

**Decision of the Executive Director 026/2019**

**Concerning the adoption of CEPOL Code of Good Administrative Behaviour**

**Adopted by the Executive Director**

**On 02 August 2019**

THE EXECUTIVE DIRECTOR,

Having regard to Article 15 of the Treaty on the Functioning of the European Union and Article 41 of the Charter of the Fundamental Rights of the European Union;

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/JHA<sup>1</sup> (hereinafter referred to as “the CEPOL Regulation”), in particular Article 14(5)(a) thereof;

Having regard to Decision 003/2010 of the Director concerning CEPOL Code of Conduct, adopted on 25 June 2010;

Having regard to the recommendations of the European Ombudsman on a European Code of Good Administrative Behaviour for agents or other servants in their relations with the public;

Whereas:

(1) Article 15(1) of the Treaty on the Functioning of the European Union promotes openness in the work of the Union’s institutions, bodies, offices and agencies.

(2) Pursuant to Article 41(1) of the Charter of Fundamental Rights of the European Union, every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

(3) A Code of Good Administrative Behaviour helps putting the principle of good administration into practice thereby promoting the public interest in an open, efficient, and independent European administration.

(4) The European Ombudsman has provided recommendations regarding the standards to which the EU public administration adheres.

(5) It is necessary to repeal the Decision 003/2010 and adopt a new Code of Good Administrative Behaviour;

HAS DECIDED AS FOLLOWS:

## **CHAPTER I. GENERAL PROVISIONS**

### **Article 1 Purpose**

1. CEPOL has a duty to serve the European Union interest and, in doing so, the public interest.

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<sup>1</sup> OJ L 319, 4.12.2015, p.1

2. In order to enable CEPOL to meet its obligations of good administrative behaviour and in particular in the dealings that CEPOL has with the public, CEPOL undertakes to observe the standards of good administrative behaviour set out in this Code and to be guided by these in its daily work.

## **Article 2 Scope**

1. The Code is binding on all CEPOL staff members covered by the Staff Regulations.
2. It also applies to others persons working for CEPOL, such as interim agents, contractors and consultants, seconded national experts (SNEs) and interns.
3. This Code contains the general principles of good administrative behaviour which apply to all relations of CEPOL with the public, unless they are governed by specific provisions such as the rules on public procurement.
4. The principles set out in this Code do not apply to the relations between CEPOL and staff members. Those relations are governed exclusively by the Staff Regulations.
5. For the purpose of this Code, the term 'public' refers to all natural persons and legal persons regardless of whether they reside or have their registered office in a Member State or not.

## **CHAPTER II. PRINCIPLES OF GOOD ADMINISTRATION**

### **Article 3 Lawfulness**

Staff members shall act in accordance with the law and apply the rules and procedures laid down in EU legislation. Staff members shall in particular take care to ensure that decisions, which affect the rights or interests of individuals have a basis in law and that their content complies with the law.

### **Article 4 Non-discrimination and equal treatment**

1. In dealing with requests from the public and in taking decisions, staff members shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated in similar manner. Hence, should there be differences in treatment of similar cases, they must be specifically warranted by the relevant features of the particular case in hand.
2. If any difference in treatment is made, staff members shall ensure that it is justified by the objective relevant feature of the particular case.
3. The staff members shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, race, color, ethnic origin, genetic features, language, religion or belief, political or any other opinion membership of a national minority, birth, disability, age or sexual orientation.

### **Article 5 Proportionality**

1. When taking decisions, staff members shall ensure that the measures taken are proportional to the aim pursued. The staff members shall in particular avoid restricting the rights of the citizens or imposing charges on them, when those restrictions or charges are not in a reasonable relation with the purpose of the action pursued.
2. When taking decisions, the staff members shall respect the fair balance between the interest of private persons and the general *public* interest.

### **Article 6**

#### **Absence of abuse of power**

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. The staff members shall in particular avoid using those powers for the purposes which have no basis in the law or which are not motivated by any public interest.

### **Article 7**

#### **Impartiality, independence and fairness**

1. The staff members shall be impartial and independent. They shall abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.
2. The conduct of the staff members shall never be guided by personal, family, or national interest or by political pressure. A staff member shall not take part in a decision in which she or he, or any close member of his family, has a financial interest.
3. The staff members shall act impartially, fairly and reasonably.

### **Article 8**

#### **Objectivity**

When taking decisions, the staff members shall take into consideration the relevant factors and give each of them its proper weight in the decision, whilst excluding any irrelevant element from consideration.

### **Article 9**

#### **Legitimate expectations, consistency and advice**

1. Any staff member shall be consistent in his or her administrative behaviour as well as in the administrative action of the institution. The staff members shall follow CEPOL's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case. Where such grounds exist, they shall be recorded in writing.
2. The staff members shall respect the legitimate and reasonable expectations that members of the public have in light of how CEPOL has acted in the past.
3. Any staff member shall, where necessary, advise the public on how a matter, which comes within his or her remits, is to be pursued and how to proceed in dealing with the matter.

## **Article 10 Courtesy**

1. The staff members shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and emails, the staff member shall try to be as helpful as possible and shall reply as completely and accurate as possible to questions asked.
2. If a staff member is not responsible of the matter concerned, he or she shall direct the citizen to the appropriate staff member.
3. If an error occurs, which negatively affects the right or interests of a member of the public the staff member shall apologise for it and endeavour to correct the negative effect resulting from his or her error in the most expedient way. He or she shall also inform the member of the public of any rights of appeal in accordance with Article 20 of this Code.

### **CHAPTER III. RELATIONS WITH THE PUBLIC**

## **Article 11**

### **Acknowledgement of receipt and indication of the competent entity**

1. Every request or complaint to CEPOL shall receive an acknowledgement of receipt within a period of two calendar weeks, except if a substantive reply can be sent within that period.
2. The reply or acknowledgement of receipt shall indicate the department dealing with the matter, including relevant contact details such as a functional email address if applicable.
3. No acknowledgement of receipt and no reply need to be sent in cases where requests or complaints are abusive because of their excessive number or because of their repetitive or pointless character.

## **Article 12**

### **Reply to letters in the language of the citizen**

The staff member shall ensure that every citizen of the Union or any member of the public who writes to CEPOL in one of the official languages of the European Union receives a reply in the same language. The same shall apply as far as possible to legal persons such as associations (NGOs) and companies. The staff member will notify the public each time additional time is necessary for translation purposes.

## **Article 13**

### **Obligation to transfer to the competent organisational entity of CEPOL**

1. If a request or complaint to CEPOL is addressed or transmitted to an entity which has no competence to deal with it, the latter shall ensure that the file is transferred without delay to the competent department.
2. The entity that originally received the request or complaint shall inform the author of this transfer and shall indicate the contact details of the service to which the file has been passed.

3. The staff members shall alert the member of the public or organisation to any error or omission in documents and provide an opportunity to rectify them.

#### **Article 14**

##### **Requests for information**

1. CEPOL shall provide members of the public with the information they requested. The information provided to the members of the public shall be clear and understandable.
2. Requests for information are to be submitted in writing.
3. A reply to a request for information shall be sent within fifteen working days from the date of receipt of the request by the responsible CEPOL entity. If a reply cannot be sent within this time-limit, CEPOL shall send a holding reply.
4. The time-limit provided for in paragraph 3 may be extended by fifteen working days.
5. If the information cannot be disclosed because of its confidential nature, CEPOL shall indicate to the person concerned the reasons preventing the communication of the information requested.
6. Where a member of the public requires information relating to a CEPOL administrative procedure, staff members shall ensure that this information is provided within the deadline prescribed for the relevant procedure.
7. If the request for information concerns another EU institution/body/agency, CEPOL shall direct the requester to that institution/body/agency.

#### **Article 15**

##### **Request for public access to documents**

Request for access to public documents are to be handled under the provision of [Regulation \(EC\) 1049/2001<sup>2</sup>](#) regarding public access to European Parliament, Council and Commission documents and Management Board Decision 05/2017/MB on the implementation of Regulation (EC) 1049/2001 regarding public access to documents.

### **CHAPTER IV. RIGHTS OF INTERESTED PARTIES**

#### **Article 16**

##### **Right to be heard and to make comments**

1. In cases where the rights or interests of individuals are involved, CEPOL shall ensure that, at every stage in the decision making process, the right of defence is respected.
2. Every natural and legal person shall have the right to be heard, before any individual measure that should affect him/her adversely is taken.

#### **Article 17**

##### **Reasonable time-limit for taking decisions**

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<sup>2</sup> OJ L 145/43, 31.5.2001.

1. Staff members shall ensure that a decision on every request or complaint sent to CEPOL is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt.
2. The same rule shall apply on answering letters from members of the public and for answers to administrative notes that the staff members have sent to their superiors requesting instructions regarding decisions to be taken.
3. If a request submitted to CEPOL cannot, because of the complexity of the matters that it raises, be decided upon within the above-mentioned time-limit, the staff member shall inform the author without delay. The final decision should be communicated in the shortest possible delay.

### **Article 18**

#### **Duty to justify decisions**

1. Every decision of CEPOL that may adversely affect the rights or the interests of the persons and parties concerned, shall clearly state the grounds on which it is based by indicating the relevant facts and legal basis of the decision.
2. CEPOL shall avoid making decisions that are based on brief or vague grounds or that do not contain an individual reasoning.
3. If it is not possible, because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore sent, CEPOL shall subsequently provide the person concerned, who expressly requests it with an individual reasoning.

### **Article 19**

#### **Notification of the decision**

Every decision of CEPOL shall be communicated in writing to the persons and parties concerned within the deadline prescribed for the relevant procedure. CEPOL shall abstain from communicating the decision to other sources until the person/party concerned has been informed.

### **Article 20**

#### **Duty to indicate means of redress**

1. A CEPOL decision that may adversely affect the rights or interests of a person or party shall contain indication of the appeal possibilities available for challenging the decision. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, and the time-limit for exercising them.
2. Where appropriate, decisions shall refer to the possibility of starting judicial proceedings and/or lodging a complaint with the European Ombudsman under the conditions specified in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

### **Article 21**

#### **Right to complain against instances of maladministration**

Any failure of CEPOL to comply with the principles set out in this Code may be subject of a complaint to the European Ombudsman in accordance with Article 228 of the Treaty on the Functioning of the European Union, Article 43 of the Charter

of Fundamental Rights of the European Union and the Statute of the European Ombudsman<sup>3</sup>.

## **Article 22**

### **Data protection**

1. Staff members dealing with personal data concerning a natural person shall respect the principles laid down in 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/EC<sup>4</sup>.
2. The Staff members shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non-authorized persons.

## **CHAPTER V. FINAL PROVISIONS**

### **Article 23**

#### **Keeping of adequate records**

CEPOL shall keep adequate records of its incoming and outgoing mail, of the documents it receives and of the measures it takes.

### **Article 24**

#### **Public access to the Code**

CEPOL will take effective measures to inform the public of the rights they enjoy under this Code. The electronic format of the Code shall be available on the CEPOL website.

### **Article 25**

#### **Entry into force**

The Code of Good Administrative Behaviour shall enter into force on the day following that of its adoption. Decision 003/2010 is hereby repealed.

Done in Budapest, 02 August 2019

<signed>

Dr h.c. Detlef Schroeder  
Executive Director

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<sup>3</sup> Adopted by Parliament on 9 March 1994 (OJ L 113, 4.5.1994, p. 15) and amended by its decisions of 14 March 2002 (OJ L 92, 9.4.2002, p. 13) and 18 June 2008 (OJ L 189, 17.7.2008, p. 25).

<sup>4</sup> OJ L 295, 21.11.2018, p. 39-98.