject to the Staff Regulations, shall inform without delay, in case of the Executive Director of CEPOL or member of the Management Board, the chairperson of the Management Board or in case of a member of staff of CEPOL his immediate superior or the Executive Director of CEPOL, or in both cases, where he/she has justified reasons to consider that the procedure set out in this paragraph would prevent a proper reporting to OLAF, shall inform OLAF directly.
- (2) The chairperson of the Management Board, the Executive Director or any member of staff of CEPOL shall transmit to OLAF without delay any information and /or evidence of which he/she is aware from which the existence of irregularities as referred to in paragraph (1) may be presumed.
- (3) Neither the Executive Director of CEPOL nor any member of staff of CEPOL shall in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in paragraphs (1) and (2), provided that he acted reasonably and honestly.

Article 3
Assistance from CEPOL

At the request of the Director-General of OLAF, addressed to the Executive Director of CEPOL, a member of staff of CEPOL in charge of security shall assist OLAF in the practical conduct of investigations.

Article 4
Informing the person concerned

- (1) Whenever an investigation by OLAF reveals the possible implication of the Executive Director of CEPOL, a member of the Management Board, their alternates or a member of staff of CEPOL, the person concerned shall be informed as soon as possible, provided that this is not harmful to the investigation. In any event, once the investigation has been completed conclusions referring by name to the Executive Director of CEPOL, member of the Management Board or a member of the staff of CEPOL may not be drawn up without the persons concerned having been given the opportunity to comment on facts, which concern them. The final investigation report shall make reference to any such comments.

(2) In cases necessitating the maintenance of absolute secrecy for the purposes of the investigation and requiring the use of investigative procedures falling within the remit of a national judicial authority, compliance with the obligation to invite the Executive Director of CEPOL, a member of the Management Board or a member of staff of CEPOL to comment may be deferred in agreement in case of the Executive Director of CEPOL or a member of the Management Board with the chairperson of the Management Board and in case of a member of staff of CEPOL with the Executive Director of CEPOL respectively. In such cases, no disciplinary proceedings may be opened before the person concerned has been given an opportunity to comment.

Article 5

Information on the closing of the investigation with no further action taken

If, on completion of an internal investigation within CEPOL by OLAF, no case can be made out against the Executive Director of CEPOL, a member of the Management Board, their alternates or a member of staff of CEPOL against whom allegations have been made, the internal investigation shall be closed, with no further action taken, by decision of the Director-General of OLAF, who shall inform the person concerned in writing.

The Executive Director of CEPOL or the member of staff of CEPOL may request that this decision be inserted in his personal file.

Article 6

Waiver of immunity

Any request from a national police or judicial authority regarding the waiver of the immunity from judicial proceedings of the Executive Director of CEPOL, a member of the Management Board, their alternates or a member of staff of CEPOL concerning possible cases of fraud, corruption or any other illegal activity shall be transmitted to the Director-General of OLAF for his/her opinion. If a request for waiver of immunity concerns a national member of the Management Board, or a seconded national expert, OLAF shall be informed.

Article 7

Persons working on the basis of a contract and seconded national experts

Any person working with CEPOL on the basis of a contract agreed between CEPOL and an employment agency, as well as seconded national experts, shall be regarded as member of the staff of CEPOL.

Decision of the Management Board 21/2021/MB
CONCERNING THE TERMS AND CONDITIONS
FOR INTERNAL INVESTIGATIONS IN RELATION TO PREVENTION OF
FRAUD, CORRUPTION AND ANY ILLEGAL ACTIVITY DETRIMENTAL TO
THE COMMUNITIES' INTERESTS
Effective from 24 November 2021



Article 8
Effective date

Decision 01/2006/GB is hereby repealed and replaced by the present Decision.

This Decision shall take effect on the day following that of its adoption.

Done at Lisbon, on 29 November 2021

For the Management Board
<< Signature on file >>

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Mr José Leitão
Chair of the Management Board