

DECISION 33/2017/MB

OF THE MANAGEMENT BOARD

ADOPTING THE CEPOL'S
ANTI-FRAUD SUB-STRATEGY AND REPEALING DECISION 33/2014/GB

Adopted by the Management Board
On 15 November 2017

THE MANAGEMENT BOARD OF CEPOL,

Having regard to the European Parliament and Council Regulation (EU) No 2015/2219¹ of 25 November 2015 on the European Union Agency for Law Enforcement Training (hereinafter 'CEPOL') and replacing and repealing Council Decision 2005/681/JHA;

Having regard to Decision 01/2014/GB of the Governing Board of the European Police College adopting the Financial Regulation and repealing decision 28/2011/GB on 21 February 2014;

WHEREAS

- (1) On 24 June 2011 the Commission adopted its new Anti-Fraud Strategy² (CAFS) with the overall objective of improving the prevention and detection of fraud, and the conditions for investigations of fraud, and achieving adequate reparation and deterrence. This is to be done especially by developing close cooperation and synergy and by promoting the standards set out in the CAFS within the EU agencies and bodies.
- (2) The Common Approach on EU decentralised agencies stipulated that anti-fraud measures should be put in place in the agencies.
- (3) By Decision 33/2014/GB, the Governing Board adopted the CEPOL Anti-fraud Strategy which took into account the priorities set by the Commission within the above mentioned Common Approach on EU decentralised agencies.
- (4) The strategy was valid for three years, to be updated in the course of its implementation if necessary, or after its assessment at the end of the implementation period.
- (5) The CEPOL Acting Executive Director has assessed the implementation of the strategy as being fully achieved; nevertheless CEPOL has to remain vigilant and continuously implement the expected measures with repetitive nature, to address the risk of fraud; a renewed strategy including an action plan has been elaborated.
- (6) The new strategy will be denominated CEPOL' Anti-fraud Sub-Strategy, in accordance with the classification of documents adopted by the Management Board.
- (7) There is the need thus, to adopt the renewed CEPOL' Anti-fraud Sub-Strategy.

¹ OJ L 319, 4.12.2015.p.1

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the Court of Auditors on the Commission anti-fraud strategy, COM(2011) 376; Communication to the Commission: Commission internal action plan for the implementation of the Commission anti-fraud strategy, SEC(2011) 787.

HAS DECIDED AS FOLLOWS:

Article 1

1. The CEPOL' Anti-fraud Sub-Strategy is hereby adopted, as set out in the Annex to this decision.
2. Once adopted, the new CEPOL' Anti-fraud Sub-Strategy will replace the previous version, as adopted by Decision 33/2014/GB.
3. Any update during the course of the implementation of the CEPOL' Anti-fraud Sub-Strategy which does not affect relevant or sensitive parts of its content, can be decided by the Executive Director who will inform the Management Board accordingly.
4. The present Decision shall take effect the day of its adoption.

Done in Tallinn at 15 November 2017

For the Management Board

< Signature on file >

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Mr Norbert Leitner
Chair of the Management Board

Annex: CEPOL' Anti-fraud Sub-Strategy

CEPOL Anti-fraud Sub-Strategy	Document number:	PO.INCO.003-2
	Approval date:	15 November 2017

DOCUMENT CONTROL SHEET

Process area	Agency Support Processes
Main process	Internal Control
Main process owner	Executive Director

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Abbreviations	CEPOL	European Union Agency for Law Enforcement Training
	ICS	Internal Control Standards
	CAFS	Commission's Anti-fraud Strategy
	OLAF	European Anti-Fraud Office

Definitions

Fraud is a deliberate act of deception intended for personal gain or to cause a loss to another party.

An **irregularity** is an act which doesn't comply with EU rules and which has a potentially negative impact on EU financial interests, but which may be the result of genuine errors committed both by beneficiaries claiming funds and by the authorities responsible for making payments. If an irregularity is committed deliberately, however, it's fraud. (source: http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm)

A **whistleblower** is a member of staff, acting in good faith, who reports facts discovered in the course of or in connection with his or her duties which point to the existence of serious irregularities.

Confidentiality of identity means that the identity of the whistleblower is known to the recipient of the information, but is kept confidential vis-à-vis the person(s) potentially implicated in the serious irregularity reported and used on a strict need-to-know basis.

Anonymity refers to the situation whereby the identity of the source of the information is not known to the recipient.

Retaliation is defined as any direct or indirect action or threat of action which is unjustly detrimental to the whistleblower and resulting from the whistleblowing, including, but not limited to, harassment, discrimination, negative appraisals and acts of vindictiveness.

LOG OF ISSUES

Issue	Issue date	Change description
001	28/10/2014	First issue
002	15/11/2017	Second issue (renewal)

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1. Background

1.1 General Context

The EU budget is taxpayers' money that must be used only for implementing the policies which the EU legislature has approved. Fraud involving EU funds has a particularly negative impact on the reputation of the EU institutions and bodies and the implementation of EU policies.

On 24 June 2011 the Commission adopted its new Anti-Fraud Strategy³ (CAFS) with the overall objective of improving the prevention and detection of fraud, and the conditions for investigations of fraud, and achieving adequate reparation and deterrence. This is to be done especially by developing close cooperation and synergy and by promoting the standards set out in the CAFS within the EU agencies and bodies, including joint undertakings.

The Common Approach on EU decentralised agencies stipulated that anti-fraud measures should be put in place in the agencies to take into account the priorities set by the Commission within the above mentioned Common Approach on EU decentralised agencies, especially:

- Ensuring proper handling of the conflicts of interests issue
- Developing anti-fraud activities especially through prevention, detection, awareness raising and closer cooperation with OLAF.

By Decision 33/2014/GB, the Governing Board adopted the first CEPOL Anti-fraud Strategy. The following objectives were established in the related action plan: *Objective 1: Promote the highest level of integrity of CEPOL staff* and *Objective 2: Establish appropriate internal procedures for reporting and handling potential fraud cases and their outcomes*. The strategy was valid for three years and its implementation was fully achieved. Considering the evolving environment of the Agency and in order to ensure continuous mitigation of risk of fraud in the Agency, a renewed strategy is hereby elaborated.

1.2 Agency context

CEPOL was initially founded by Council Decision 200/820/JHA of 22 December 2000 as a body financed directly by the Member States of the European Union and functioned as a network, by bringing together the national training institutes in the Member States, whose tasks include the training of senior police officers.

CEPOL was later established as an agency of the European Union by Council Regulation No. 2005/681/JHA of 20 September, 2005 (OJ L 256/63 of 1 October, 2005). The decision was amended by Regulation (EU) No 543 of 15 May 2014 changing the seat of CEPOL from Bramshill, UK to Budapest, Hungary.

Since 1 July 2016, the date of its new legal mandate⁴, CEPOL's official name is 'The European Union Agency for Law Enforcement Training'.

CEPOL is headed by an Executive Director, who is accountable to a Management Board. The Management Board is made up of representatives from EU Member States⁵ and the EU

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the Court of Auditors on the Commission anti-fraud strategy, COM(2011) 376; Communication to the Commission: Commission internal action plan for the implementation of the Commission anti-fraud strategy, SEC(2011) 787.

⁴ Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015

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Commission. The Chair of the Management Board is a representative of one of the three Member States that have jointly prepared the Council of the European Union's 18-month programme. The Management Board meets at least two times per year. In addition, CEPOL has dedicated National Units (CNU) in every Member State to provide information and assistance to law enforcement officials who wish to participate in CEPOL's activities. CNU also support CEPOL's operations.

The agency's annual work programme is built with input from its network and other stakeholders, resulting in topical and focused activities designed to meet the needs of Member States in the priority areas of the EU internal security strategy. Moreover, CEPOL assesses training needs to address EU security priorities.

CEPOL contributes to a safer Europe by facilitating cooperation and knowledge sharing among law enforcement officials of the EU Member States and to some extent, from third countries, on issues stemming from EU priorities in the field of security; in particular, from the EU Policy Cycle on serious and organised crime.

The Agency handles a budget of about €8 million Euro and it is fully financed by the European Union Budget. In 2015, a budget of € 2.5 M has been granted to CEPOL via the grant agreement signed with the European Commission on EU/MENA Counter-terrorism Training Partnership.

The budget is managed directly by CEPOL and mostly implemented through payment of staff costs, reimbursement of travel expenses, procurements of services and grant agreements.

Ethics and transparency are key issues in the EU institutions and bodies. CEPOL commits to ensuring that these principles are properly applied.

Considering the nature of its activity and specific context in which it operates, CEPOL has a low degree of exposure to the risk of fraud. CEPOL does not work with lobbyists in legislative or other related initiatives and has a low degree of exposure to the risk of conflict of interest.

In accordance with CEPOL's conflict-of-interest policy (adopted by Decision 32/2014/GB), the Management Board, staff members and other individuals directly collaborating with CEPOL (interims, experts, National Seconded Experts, Audit Panel) are requested to fill in a declaration on interest.

With regards to sensitive functions, CEPOL has reviewed its posts and the criteria contributing to the sensitivity of a post, on which occasion adopted CEPOL's Policy on identification and management of sensitive functions (Decision 34/2014/GB).

The objective was to identify the preventing measures already in place for each post subject for evaluation and to review and update the mitigating controls. In principle, the measures and controls in place to ensure legality and regularity of the transactions (governance and management supervision mechanisms, segregation of duties, four-eyes principle, procedures and checklists) are considered to sufficiently address the fraud-related risks, therefore these functions have not been flagged as sensitive in the job descriptions.

⁵ Denmark and the United Kingdom are not considered Member States in relation to CEPOL in accordance with Protocol 22 on the **position** of Denmark and Protocol 21 on the position of the United Kingdom in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU.

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1.2.1 Internal control system and fraud reporting arrangements in place

CEPOL sets out measures aiming at minimising the risks of fraud through its control system which foresees ex-ante controls, four eyes review principles for any financial transactions and ex-post controls. The financial initiation and ex-ante financial verification on each financial transaction is performed by the Finance Unit, ensuring maximum consistency.

CEPOL applies the internal control policy promoted by the Commission especially through the Internal Control Standards.

In accordance with Article 22a of Staff Regulations, any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which gives rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Communities shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.

To underpin this requirement in the Staff Regulations, the Director adopted the Decision 019/2011/DIR on *'Reporting Suspected Improprieties'* in order to raise staff awareness on the duty to report any possible illegal activity, including fraud or corruption and to lay down whistleblowing arrangements.

The reporting procedure provides more options for the whistle blower to report both internally and externally. Thus the facts or concerns should be reported in writing to one's Head of Unit or where this is not possible, in writing to the Director.

If the staff member considers that it is useful, he/she is free to further disclose in writing the suspected impropriety to the Secretary General of the Commission, President of the Commission, or of the Court of Auditors or of the Council or of the European Parliament or to the European Ombudsman or to the European Anti-Fraud Office.

The European Anti-Fraud Office also known as OLAF (from its French name Office de Lutte Anti-Fraude) investigates fraud against the EU budget, corruption and serious misconduct within the European institutions, and develops anti-fraud policy for the European Commission.

CEPOL staff members have the possibility to report corruption and fraud to OLAF via the Internet, even anonymously. OLAF's electronic system - "Fraud Notification System" (FNS) is accessible via OLAF's website: http://ec.europa.eu/anti_fraud/index_en.html and the reporting can be done either on line, by e-mail or by post.

The protection of a person reporting a serious irregularity in good faith shall be guaranteed first of all by the fact that their identity will be treated in confidence. This means that their name will not be revealed to the person(s) potentially implicated in the alleged wrongdoings or to any other person without a strict need to know, unless the whistleblower personally authorises the disclosure of his/her identity or this is a requirement in any subsequent criminal law proceedings.

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Any staff member who reports a serious irregularity, provided that this is done in good faith and in compliance with the provisions of these guidelines, shall be protected against any acts of retaliation such as harassment, discrimination, negative appraisals and acts of vindictiveness.

The protection continues to apply in cases of external disclosures, provided that the staff member honestly and reasonably believes that the information and any allegation in it are substantially true.

CEPOL shall refrain from carrying out investigations on facts liable to lead to an investigation by OLAF and communicate complete and timely information to OLAF to allow informed decisions on whether to launch investigations.

In 2015 CEPOL adopted a Fraud Response Plan (FO.INCO.004) as a guide on how allegations of fraud will be dealt with by CEPOL and the approach to take in communicating around the suspicion of fraud inside and outside CEPOL, with parties having an interest in the matter.

2. Fraud risk assessment

What constitutes fraud?

Fraud is a deliberate act of deception intended for personal gain or to cause a loss to another party.

An **irregularity** is an act which doesn't comply with EU rules and which has a potentially negative impact on EU financial interests, but which may be the result of genuine errors committed both by beneficiaries claiming funds and by the authorities responsible for making payments.

If an irregularity is committed deliberately, however, it's fraud.

The concept of fraud encompasses both internal and external misbehaviour. It covers in particular, but not only, any infringement of the financial interests of the EU as defined by the Convention on the protection of the European Communities' financial interests.⁶

It also covers misbehaviour that may not have a direct impact on the EU's financial interests, such as some cases of forgery (in CVs for example), money laundering, concealment or destruction of material facts, or breaches of IT systems. Conflicts of interests that have intentionally not been declared, favouritism and collusion also belong to the category of fraud.

Fraud risk is the probability that fraud will occur and could have a potential impact or consequence for the budget managed by the Agency or may cause reputational damage for the Agency or for the European Institutions and bodies as a whole.

Every year, within the annual planning workshop CEPOL conducts a fraud risk assessment of its main activities based on the estimated likelihood and possible impact. Taking into account the overall context and existing controls, CEPOL believes that the risk of significant undetected fraud is low. However, the following risk areas are considered for the purpose of the current renewed anti-fraud sub-strategy:

Internal fraud risk areas

- staff not sufficiently educated to be able to detect and report fraudulent behaviour (internal or external)

⁶ Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, OJ C 316, 27.11.1995, p. 49.

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External fraud risks areas

- intentional breach of the provision of a procurement's contract, overcharged invoicing by the economic operators.

The identified internal fraud risk area is connected to the high staff fluctuation and continuous renewal of staff following CEPOL relocation in 2014. Newcomers and refresher training session should be repeated at regular intervals to raise awareness and educate staff to be able to recognise and report fraudulent behaviour.

The external fraud risk area is related to poor quality of service provided by some of the economic operators and lack of transparency in the supporting documentation backing up the invoice. This risk has materialised during this year and since then additional control measures have been put in place to mitigate the risk.

The risks identified are already mitigated by various measures taken within CEPOL including:

- a strong emphasis on ethical standards for staff during welcome upon recruitment – every staff member has to sign a declaration that they understand and have taken note of the provisions in the CEPOL Code of Conduct;
- refresher training on ethics and integrity for staff;
- whenever CEPOL is contracting external service providers to support it in its tasks, it ensures that these contractors are bound by confidentiality duties and that potential conflicts of interest are avoided. Both a confidentiality clause and a conflict of interest clause are included in all such contracts that CEPOL concludes;
- comparative quotes checked versus quotes provided by the service provides to avoid overcharged prices.

The measures in place are considered effective to reduce such risks to an acceptable level. In addition several aspects of the current control system of CEPOL aim at the prevention and detection of fraud. Since the programme of far-reaching change was instituted by CEPOL's management in 2010 to ensure compliance with internal control standards, no fraud cases were identified and no important incident or major event affecting the internal control system took place.

CEPOL is regularly audited by the European Court of Auditors (ECA), by the Commission's Internal Audit Service (IAS) and by the Internal Audit Panel (IAP) on behalf of the Management Board. So far no reference to an internal fraud suspicion was presented by the internal/external auditors.

Overall, the mitigation actions already in place offer a reasonable assurance that the risks of fraud are well managed and the likelihood kept to a low level.

3. Objectives

Taking into account the fraud risk assessment, the agency context, the control environment, the procedures in place and the mission of CEPOL, the fraud risk is very low. Nevertheless CEPOL has to remain vigilant and maintain the controls and procedures in place, therefore the following objective is established in the context of the renewed strategy:

Objective: Maintaining a high level of ethics and fraud awareness within the Agency

The existence of a corporate culture which favours integrity of staff is of the highest importance in fighting fraud. With this aim it is important to have rules in place that are acknowledged and clear to everyone. Refresher training on ethics and integrity for staff are to be implemented on a regular

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base. The existing internal procedures for fraud suspicion, reporting and handling need to be complemented and regularly made known to staff. CEPOL shall adopt internal rules on whistleblowers under Article 22c of the Staff Regulations, as well as arrangements against 'revolving doors'.

4. Roles and Responsibilities

Fraud prevention and detection is the joint responsibility of each member of staff.

Staff members are expected to be vigilant and have the duty to report without delay any known or suspected conflicts of interest, fraud, or instances of unethical or illegal behaviour.

The Corporate Services will be the lead service in relation to the overall coordination of the anti-fraud sub-strategy of the Agency and the implementation of the action plan.

The follow-up and the monitoring of these actions will be carried out by the Internal Control Officer.

5. Action Plan

Actions	Responsible	Deadline
Objective 1: Maintaining a high level of ethics and fraud awareness within the Agency		
Action 1: Refresher training on Ethics and Integrity for staff. Raising awareness of potential conflict of interest to staff and detecting fraudulent behaviour. Whistleblowing awareness for staff, as well as on OLAF's role.	Head of Corporate Services/HR	Yearly
Action 2: Provide a copy of the Code of Conduct and Anti-Fraud Policy to all employees (including SNEs, interims, trainees) with their contract/induction plan.	HR	When taking up duty
Action 3: Implement declarations of interest providing information on direct or indirect interests of relevance to the mission of CEPOL from all categories of staff and individuals working with CEPOL (TA/CA/SNEs/interims/experts/MB members)	HR Office in cooperation with ICO	When taking up duty or by December every year
Action 4: Request certificate of good administrative behaviour from all categories of staff (TA/CA/interims)	HR	When taking up duty
Action 5: Minimise the risk of fraud by the service providers by requesting them to make specific declaration of interest and declaration of confidentiality with regard to the worked performed for CEPOL.	Procurement	Before contract signature
Action 6: Adopt whistle blowing internal rules around requirements in the Article 22c of the Staff Regulations. In doing so, use the draft model rules on whistleblowing (developed by the SWP) which is currently circulating for comments within the Agency' Network.	ICO/HR/Legal Officer	January 2018
Action 7: Adoption rules against "revolving doors". In order to strengthen avoidance of post-employment conflict of interest, CEPOL will introduce a declaration of intention to engage in an occupational activity after leaving the EU Agency, to be filled in by staff members upon resignation/retirement (exit form).	ICO/HR/Legal Officer	January 2018
Action 8: Ensure that fraud risk is assessed as part of CEPOL's risk assessment process	Management/Planning Officer	Yearly