

FRAMEWORK PARTNERSHIP AGREEMENT WITH MULTIPLE PARTNERS ON THE ESTABLISHMENT AND OPERATION OF CEPOL KNOWLEDGE CENTRE

AGREEMENT NUMBER — [insert]

This Framework Partnership Agreement ('the Framework agreement') is concluded between the following parties:

on the one part,

The European Union Agency for Law Enforcement Training - CEPOL ('CEPOL'), represented for the purposes of signature of this Framework agreement by Acting Executive Director Detlef Schröder,

and

on the other part,

1. 'the CEPOL Knowledge Centre Leader'

[full official name] [ACRONYM]

[official legal status or form]¹

[official registration No]²

[official address in full]

[VAT number],

represented for the purposes of signature of this Framework agreement by [function, forename and surname]

and the following other partners:

2. [full official name] — established in [country]

duly represented for the signature of the Framework agreement by the CKC Leader by virtue of the mandate[s] included in Annex IV]

¹ To be deleted or filled out in accordance with the 'Legal Entity' form.

² To be deleted or filled out in accordance with the 'Legal Entity' form.

Unless otherwise specified, references to 'partner' and 'partners' include the CEPOL Knowledge Centre Leader ('CKC Leader').

The parties referred to above

HAVE AGREED

to the Special Conditions ('the Special Conditions') and the following Annexes:

Annex I Action plan

Annex II General Conditions ('the General Conditions')

Annex III Model specific grant agreement

Annex IV Mandate[s] provided to the CKC Leader by the other partner[s]]

which form an integral part of this Framework agreement.

The provisions in the Special Conditions of the Framework agreement, of which the Preamble forms an integral part, take precedence over its Annexes.

The provisions in Annex II 'General Conditions' take precedence over the other Annexes.

PREAMBLE

Implementing the Union policy in the field of internal security, CEPOL in line with its objectives and tasks³ supports, develops, implements and coordinates training for law enforcement officials. Specific actions are defined on multiannual and annual bases as set out in CEPOL's Single Programming Documents. In delivery of training actions CEPOL shall cooperate with the network of Member States training institutes.

Taking into account the decision of CEPOL Management Board Decision 26/2017/MB approving a pilot phase on **CEPOL Knowledge Centres on Counterterrorism/Common**

³ 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, Articles 3 and 4 thereof, OJ L 4.12.2015, L 319, p.11.

Security and Defence Policy Missions⁴ for the implementation of training and learning actions in the given thematic priority CEPOL selected partners engaged in the area of activity concerned, with which it shares common general objectives and wishes to establish a relationship of lasting cooperation.

The general objectives which it shares with [...] ⁵ in the above-mentioned area of activity and which justify the establishment of a partnership is the provision of training and learning options for law enforcement officials in **the thematic priority area of counterterrorism/Common Security and Defence Policy Missions**⁶, while putting particular emphasis on the protection of human rights and fundamental freedoms in the context of law enforcement. The training and learning options shall be of the highest level of international excellence, they shall be complementary.

⁴ Delete as applicable

⁵ Mention the name of the partner signatory of the Framework agreement.

⁶ Delete as applicable

SPECIAL CONDITIONS

ARTICLE I.1 — SUBJECT MATTER OF THE FRAMEWORK AGREEMENT – AWARD OF SPECIFIC GRANTS – ACCESSION TO THE FRAMEOWRK AGREEMENT

I.1.1 Subject matter of the Framework agreement

I.1.1.1 The Framework agreement is concluded as part of a long-term cooperation between CEPOL and the partners ("the CKC partnership") with the aim to contribute to the objectives of the Union policy in the field of internal security as referred to in the Preamble.

The Framework agreement defines the general rights and obligations of the parties in implementing their partnership.

I.1.1.2 The CKC partnership must be implemented in compliance with the Action plan set out in Annex I.

I.1.1.3 For the purposes of implementing the CKC partnership CEPOL may award to the partners *specific grants for an action*.

The Framework agreement applies to any specific grant awarded for implementation of the partnership and to the respective specific grant agreements ("Specific agreements") concluded between the parties.

Signature of the Framework agreement does not give rise to any obligation of CEPOL to award specific grants. It does not affect the partners' participation in other calls for proposals for the purposes of award of grants outside the scope of the Action plan set out in Annex I.

I.1.2 Procedure for award of specific grants

CEPOL may consult its partners in order to obtain a proposal for an action in line with the Action plan set out in Annex I. Such consultation must take place on the basis of an invitation to submit a proposal⁷. The invitation must define the award criteria to be applied. The partner is not obliged to submit a proposal in response to such a consultation.

⁷ Subject to changes as CEPOL has requested technical advice by the European Commission (DG BUDGET). Up-to-date (30 September 2017) the said advice has not been received by the Agency.

I.1.3 Conclusion of Specific agreements

Where the CEPOL decides to award a specific grant, it proposes to the participating partners to sign a Specific agreement in accordance with the model set out in Annex III. The Specific agreement must be signed by the authorized representatives of the parties.

By signing the Specific agreement, the participating partners accept the grant and agree to implement the action acting on their own responsibility and under the terms and conditions set out in the Framework agreement and the Specific agreement.

Specific agreements must be signed before the date when the Framework agreement expires. Where the actions are carried out after the above-mentioned date, the terms of the Framework agreement continue to apply to the implementation of the Specific agreements governed by the Framework agreement.

I.1.4 Accession to the Framework agreement of new partners

If the implementation of the Framework agreement requires the addition of a new partner, the CKC Leader must submit a request for amendment in accordance with Article II.12. The CKC Leader must include with the request for amendment a Mandate Form as provided for in Annex IV. The Mandate Form must have been signed by the new partner.

New partners assume the rights and obligations under the Framework agreement with effect from the date of their accession, as specified in the Mandate Form.

ARTICLE I.2 — ENTRY INTO FORCE AND IMPLEMENTATION PERIOD OF THE FRAMEWORK AGREEMENT

I.2.1 The Framework agreement enters into force on the date on which the last party signs it.

I.2.2 The Framework agreement expires on **31 December 2019**.

I.2.3 Specific agreements must be signed before the date when the framework agreement expires. Where the actions are carried out after the above-mentioned date, the terms of the framework agreement shall continue to apply to the implementation of the corresponding specific agreements.

ARTICLE I.3 — DATA CONTROLLER

The entity acting as a data controller as provided for in Article II.7 is CEPOL Operations Department.

ARTICLE I.4 - FINANCING THE ACTIONS

- I.4.1.** Co-financing amounting to not less than 5 % of the estimated total eligible cost of the action shall be required for each action for which a CEPOL grant is awarded. The co-financing may be provided either from the partner's own resources and/or from other sources of external finance. The rules of the decision of CEPOL Executive Director 42/2017/DIR on financial rules for CEPOL residential training activities applies.
- I.4.2** Estimated budget for specific training activities shall be drawn in accordance with the rules set out in CEPOL Executive Director 42/2017/DIR on financial rules for CEPOL residential training activities.
- I.4.3** Actual staff costs for administrative support to CKC Leader up to EUR 12,000 per annum are eligible under specific grant agreements concluded in the framework of this partnership agreement.
- I.4.4** The provisions relating to the submission of the reports and other documents relating to the action and the arrangements for payment of the grant are set out in the decision of CEPOL Executive Director 42/2017/DIR on financial rules for CEPOL residential training activities. Staff costs as referred to in I.4.3 shall be supported by the originals or certified copies of staff engagement contract and salary payment confirmations.
- I.4.5** The payment arrangements as laid down in CEPOL Executive Director 42/2017/DIR on financial rules for CEPOL residential training activities will apply.
- I.4.6** Payments shall be made to the partner's bank account, sub-account or account of a service provider (co-beneficiary) used by the partner due to national regulations as supplied to CEPOL⁸, denominated in Euros⁹. Any change in the partner's bank account requires the submission to the Agency of a new Financial Identification Form (BAF). This account or sub-account must identify the payments made by CEPOL.

SIGNATURES

⁸In the unlikely event that no BAF has been submitted, please insert the following details:

Name of bank: [...]
Address of branch: [...]
Precise denomination of the account holder: [...]
Full account number (including bank codes): [...]
[IBAN account code: [...]

⁹ This proceeds except in the case of bank accounts in countries that do not accept euro transactions, or based on CEPOL Executive Director's decision 42/2017/DIR on financial rules for CEPOL residential training activities



Model Version of December 2016

Annex 3, v_30/09/2017

For the CKC Leader

[*function/forename/surname*]

[*signature*]

Done at [*place*], [*date*]

For the CEPOL

[*forename/surname*]

[*signature*]

Done at [*place*], [*date*]

ANNEX II — GENERAL CONDITIONS

TABLE OF CONTENT

ANNEX II — GENERAL CONDITIONS.....	8
TABLE OF CONTENT	8
PART A — LEGAL AND ADMINISTRATIVE PROVISIONS	12
Article II.1 — Definitions	12
Article II.2 — General obligations and roles of the partners.....	13
II.2.1 General obligations and role of the partners.....	13
II.2.2 General obligations and role of each partner.....	14
II.2.3 General obligations and role of the CKC Leader.....	14
Article II.3 — Communication between the parties	15
II.3.1 Form and means of communication	15
II.3.2 Date of communications	15
Article II.4 — Liability for damages	16
Article II.5 — Conflict of interests.....	16
Article II.6 — Confidentiality.....	16
Article II.7 — Processing of personal data	17
II.7.1 Processing of personal data by CEPOL	17
II.7.2 Processing of personal data by the partners.....	17
Article II.8 — Visibility of CEPOL funding	18
II.8.1 Information on CEPOL funding and use of CEPOL logo	18
II.8.2 Disclaimers excluding CEPOL responsibility	18

Article II.9 — Pre-existing rights and ownership and use of the results (including intellectual and industrial property rights).....	19
II.9.1 Ownership of the results by the partners.....	19
II.9.2 Pre-existing rights.....	19
II.9.3 Rights of use of the results and of pre-existing rights by the Union.....	19
Article II.10 — Award of contracts necessary for the implementation of the action.....	20
Article II.11 — Subcontracting of tasks forming part of the action.....	21
Article II.12 — Amendments to the Framework agreement.....	22
Article II.13 — <i>Force majeure</i>	23
Article II.13 — Suspension of the implementation of the action.....	23
II.13.1 Suspension of implementation by the partners.....	23
II.13.2 Suspension of implementation by CEPOL.....	23
II.13.3 Effects of the suspension.....	25
Article II.14 — Termination of the FRAMEWORK agreement OR THE SPECIFIC AGREEMENT. TERMINATION of the participation of one or more partners.....	26
II.14.1 Termination by the partners.....	26
II.14.2 Termination by CEPOL.....	27
II.14.3 Effects of termination.....	29
Article II.15 — Applicable law, settlement of disputes and enforceable decisionS.....	31
PART B — FINANCIAL PROVISIONS.....	33
Article II.16 — Eligible costs.....	33
II.16.1 Conditions for the eligibility of costs.....	33

II.16.2	Eligible direct costs.....	33
II.16.3	Ineligible costs.....	34
Article II.17	— Identifiability and verifiability of the amounts declared	35
II.17.1	Declaring costs and contributions.....	35
II.17.2	Records and other documentation to support the costs and contributions declared.....	35
Article II.18	— Budget transfers	35
Article II.23	— Non-compliance with reporting obligations	36
Article II.24	— Suspension of payments and time limit for payment.....	36
II.24.1	Suspension of payments.....	36
II.24.2	Suspension of the time limit for payments.....	38
Article II.25	— Calculation of the final amount of the grant	38
II.25.1	Step 1 — Application of the reimbursement rate to the eligible costs	39
II.25.2	Step 2 — Limit to <i>maximum amount of the grant</i>	39
II.25.3	Step 3 — Reduction due to the no-profit rule.....	39
II.25.4	Step 4 — Reduction due to improper implementation or breach of other obligations.....	40
Article II.26	— Recovery.....	41
II.26.1	Recovery at the time of payment of the balance	41
II.26.2	Recovery after payment of the balance	41
II.26.3	Recovery procedure.....	41
II.26.4	Interest on late payment.....	42
II.26.5	Bank charges	42

Article II.27 — Checks, audits and evaluationS.....	42
II.27.1 Technical and financial checks, audits, interim and final evaluations.....	42
II.27.2 Duty to keep documents.....	43
II.27.3 Obligation to provide information	43
II.27.4 On-the-spot visits	44
II.27.5 Contradictory audit procedure	44
II.27.6 Effects of audit findings	44
II.27.7 Correction of systemic or recurrent errors, irregularities, fraud or breach of obligations	44
II.27.8 Checks and inspections by OLAF	47
II.27.9 Checks and audits by the European Court of Auditors	47
ANNEX IV MANDATE.....	48

PART A — LEGAL AND ADMINISTRATIVE PROVISIONS

ARTICLE II.1 — DEFINITIONS

The following definitions apply for the purpose of the Framework agreement and the Specific agreements:

‘Action’: the set of activities or the project for which the specific grant is awarded, to be implemented by the partners as described in Annex I of the Specific agreement.

‘Confidential information or document’: any information or document (in any format) received by either party from the other or accessed by either party in the context of the implementation of the Framework agreement or a Specific agreement that any of the parties has identified in writing as confidential. It does not include information that is publicly available.

‘Conflict of interests’: a situation where the impartial and objective implementation of the Framework agreement or a Specific agreement by a partner is compromised for reasons involving family, emotional life, political or national affinity, economic interest, or any other shared interest with CEPOL or any third party related to the subject matter of the Framework agreement or a Specific agreement.

‘Direct costs’: those specific costs which are directly linked to the implementation of the action and can therefore be attributed directly to it. They may not include any indirect costs;

‘Force majeure’: any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the Framework agreement or a Specific agreement, which is not attributable to error or negligence on their part or on the part of the subcontractors affiliated entities or third parties in receipt of financial support and which proves to be inevitable despite their exercising due diligence. The following cannot be invoked as *force majeure*: labour disputes, strikes, financial difficulties or any default of a service, defect in equipment or materials or delays in making them available, unless they stem directly from a relevant case of *force majeure*;

‘Formal notification’: form of communication between the parties made in writing by mail or electronic mail which provides the sender with compelling evidence that the message was delivered to the specified recipient;

‘Fraud’: any intentional act or omission affecting the Union’s financial interests relating to the use or presentation of false, incorrect or incomplete statements or documents, to non-disclosure of information in violation of a specific obligation;

‘Implementation period’: the period of implementation of the Framework agreement as specified in Article I.2.2 or the period of implementation of the activities forming part of the action, as specified in Article 2.2 of the Specific agreement;

‘Indirect costs’: those costs which are not specific costs directly linked to the implementation of the action and which therefore cannot be attributed directly to it. They may not include any costs identifiable or declared as eligible direct costs;

‘Irregularity’: any infringement of a provision of Union law resulting from an act or omission by a partner, which has or would have the effect of prejudicing the Union’s budget;

‘Maximum amount of the grant’: the maximum EU contribution to the action, as defined in Article 3 of the Specific agreement;

‘Pre-existing material’: any materials, document, technology or know-how which exists prior to a partner using it for the production of a result in the implementation of the action;

‘Pre-existing right’: any industrial and intellectual property right on pre-existing material; it may consist in a right of ownership, a licence right and/or a right of use belonging to the partner or any other third parties;

‘Related person’: any person who has the power to represent the partner or to take decisions on its behalf;

‘Starting date’: the date on which the implementation of the action starts as provided for in Article 2.2 of the Specific agreement;

‘Subcontract’: a procurement contract within the meaning of Article II.11, which covers the implementation by a third party of tasks forming part of the action as described in Annex I of the Specific agreement;

‘Substantial error’: any infringement of a provision of the Framework agreement or a Specific agreement resulting from an act or omission, which causes or might cause a loss to the Union’s budget.

ARTICLE II.2 — GENERAL OBLIGATIONS AND ROLES OF THE PARTNERS

II.2.1 General obligations and role of the partners

The partners:

- (a) are jointly and severally liable for carrying out the *actions*, for which specific grants were awarded, in accordance with the Framework agreement and the Specific agreements. If a partner fails to implement its part of the *action*, the other

partners become responsible for implementing this part (but without increasing the *maximum amount of the grant*);

- (b) must comply jointly or individually with any legal obligations they are bound by under applicable EU, international and national law;
- (c) must make appropriate internal arrangements to implement properly any *action* for which a specific grant could be awarded. The arrangements must be consistent with the terms of the Framework agreement;
- (d) shall ensure the business continuity for actions for training and learning activities during the term of this agreement.

II.2.2 General obligations and role of each partner

Each partner must:

- (a) inform the CKC Leader immediately of any events or circumstances of which the partner is aware, that are likely to affect or delay the implementation of an *action*;
- (b) unless decided otherwise submit in due time to the CKC Leader:
 - (i) the data needed to draw up the application, reports, financial statements and other documents provided for in the Framework agreement or the Specific agreement;
 - (ii) all the necessary documents required for audits, checks or evaluations as provided for in Article II.23.
 - (iii) any other information to be provided to the CEPOL under the Framework agreement or the Specific agreement, except if those agreements require such information to be submitted directly by the partner.

II.2.3 General obligations and role of the CKC Leader

The CKC Leader:

- (a) Co-chairs the Steering Board
- (b) is the overarching coordinator safeguarding the division of labour, complementarity and quality of training actions;
- (c) submits proposals for specific grant agreements on behalf of the partners
- (d) submits training and learning portfolio proposals to the Steering Board
- (e) monitors and coordinates the implementation of any *action* for which a specific grant was awarded in order to make sure that the *action* is implemented in accordance with the terms of the Framework agreement and the Specific agreement concerned;

- (f) is the intermediary for all communications between the partners and CEPOL, except if provided otherwise in the Framework agreement and the Specific agreement. In particular, the CKC Leader:
 - (i) must immediately inform CEPOL:
 - a. of any change in the name, address, legal representative of any of the partners or of their affiliated entities;
 - b. of any change in the legal, financial, technical, organisational or ownership situation of any of the partners;
 - c. of any events or circumstances of which the coordinator is aware, that are likely to affect or delay the implementation of an *action*, of which the coordinator is aware.
 - (ii) is responsible for supplying CEPOL with all documents and information required under the Framework agreement and the Specific agreement, except if provided otherwise in those agreements. If information is required from the other partners, the CKC Leader is responsible for obtaining and verifying this information before passing it on to CEPOL;
- (g) if it is designated as the sole recipient of payments on behalf of all of the partners, it must ensure that all the appropriate payments are made to the other partners without unjustified delay;

The CKC Leader is supported by administrative staff funded by CEPOL on the conditions set out in Articles I.4.3 and I.4.4.

ARTICLE II.3 — COMMUNICATION BETWEEN THE PARTIES

II.3.1 Form and means of communication

Any communication relating to the Framework agreement or a Specific agreement or to their implementation must:

- (a) be made in writing (in paper or electronic form);
- (b) bear the number of the agreement concerned; and

If a party requests written confirmation of an electronic communication within a reasonable time, the sender must provide an original signed paper version of the communication as soon as possible.

II.3.2 Date of communications

Any communication is considered to have been made when the receiving party receives it, unless the Framework agreement or the Specific agreement states that communication is considered to have been made on the date when the communication was sent.

Email is considered to have been received by the receiving party on the day of dispatch of that email. The sending party must be able to prove the date of dispatch. If the

sending party receives a non-delivery report, it must make every effort to ensure that the other party actually receives the communication by email or mail. In such a case, the sending party is not held in breach of its obligation to send such communication within a specified deadline.

Mail sent to CEPOL using the postal or courier services is considered to have been received by CEPOL on the date on which it is registered by CEPOL Reception.

ARTICLE II.4 — LIABILITY FOR DAMAGES

II.4.1 CEPOL may not be held liable for any damage caused or sustained by any of the partners, including any damage caused to third parties as a consequence of or during the implementation of an *action*.

II.4.2 Except in cases of *force majeure*, the partners must compensate CEPOL for any damage it sustains as a result of the implementation of an *action* or because an *action* was not implemented in full compliance with the Framework agreement or the Specific agreement.

ARTICLE II.5 — CONFLICT OF INTERESTS

II.5.1 The partners must take all necessary measures to prevent any situation of *conflict of interests*. Such conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or emotional reasons, or any other common interests.

II.5.2 The partners must inform CEPOL without delay of any situation constituting or likely to lead to a *conflict of interests*. They must take immediately all the necessary steps to rectify this situation.

CEPOL may verify that the measures taken are appropriate and may require additional measures to be taken by a specified deadline.

ARTICLE II.6 — CONFIDENTIALITY

II.6.1 During implementation of the *action* and for five years after the payment of the balance, the parties must treat with confidentiality any *confidential information and documents*.

II.6.2 The parties may only use *confidential information and documents* for a reason other than to fulfil their obligations under the Framework agreement and the Specific agreement if they have first obtained the prior written agreement of the other party.

II.6.3 The confidentiality obligations do not apply if:

- (a) the disclosing party agrees to release the other party from those obligations;
- (b) the *confidential information or documents* become public through other means than a breach of the confidentiality obligations;
- (c) the disclosure of the *confidential information or documents* is required by law.

ARTICLE II.7 — PROCESSING OF PERSONAL DATA

II.7.1 Processing of personal data by CEPOL

Any personal data included in the Framework agreement and the Specific agreements must be processed by CEPOL in accordance with Regulation (EC) No 45/2001.¹⁰

Such data must be processed by the data controller identified in Article I.3 solely for implementing, managing and monitoring the Framework agreement and the Specific agreements or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article II.23.

The partners have the right to access and correct their own personal data. For this purpose, they must send any queries about the processing of their personal data to the data controller identified in Article I.3.

The partners may have recourse at any time to the European Data Protection Supervisor.

II.7.2 Processing of personal data by the partners

The partners must process personal data under the Framework agreement and the Specific agreements in compliance with applicable EU and national law on data protection (including authorisations or notification requirements).

The partners may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the Framework agreement and the Specific agreements.

The partners must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned. This is in order to:

- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:

¹⁰ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

- (i) unauthorised reading, copying, alteration or removal of storage media;
 - (ii) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
 - (iii) unauthorised use of data processing systems by means of data transmission facilities;
- (b) ensure that authorised users of a data processing system can access only the personal data to which their access right refers;
- (c) record which personal data have been communicated, when and to whom;
- (d) ensure that personal data processed on behalf of third parties can be processed only in the manner prescribed by CEPOL;
- (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- (f) design their organisational structure in such a way that it meets data protection requirements.

ARTICLE II.8 — VISIBILITY OF CEPOL FUNDING

II.8.1 Information on CEPOL funding and use of CEPOL logo

Unless CEPOL requests or agrees otherwise, any communication or publication made by the partners jointly or individually that relates to an *action*, including at courses, conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, in electronic form, etc.), must:

- (a) indicate that the *action* is a joint action with CEPOL; and
- (b) display CEPOL logo.

When displayed in association with another logo, CEPOL logo must have appropriate prominence.

The obligation to display CEPOL logo does not confer on the partners a right of exclusive use. The partners may not appropriate CEPOL logo, either by registration or by any other means.

For the purposes of the first, second and third subparagraphs and under the conditions specified therein, the partners may use CEPOL logo without first obtaining permission from CEPOL.

II.8.2 Disclaimers excluding CEPOL responsibility

Any communication or publication that relates to an *action*, made by the partners jointly or individually in any form and using any means, must indicate that it reflects only the author's view and that CEPOL is not responsible for any use that may be made of the information it contains.

ARTICLE II.9 — PRE-EXISTING RIGHTS AND OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS)

II.9.1 Ownership of the results by the partners

The partners retain ownership of the results of the *action*, including industrial and intellectual property rights, and of the reports and other documents relating to it, unless stipulated otherwise in a Specific agreement.

II.9.2 Pre-existing rights

If CEPOL sends the partners a written request specifying which of the results it intends to use, the partners must:

- (a) establish a list specifying all *pre-existing rights* included in those results; and
- (b) provide this list to CEPOL at the latest with the request for payment of the balance.

The partners must ensure that they have all the rights to use any *pre-existing rights* during the implementation of the Specific agreement.

II.9.3 Rights of use of the results and of pre-existing rights by the Union

The partners grant the Union the following rights to use the results of an *action*:

- (a) for its own purposes and in particular to make available to persons working for CEPOL, other Union institutions, agencies and bodies and to Member States' institutions, as well as to copy and reproduce in whole or in part and in an unlimited number of copies;
- (b) reproduction: the right to authorise direct or indirect, temporary or permanent reproduction of the results by any means (mechanical, digital or other) and in any form, in whole or in part;
- (c) communication to the public: the right to authorise any display performance or communication to the public, by wire or wireless means, including making the results available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them; this right also includes communication and broadcasting by cable or by satellite;
- (d) distribution: the right to authorise any form of distribution of results or copies of the results to the public;
- (e) adaptation: the right to modify the results;
- (f) translation;

- (g) the right to store and archive the results in line with the document management rules applicable to CEPOL including digitisation or converting the format for preservation or new use purposes;
- (h) where the results are documents, the right to authorise the reuse of the documents in conformity with Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents if that Decision is applicable and if the documents fall within its scope and are not excluded by any of its provisions. For the sake of this provision, the terms 'reuse' and 'document' have the meanings given to them by Decision 2011/833/EU.

The above rights of use may be further specified in the Specific agreement.

Additional rights of use for the Union may be provided for in the Specific agreement.

The partners must ensure that the Union has the right to use any *pre-existing rights* included in the results of an *action*. The *pre-existing rights* must be used for the same purposes and under the same conditions as applicable to the rights of use of the results of the *action*, unless specified otherwise in the Specific agreement.

Information about the copyright owner must be inserted in cases where the result is divulged by the Union. The copyright information must read: '© — year — name of the copyright owner. All rights reserved. Licenced to the European Union under conditions.'

If the partners grant rights of use to CEPOL, this does not affect its confidentiality obligations under Article II.6 or the partners' obligations under Article II.2.

ARTICLE II.10 — AWARD OF CONTRACTS NECESSARY FOR THE IMPLEMENTATION OF THE ACTION

II.10.1 If the implementation of an *action* requires the partners to procure goods, works or services, they must award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, they must avoid any *conflict of interests*.

The partners must ensure that Article II.23 is also applicable to the partners' contractors, in particular that CEPOL, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights under Article II.23 towards the contractors.

II.10.2 Partners that are ‘contracting authorities’ within the meaning of Directive 2014/24/EU¹¹ or ‘contracting entities’ within the meaning of Directive 2014/25/EU¹² must comply with the applicable national public procurement rules.

The partners must ensure that the conditions applicable to them under Articles II.4, II.5, II.6 and II.9 are also applicable to the contractors.

II.10.3 The partners remain solely responsible for carrying out the *action* concerned and for compliance with the Framework agreement and the Specific agreement.

II.10.4 If the partners breach their obligations under Article II.10.1 the costs related to the contract concerned are considered ineligible in accordance with Article II.16.2 (a).

If the partners breach their obligations under Article II.10.2 the grant may be reduced in accordance with Article II.21.4.

ARTICLE II.11 — SUBCONTRACTING OF TASKS FORMING PART OF THE ACTION

II.11.1 Partners may subcontract tasks forming part of an *action*. If they do so, they must ensure that, in addition to the conditions specified in Article II.10, the following conditions are also complied with:

- (a) subcontracting does not cover core tasks of the *action*;
- (b) recourse to subcontracting is justified because of the nature of the *action* and what is necessary for its implementation;
- (c) the estimated costs of the subcontracting are clearly identifiable in the estimated budget set out in Annex II of the Specific agreement;
- (d) any recourse to subcontracting, if not provided for in Annex I of the Specific agreement, is communicated by the CKC Leader and approved by CEPOL. CEPOL may grant approval:
 - (i) before any recourse to subcontracting, if the partners request an amendment as provided for in Article II.12; or
 - (ii) after recourse to subcontracting if the subcontracting does not entail changes to the Framework agreement or the Specific agreement

¹¹ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

¹² Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

which would call into question the decision to establish the framework partnership or to award the specific grant or which would be contrary to the equal treatment of applicants;

- (e) the partners ensure that the conditions applicable to them under Article II.8 are also applicable to the subcontractors.

II.11.2 If the partners breach their obligations under Article II.11.1 (a), (b), (c) or (d), the costs related to the contract concerned are considered ineligible in accordance with Article II.16.2.

If the partners breach their obligation under Article II.11.1 (e) the grant may be reduced in accordance with Article II.21.4.

ARTICLE II.12 — AMENDMENTS TO THE FRAMEWORK AGREEMENT

II.12.1 Any amendment to the Framework agreement or a Specific agreement must be made in writing.

II.12.2 An amendment may not have the purpose or the effect of making changes to the Framework agreement or a Specific agreement which would call into question the decision to establish the framework partnership or to award the specific grant or which would be contrary to the equal treatment of applicants.

II.12.3 Any request for amendment must:

- (a) be duly justified;
- (b) be accompanied by appropriate supporting documents; and
- (c) be sent to the other party in due time before it is due to take effect, and in any case one month before the end of the *implementation period* of the Framework agreement or the Specific agreement.

Point (c) does not apply in cases duly substantiated by the party requesting the amendment if the other party agrees.

II.12.4 A request for amendment on behalf of the partners must be submitted by the CKC Leader. If a change of the CKC Leader is requested without its agreement, the request must be submitted by all other partners and must be accompanied by the opinion of the CKC Leader or proof that this opinion has been requested in writing.

II.12.5 Amendments enter into force on the date on which the last party signs or on the date of approval of the request for amendment.

Amendments take effect on a date agreed by the parties or, in the absence of such an

ARTICLE II.13 — FORCE MAJEURE

- II.13.1** A party faced with *force majeure* must send a *formal notification* to the other party without delay, stating the nature of the situation or of the event, its likely duration and foreseeable effects.
- II.13.2** The parties must take the necessary measures to limit any damage due to *force majeure*. They must do their best to resume the implementation of the *action* as soon as possible.
- II.13.3** The party faced with *force majeure* may not be considered in breach of its obligations under the Framework agreement or a Specific agreement if it has been prevented from fulfilling them by *force majeure*.

ARTICLE II.13 — SUSPENSION OF THE IMPLEMENTATION OF THE ACTION

II.13.1 Suspension of implementation by the partners

The CKC Leader, on behalf of the partners, may suspend the implementation of an *action* or any part of it, if exceptional circumstances make such implementation impossible or excessively difficult, in particular in the event of *force majeure*.

The CKC Leader must immediately inform CEPOL, stating:

- (a) the reasons for suspension, including details about the date or period when the exceptional circumstances occurred; and
- (b) the expected date of resumption.

Once the circumstances allow the partners to resume implementing the *action*, the CKC Leader must inform CEPOL immediately and present a request for amendment of the Framework agreement or a Specific agreement as provided for in Article II.12.3. This obligation does not apply if the Framework agreement or a Specific agreement or the participation of a partner is terminated in accordance with Articles II.14.1, II.14.2.1 or points (c) or (d) of Article II.14.2.2.

II.13.2 Suspension of implementation by CEPOL

II.13.2.1 Grounds for suspension

The CEPOL may suspend the implementation of an *action* or any part thereof or the implementation of the Framework agreement:

- (a) if CEPOL has evidence that a partner has committed *substantial errors*, *irregularities* or *fraud* in the award procedure or while implementing the Framework agreement or the Specific agreement or if a partner fails to comply with its obligations under those agreements;

- (b) if CEPOL has evidence that a partner has committed systemic or recurrent errors, *irregularities*, *fraud* or serious breach of obligations in other grants funded by the Union or the European Atomic Energy Community ('Euratom') awarded to the partner under similar conditions and the errors, *irregularities*, *fraud* or breach have a material impact on one or more specific grants awarded under the Framework agreement; or
- (c) if CEPOL suspects *substantial errors*, *irregularities*, *fraud* or breach of obligations committed by a partner in the award procedure or while implementing the Framework agreement or the Specific agreement and needs to verify whether they have actually occurred.

The implementation of each action for which a specific grant has been awarded is deemed automatically suspended from the date on which the suspension of the implementation of the Framework agreement takes effect.

II.13.2.2 Procedure for suspension

Step 1 — Before suspending implementation of an *action*, CEPOL must send a *formal notification* to the coordinator:

- (a) informing it of:
 - (i) its intention to suspend the implementation;
 - (ii) the reasons for suspension;
 - (iii) the necessary conditions for resuming the implementation of the Framework agreement or of the *action* in the cases referred to in points (a) and (b) of Article II.13.2.1; and
- (b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

Step 2 — If CEPOL does not receive observations or decides to pursue the procedure despite the observations it has received, it must send a *formal notification* to CKC Leader informing it of:

- (a) the suspension of the implementation;
- (b) the reasons for suspension; and
- (c) the final conditions for resuming the implementation of the Framework agreement or of the *action* in the cases referred to in points (a) and (b) of Article II.13.2.1; or
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.13.2.1,.

The CKC Leader must immediately inform the other partners of the suspension. The suspension takes effect five calendar days after the *formal notification* is received by the CKC Leader or on a later date specified in the *formal notification*.

Otherwise, CEPOL must send a *formal notification* to the CKC Leader informing it that it is not continuing the suspension procedure.

II.13.2.3 Resuming implementation

In order to resume the implementation, the partners must meet the notified conditions as soon as possible and must inform CEPOL of any progress made.

If the conditions for resuming the implementation of the Framework agreement or the Specific agreements are met or the necessary verifications are carried out, CEPOL must send a *formal notification* to the CKC Leader:

- (a) informing it that the conditions for lifting the suspension are met; and
- (b) requiring it to present a request for amendment of the agreement concerned as provided for in Article II.13.3. This obligation does not apply if the Framework agreement or the Specific agreement or the participation of a partner is terminated in accordance with Articles II.14.1, II.14.2.1 or points (c), (g) or (h) of Article II.14.2.2.

II.13.3 Effects of the suspension

II.13.3.1 If the Framework agreement is not terminated, it may be adapted to the new implementing conditions in accordance with Article II.12.

The suspension of the implementation of the Framework agreement and of all automatically suspended actions in accordance with the last subparagraph of Article II.13.2.1 is deemed lifted as from the date of the notification by CEPOL referred to in point (a) of Article II.13.2.3. In this case Article II.13.3.2 does not apply.

II.13.3.2 If the implementation of the suspended *action* can be resumed and the Specific agreement has not been terminated, an amendment to the Specific agreement must be made in accordance with Article II.12 in order to:

- (a) set the date on which the *action* is to be resumed;
- (b) extend the duration of the *action*; and
- (c) make other changes necessary to adapt the *action* to the new situation.

The suspension is lifted with effect from the resumption date set out in the amendment. This date may be before the date on which the amendment enters into force.

II.13.3.3 Costs incurred during the period of suspension that relate to the implementation of the suspended *action* or the suspended part of it may not be reimbursed or covered by the grant.

Suspending implementation of an *action* or implementation of the Framework agreement does not affect the CEPOL's right to terminate the concerned agreement or to terminate the participation of a partner in accordance with Article II.14.2, reduce the grant or recover amounts unduly paid in accordance with Articles II.21.4 and II.22.

Neither party may claim damages due to suspension by the other party.

ARTICLE II.14 — TERMINATION OF THE FRAMEWORK AGREEMENT OR THE SPECIFIC AGREEMENT. TERMINATION OF THE PARTICIPATION OF ONE OR MORE PARTNERS

II.14.1 Termination by the partners

II.14.1.1 Termination of the Framework agreement

The partners may terminate the Framework agreement without specifying the reasons for termination.

The CKC Leader must send a *formal notification* of termination to CEPOL stating the date on which the termination takes effect. This date must be set after the *formal notification*.

II.14.1.2 Termination of a Specific agreement

The partners may terminate a Specific agreement.

The CKC Leader must send a *formal notification* of termination to CEPOL, stating:

- (a) the reasons for termination; and
- (b) the date on which the termination takes effect. This date must be set after the *formal notification*.

If the CKC Leader does not state the reasons for the termination or if CEPOL considers that the reasons do not justify termination, the Specific agreement is considered to have been terminated improperly.

The termination takes effect on the day specified in the *formal notification*.

II.14.1.3 Termination of the participation of one or more partners by the coordinator

The participation of one or more partners in the Framework agreement or in the Specific agreement may be terminated by the CKC Leader at the request of the partner concerned or on behalf of the other partners.

The CKC Leader must send a *formal notification* of termination to CEPOL and inform the partner concerned by termination.

If the CKC Leader's participation is terminated without its agreement, the *formal notification* must be submitted by another partner (acting on behalf of the other partners).

The *formal notification* must include:

- (a) the reasons for termination;
- (b) the opinion of the partner concerned by termination (or proof that this opinion has been requested in writing);
- (c) the date on which the termination takes effect. This date must be set after the *formal notification*; and
- (d) a request for amendment as provided for in Article II.14.3.2(a).

If the coordinator or partner does not state the reasons for the termination or if CEPOL considers that the reasons do not justify termination, the participation will be considered to have been terminated improperly.

The termination takes effect on the day specified in the *formal notification*.

II.14.2 Termination by CEPOL

II.14.2.1 Termination of the Framework agreement

CEPOL may terminate the Framework agreement without specifying the reasons for termination.

CEPOL must send a *formal notification* of termination to CKC Leader specifying the date on which the termination takes effect. The notification must be sent before the termination is due to take effect.

II.14.2.2 Termination of the Framework agreement or a Specific agreement or of the participation of one or more partners based on explicit grounds

CEPOL may terminate the Framework agreement, a Specific agreement or the participation of one or more partners in these agreements, if:

- (a) a change to the partner's legal, financial, technical, organisational or ownership situation is likely to affect the implementation of the Framework agreement or the Specific agreement substantially or calls into question the decision to establish the framework partnership or to award the specific grant;
- (b) the partners do not implement an *action* as described in Annex I of the Specific agreement or a partner fails to comply with another substantial obligation incumbent on it under the Framework agreement or the Specific agreement;
- (c) the implementation of an *action* is prevented or suspended due to *force majeure* or exceptional circumstances and either:
 - (i) resumption is impossible; or
 - (ii) the necessary changes to the Framework agreement or the Specific agreement would call into question the decision to establish the framework partnership or to award the specific grant or be contrary to the equal treatment of applicants;
- (d) a partner or any person that assumes unlimited liability for the debts of that partner comes under any of the situations provided for in points (a) or (b) of Article 106 (1) of the Financial Regulation;¹³
- (e) a partner or any *related person* comes under any of the situations provided for in points (c), (d), (e) or (f) of Article 106 (1) or comes under Article 106 (2) of the Financial Regulation;
- (f) CEPOL has evidence that a partner or any *related person* has committed *substantial errors, irregularities* or *fraud* in the award procedure or while implementing the Framework agreement or any Specific agreement, including if that partner or *related person* has submitted false information or failed to provide required information;
- (g) CEPOL has evidence that a partner has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other Union or Euratom grants awarded to it under similar conditions and such errors, *irregularities, fraud* or breach have a material impact on a specific grant awarded under the Framework agreement; or
- (h) CEPOL has sent a partner, through the coordinator, a *formal notification* asking it to end the participation of its affiliated entity because that entity is in a situation provided for in points (f), (g) or (h) and that partner has failed to request an amendment ending the participation of the entity and reallocating its tasks.

¹³ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.

II.14.2.3 Procedure for termination based on explicit grounds

Step 1- Before terminating the Framework agreement or a Specific agreement or the participation of one or more partners on one of the grounds specified in Article II.14.2.2, the CEPOL must send a *formal notification* to the CKC Leader:

- (a) informing it of:
 - (i) its intention to terminate;
 - (ii) the reasons for termination; and
- (b) requiring it, within 45 calendar days of receiving the formal notification:
 - (i) to submit observations on behalf of all partners; and
 - (ii) in the case of point (c) of Article II.14.2.2, to inform CEPOL of the measures to ensure compliance with the obligations under the Framework agreement or the Specific agreement concerned.

Step 2 — If CEPOL does not receive observations or decides to pursue the procedure despite the observations it has received, it will send a *formal notification* to the CKC Leader informing it of the termination and the date on which it takes effect. The coordinator must immediately inform the other partners of the termination.

Otherwise, CEPOL must send a *formal notification* to the CKC Leader informing it that the termination procedure is not continued.

The termination takes effect:

- (a) for terminations under points (a), (b), (c) and (e) of Article II.14.2.2: on the day specified in the *formal notification* of termination referred to in the second subparagraph (i.e. in Step 2 above);
- (b) for terminations under points (d), (f), (g), (h) and (i) of Article II.14.2.2: on the day after the coordinator receives the *formal notification* of termination referred to in the second subparagraph (i.e. in Step 2 above).

II.14.3 Effects of termination

II.14.3.1 Effects of terminating the Framework agreement or a Specific agreement

Where the Framework agreement is terminated by the partners in accordance with Article II.14.1.1 or by CEPOL in accordance with Articles II.14.2.1 or II.14.2.2:

- a) the partners must complete the implementation of any Specific agreement, governed by the Framework agreement, which has entered into force before the date on which the termination of the Framework agreement takes effect;

b) CEPOL must honour its obligations arising from the implementation of any Specific agreement, governed by the Framework agreement, which has entered into force before the date on which the termination of the Framework agreement takes effect.

Within 60 calendar days from the day on which the termination of a Specific agreement takes effect, the partners must submit a request for payment of the balance.

If CEPOL does not receive the request for payment of the balance by the above deadline, only costs which are included in an approved technical report and, where relevant, in an approved financial statement, are reimbursed or covered by the specific grant.

II.14.3.2 Effects of terminating the participation of one or more partners in the Framework agreement or in a Specific agreement

a) The CKC Leader must submit a request for amendment including, where necessary:

- (i) a proposal to reallocate the tasks of the partner or partners concerned by the termination; and
- (ii) the addition of one or more new partners to succeed the partner or partners concerned in all their rights and obligations under the Framework agreement and the concerned Specific agreements.

If CEPOL terminates the participation of a partner, the CKC Leader must submit the request for amendment within 60 calendar days from the day on which the termination takes effect.

If the coordinator terminates the participation of a partner, the request for amendment must be included in the *formal notification* of termination referred to in Article II.14.1.3.

If termination takes effect after the end of the *implementation period* of the Framework agreement and all the Specific agreements, no request for amendment must be provided unless the partner concerned is CKC Leader. In this case, the request for amendment must propose a new CKC Leader.

If the request for amendment is rejected by CEPOL, the Framework agreement and the Specific agreements may be terminated in accordance with Article II.14.2.2(b). The request for amendment may be rejected if it calls into question the decision to establish the framework partnership or to award a specific grant or is contrary to the equal treatment of applicants.

b) The partner whose participation in a Specific agreement is terminated must submit to the CKC Leader:

- (i) a technical report; and
- (ii) a financial statement covering the period from the end of the last reporting period to the date when termination takes effect.

The CKC Leader must include this information in the payment request for the next reporting period.

Only costs incurred by the partner concerned before termination takes effect are reimbursed or covered by the specific grant. Costs relating to contracts due for execution only after termination are not reimbursed or covered by the specific grant.

CEPOL may reduce a specific grant in accordance with Article II.21.4. in case of:

- (a) improper termination of the participation of a partner by the coordinator within the meaning of Article II.14.1.3 or
- (b) termination of the participation of a partner by CEPOL on any of the grounds set out in points (c), (f), (g), (h) or (i) of Article II.14.2.2.

Neither party may claim damages on the grounds that the other party terminated the participation of a partner.

After termination, the concerned partner's obligations continue to apply.

Where the participation of one or more partners in the Framework agreement is terminated by the CKC Leader in accordance with Article II.14.1.3 or by CEPOL in accordance with Article II.14.2.2 this partner or these partners shall complete the implementation of any other Specific agreement, governed by the Framework agreement, which have entered into force before the date on which the termination of the participation in the Framework agreement takes effect.

ARTICLE II.15 — APPLICABLE LAW, SETTLEMENT OF DISPUTES AND ENFORCEABLE DECISIONS

II.15.1 The Framework agreement and any Specific agreement are governed by the applicable Union law complemented, where necessary, by the law of Hungary.

II.15.2 In accordance with Article 272 TFEU, the General Court or, on appeal, the Court of Justice of the European Union, has sole jurisdiction to hear any dispute between the Union and any partner concerning the interpretation, application or validity of the Framework agreement or any Specific agreement, if such dispute cannot be settled amicably.

II.15.3 In accordance with Article 299 TFEU, for the purposes of recovery within the meaning of Article II.26, CEPOL may adopt an enforceable decision to impose pecuniary obligations on persons other than States.



Model Version of December 2016

Annex 3, v_30/09/2017

An *action* may be brought against such decision before the General Court of the European Union in accordance with Article 263 TFEU.

PART B — FINANCIAL PROVISIONS

ARTICLE II.16 — ELIGIBLE COSTS

II.16.1 Conditions for the eligibility of costs

Eligible costs of the *action* are costs actually incurred by the partner and which meet the following criteria:

- (a) they are incurred within the *implementation period* of the Specific agreement, with the exception of costs relating to the request for payment of the balance and the corresponding supporting documents;
- (b) they are indicated in the estimated budget of an *action*. The estimated budget is set out in Annex II of the Specific agreement;
- (c) they are incurred in connection with the *action* as described in Annex I of the Specific agreement and are necessary for its implementation;
- (d) they are identifiable and verifiable, in particular they are recorded in the partner's accounting records and determined according to the applicable accounting standards of the country where the partner is established and according to the partner's usual cost accounting practices;
- (e) they comply with the requirements of applicable tax and social legislation; and
- (f) they are reasonable, justified and comply with the principle of sound financial management, in particular regarding economy and efficiency.

II.16.2 Eligible direct costs

To be eligible, the *direct cost* of an *action* must comply with the eligibility conditions set out in Article II.16.1.

In particular, the following categories of costs are eligible *direct costs*, provided that they satisfy the eligibility conditions set out in Article II.16.1 as well as the following conditions:

- a) The eligible direct costs for an action are those costs which, with due regard for the conditions of eligibility set out in paragraph 1, are identifiable as specific costs directly linked to the implementation of the action and which can therefore be booked to it direct. In particular, the direct costs as mentioned in CEPOL Executive Director 42/2017/DIR on financial rules for CEPOL residential training activities.
- b) the costs of personnel working under an employment contract with CKC Leader and providing the CKC Leader with administrative support as set out in the article I.4.3, provided that these costs are in line with the partner's usual policy on remuneration.

Those costs include actual salaries plus social security contributions and other statutory costs included in the remuneration. They may also comprise additional remunerations, including payments on the basis of supplementary contracts regardless of the nature of those contracts, provided that they are paid in a consistent manner whenever the same kind of work or expertise is required, independently from the source of funding used;

The costs of natural persons working under a contract with the partner other than an employment contract or who are seconded to the partner by a third party against payment may also be included under such personnel costs, provided that the following conditions are fulfilled:

- (i) the person works under conditions similar to those of an employee (in particular regarding the way the work is organised, the tasks that are performed and the premises where they are performed);
- (ii) the result of the work belongs to the partner (unless exceptionally agreed otherwise); and
- (iii) the costs are not significantly different from the costs of staff performing similar tasks under an employment contract with the partner;

II.16.3 Ineligible costs

In addition to any other costs which do not fulfil the conditions set out in Article II.16.1, the following costs may not be considered eligible:

- (a) return on capital and dividends paid by a partner;
- (b) debt and debt service charges;
- (c) provisions for losses or debts;
- (d) interest owed;
- (e) doubtful debts;
- (f) exchange losses;
- (g) costs of transfers from CEPOL charged by the bank of a partner;
- (h) costs declared by a partner under another action receiving a grant financed from the Union budget. Such grants include grants awarded by a Member State and financed from the Union budget and grants awarded by bodies other than the Commission for the purpose of implementing the Union budget. In particular, if a partner receives an operating grant financed by the EU or Euratom budget, it may not declare indirect costs for the period(s) covered by the operating grant, unless it can demonstrate that the operating grant does not cover any costs of the action;
- (i) contributions in kind from third parties;

- (j) excessive or reckless expenditure;
- (k) deductible VAT.

ARTICLE II.17 — IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED

II.17.1 Declaring costs and contributions

Each partner must declare as eligible costs or as a requested contribution for the costs it actually incurred for the *action*.

II.17.2 Records and other documentation to support the costs and contributions declared

Each partner must provide the following if requested to do so in the context of the checks or audits described in **Article II.23**:

- adequate supporting documents to prove the costs declared, such as contracts, invoices and accounting records.
- In addition, the partner's usual accounting and internal control procedures must permit direct reconciliation of the amounts declared with the amounts recorded in its accounting statements and with the amounts indicated in the supporting documents.

ARTICLE II.18 — BUDGET TRANSFERS

Partners are allowed to adjust the estimated budget set out in Annex II of the Specific agreement by transfers between themselves and between the different budget categories, if the *action* is implemented as described in Annex I of the Specific agreement. This adjustment does not require an amendment of the Specific agreement.

However, the partners may not add costs relating to *subcontracts* not provided for in Annex I of the Specific agreement, unless such additional *subcontracts* are approved by CEPOL in accordance with Article II.11.1(d).

As an exception to the first subparagraph, if partners want to change the value of the contribution to which each of them is entitled, as referred to in point (c) of the third subparagraph of II.22.3, the CKC Leader must request an amendment as provided for in Article II.12.

ARTICLE II.19 — NON-COMPLIANCE WITH REPORTING OBLIGATIONS

CEPOL may terminate the Framework agreement or the Specific agreement if the CKC Leader or partner:

- (a) did not submit a request for interim payment or payment of the balance accompanied by the documents referred to in Articles 4.3 or 4.4 of the Specific agreement in line with Executive Director 42/2017/DIR and
- (b) still fails to submit such a request within further 30 calendar days following a written reminder sent by CEPOL.

ARTICLE II.20 — SUSPENSION OF PAYMENTS AND TIME LIMIT FOR PAYMENT

II.20.1 Suspension of payments

II.20.1.1 Grounds for suspension

CEPOL may at any time during the implementation of the Specific agreement suspend, in whole or in part, the pre-financing payments and interim payments for one or more partners or the payment of the balance for all partners:

- (a) if CEPOL has evidence that a partner has committed *substantial errors, irregularities* or *fraud* in the award procedure or while implementing the Framework agreement or a Specific agreement or if a partner fails to comply with its obligations under the Framework agreement or a Specific agreement;
- (b) if CEPOL has evidence that a partner has committed systemic or recurrent errors, *irregularities, fraud* or serious breach of obligations in other grants funded by the Union or the European Atomic Energy Community ('Euratom') awarded to the partner under similar conditions and such errors, *irregularities, fraud* or breach have a material impact on a specific grant awarded under the Framework agreement; or
- (c) if CEPOL suspects *substantial errors, irregularities, fraud* or breach of obligations committed by a partner in the award procedure or while implementing the Framework agreement or the Specific agreement and needs to verify whether they have actually occurred.

II.20.1.2 Procedure for suspension

Step 1 — Before suspending payments, CEPOL must send a *formal notification* to the CKC Leader:

- (a) informing it of:
 - (i) its intention to suspend payments;
 - (ii) the reasons for suspension;

(iii) in the cases referred to in points (a) and (b) of Article II.20.1.1, the conditions that need to be met for payments to resume; and

(b) inviting it to submit observations within 30 calendar days of receiving the *formal notification*.

Step 2 — If CEPOL does not receive observations or decides to pursue the procedure despite the observations it has received, it must send a *formal notification* to the CKC Leader informing it of:

- (a) the suspension of payments;
- (b) the reasons for suspension;
- (c) the final conditions under which payments may resume in the cases referred to in points (a) and (b) of Article II.20.1.1;
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.20.1.1.

The coordinator must immediately inform the other partners of the suspension. The suspension takes effect on the day CEPOL sends *formal notification* of suspension (Step 2).

Otherwise, CEPOL must send a *formal notification* to the coordinator informing it that it is not continuing with the suspension procedure.

II.20.1.3 Effects of suspension

During the period of suspension of payments the CKC Leader is not entitled to submit:

- (a) any requests for payments and supporting documents referred Executive Director 42/2017/DIR; or
- (b) where the suspension concerns the pre-financing payments or interim payments for one or several partners only, any requests for payments and supporting documents relating to the participation of the concerned partner or partners in the *action*.

The corresponding requests for payments and supporting documents may be submitted as soon as possible after resumption of payments.

The suspension of payments does not affect the right of the coordinator to suspend the implementation of the *action* as provided for in Article II.13.1 or to terminate the Framework agreement or the Specific agreement or the participation of a partner as provided for in Article II.14.1.]

II.20.1.4 Resuming payments

In order for CEPOL to resume payments, the partners must meet the notified conditions as soon as possible and must inform CEPOL of any progress made.

If the conditions for resuming payments are met, the suspension will be lifted. CEPOL will send a *formal notification* to the coordinator informing it of this.

II.20.2 Suspension of the time limit for payments

II.20.2.1 CEPOL may at any moment suspend the time limit for payment specified in the Specific agreement if a request for payment cannot be approved because:

- (a) it does not comply with the Specific agreement or the Framework agreement;
- (b) the appropriate supporting documents have not been produced; or
- (c) there is a doubt about the eligibility of the costs declared in the financial statements and additional checks, reviews, audits or investigations are necessary.

II.20.2.2 CEPOL must send a *formal notification* to the CKC Leader informing it of:

- (a) the suspension; and
- (b) the reasons for the suspension.

The suspension takes effect on the day CEPOL sends the *formal notification*.

II.20.2.3 If the conditions for suspending the payment deadline are no longer met, the suspension will be lifted and the remaining period will resume.

If the suspension exceeds two months, the CKC Leader may request CEPOL if the suspension will continue.

If the payment deadline has been suspended because the technical reports or financial statements do not comply with the Specific agreement or the Framework agreement and the revised report or statement is not submitted or was submitted but is also rejected, CEPOL may terminate the Specific agreement or the Framework agreement or the participation of the partner as provided for in Article II.14.2.2(c) and reduce the grant as provided for in Article II.21.4.

ARTICLE II.21 — CALCULATION OF THE FINAL AMOUNT OF THE GRANT

The final amount of the specific grant depends on the extent to which the *action* has been implemented in accordance with the terms of the Specific agreement and the Framework agreement.

The final amount of the grant is calculated by CEPOL at the time of the payment of the balance. The calculation involves the following steps:

Step 1 — Application of the reimbursement rate to the eligible costs

Step 2 — Limit to the *maximum amount of the grant*

Step 3 — Reduction due to the no-profit rule

Step 4 — Reduction due to improper implementation or breach of other obligations.

II.21.1 Step 1 — Application of the reimbursement rate to the eligible costs

As the grant takes the form of the reimbursement of eligible costs, the reimbursement rate specified Specific agreement is applied to the eligible costs of the *action* approved by CEPOL for the corresponding categories of costs and partners.

II.21.2 Step 2 — Limit to *maximum amount of the grant*

The total amount paid to the partners by CEPOL may in no circumstances exceed the *maximum amount of the grant*.

If the amount obtained following Step 1 is higher than this maximum amount, the final amount of the grant is limited to the latter.

II.21.3 Step 3 — Reduction due to the no-profit rule

The grant may not produce a profit for the partners, unless specified otherwise in the Special Conditions or in the Specific agreement.

‘Profit’ means the surplus of the amount obtained following Steps 1 and 2 plus the total receipts of the *action*, over the total eligible costs of the *action*.

The total eligible costs of the *action* are the consolidated total eligible costs approved by CEPOL for the categories of costs reimbursed in accordance with Executive Director 42/2017/DIR.

The total receipts of the *action* are the consolidated total receipts established, generated or confirmed on the date on which the request for payment of the balance is drawn up by the coordinator.

The following are considered receipts:

- (a) income generated by the action;

- (b) financial contributions given by third parties to a partner, if they are specifically assigned by the third parties to the financing of the eligible costs of the action reimbursed by CEPOL in accordance Executive Director 42/2017/DIR.

The following are not considered receipts:

- (a) financial contributions by third parties, if they may be used to cover costs other than the eligible costs under the Specific agreement;
- (b) financial contributions by third parties with no obligation to repay any amount unused at the end of the *implementation period*.

If there is a profit, it will be deducted in proportion to the final rate of reimbursement of the actual eligible costs of the *action* approved by CEPOL for the categories of costs referred to in Executive Director 42/2017/DIR. This deduction will be applied on the amount calculated following Steps 1 and 2.

II.21.4 Step 4 — Reduction due to improper implementation or breach of other obligations

CEPOL may reduce the *maximum amount of the grant* if the *action* has not been implemented properly as described in Annex I of the Specific agreement (i.e. if it has not been implemented or has been implemented poorly, partially or late), or if another obligation under the Framework agreement or the Specific agreement has been breached.

The amount of the reduction will be proportionate to the degree to which the *action* has been implemented improperly or to the seriousness of the breach.

Before CEPOL reduces the grant, it must send a *formal notification* to the CKC Leader:

- (a) informing it of:
 - (i) its intention to reduce the *maximum amount of the grant*;
 - (ii) the amount by which it intends to reduce the grant;
 - (iii) the reasons for reduction; and
- (b) inviting it to submit observations within 30 calendar days of receiving the formal notification.

If CEPOL does not receive any observations or decides to pursue reduction despite the observations it has received, it will send a *formal notification* informing the CKC Leader of its decision.

If the grant is reduced, CEPOL must calculate the reduced grant amount by deducting the amount of the reduction (calculated in proportion to the improper implementation

of the *action* or to the seriousness of the breach of obligations) from the *maximum amount of the grant*.

The final amount of the grant will be the lower of the following two:

- (a) the amount obtained following Steps 1 to 3; or
- (b) the reduced grant amount following Step 4.

ARTICLE II.22 — RECOVERY

II.22.1 Recovery at the time of payment of the balance

Where the payment of the balance takes the form of a recovery, the CLC Leader or partner must repay CEPOL the amount in question.

II.22.2 Recovery after payment of the balance

Where an amount is to be recovered as provided for in Articles II.23.6, II.23.7 and II.23.8, the partner concerned by the audit or OLAF findings must repay CEPOL the amount in question. Where the audit findings do not concern a specific partner (or its affiliated entities), the coordinator must repay CEPOL the amount in question, even if it was not the final recipient of the amount due.

Each partner is responsible for the repayment of any amount unduly paid by CEPOL as a contribution towards the costs incurred by its affiliated entities.

II.22.3 Recovery procedure

Before recovery, CEPOL must send a *formal notification* to the partner concerned:

- (a) informing it of its intention to recover the amount unduly paid;
- (b) specifying the amount due and the reasons for recovery; and
- (c) inviting the partner to make any observations within a specified period.

If no observations have been submitted or if, despite the observations submitted by the partner, CEPOL decides to pursue the recovery procedure, CEPOL may confirm recovery by sending a *formal notification* to the partner consisting of a debit note, specifying the terms and the date for payment.

If payment has not been made by the date specified in the debit note, CEPOL will recover the amount due:

- (a) by offsetting it, without the partner's prior consent, against any amounts owed to the partner by CEPOL ('offsetting');

In exceptional circumstances, to safeguard the financial interests of the Union, CEPOL may offset before the due date.

An action may be brought against such offsetting before the General Court of the European Union in accordance with Article 263 TFEU;

- (b) by drawing on the financial guarantee where provided for;
- (c) by holding the partners jointly and severally liable up to the maximum EU contribution indicated, for each partner, in the estimated budget (Annex II of the Specific agreement as last amended);
- (d) by taking legal action as provided for in Article II.15.2 or in the Special Conditions or by adopting an enforceable decision as provided for in Article II.15.3.

II.22.4 Interest on late payment

If payment is not made by the date in the debit note, the amount to be recovered will be increased by late-payment from the day following the date for payment in the debit note up to and including the date CEPOL receives full payment of the amount.

Partial payments must first be credited against charges and late-payment interest and then against the principal.

II.22.5 Bank charges

Bank charges incurred in the recovery process must be borne by the partner concerned, unless Directive 2007/64/EC¹⁴ applies.

ARTICLE II.23 — CHECKS, AUDITS AND EVALUATIONS

II.23.1 Technical and financial checks, audits, interim and final evaluations

CEPOL may, during the implementation of an *action* or afterwards, carry out technical and financial checks and audits to determine that the partners are implementing the *action* properly and are complying with the obligations under the Specific agreement or the Framework agreement.

Information and documents provided as part of checks or audits must be treated on a confidential basis.

¹⁴ Directive 2007/64/EC¹⁴ of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

In addition, CEPOL may carry out an interim or final evaluation of the impact of the *action*, measured against the objective of the Union programme concerned.

CEPOL checks, audits or evaluations may be carried out either directly by CEPOL's own staff or by any other outside body authorised to do so on its behalf.

CEPOL may initiate such checks, audits or evaluations during the implementation of the Specific agreement and during a period of five years starting from the date of payment of the balance for the action concerned. This period is limited to three years if the *maximum amount of the grant* is not more than EUR 60 000.

The check, audit or evaluation procedures are considered to be initiated on the date of receipt of the letter of CEPOL announcing it.

If the audit is carried out on an affiliated entity, the partner concerned must inform that affiliated entity.

II.23.2 Duty to keep documents

The partners must keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by their respective national law and under the conditions laid down therein, during a period of five years starting from the date of payment of the balance for the action concerned.

The period during which documents must be kept is limited to three years if the *maximum amount of the grant* is not more than EUR 60 000.

The periods set out in the first and second subparagraphs are longer if there are ongoing audits, appeals, litigation or pursuit of claims concerning the grant, including in the cases referred to in Article II.23.7. In such cases, the partners must keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

II.23.3 Obligation to provide information

Where a check, audit or evaluation is initiated before the payment of the balance, the coordinator must provide any information, including information in electronic format, requested by CEPOL or by any other outside body authorised by CEPOL. Where appropriate, CEPOL may request that a partner provides such information directly.

Where a check or audit is initiated after payment of the balance, the information referred to in the previous subparagraph must be provided by the partner concerned.

If the partner concerned does not comply with the obligations set out in the first and second subparagraphs, CEPOL may consider:

- (a) any cost insufficiently substantiated by information provided by the partner as ineligible;
- (b) any unit, lump sum or flat-rate contribution insufficiently substantiated by information provided by the partner as undue.

II.23.4 On-the-spot visits

During an on-the-spot visit, the partners must allow CEPOL staff and outside personnel authorised by CEPOL to have access to the sites and premises where the *action* concerned is or was carried out, and to all the necessary information, including information in electronic format.

They must ensure that the information is readily available at the moment of the on-the-spot visit and that information requested is handed over in an appropriate form.

If the partner concerned refuses to provide access to the sites, premises and information as required in the first and second subparagraphs, CEPOL may consider any cost insufficiently substantiated by information provided by the partner as ineligible.

II.23.5 Contradictory audit procedure

On the basis of the findings made during the audit, a provisional report ('draft audit report') must be drawn up. It must be sent by CEPOL or its authorised representative to the partner concerned, which must have 30 calendar days from the date of receipt to submit observations. The final report ('final audit report') must be sent to the partner concerned within 60 calendar days of expiry of the time limit for submission of observations.

II.23.6 Effects of audit findings

On the basis of the final audit findings, CEPOL may take the measures it considers necessary, including recovery at the time of payment of the balance or after payment of the balance of all or part of the payments made by it under the Specific agreement concerned, as provided for in Article II.22.

In the case of final audit findings after the payment of the balance, the amount to be recovered corresponds to the difference between the revised final amount of the specific grant, determined in accordance with Article II.25, and the total amount paid to the partners under the Specific agreement for the implementation of the *action*.

II.23.7 Correction of systemic or recurrent errors, irregularities, fraud or breach of obligations

II.23.7.1 CEPOL may extend audit findings from other grants to a specific grant awarded under the Framework agreement if:

- (a) the partner concerned is found to have committed systemic or recurrent errors, *irregularities*, *fraud* or breach of obligations in other EU or Euratom grants awarded under similar conditions and such errors, *irregularities*, *fraud* or breach have a material impact on a specific grant awarded under the Framework agreement; and
- (b) the final audit findings are sent to the partner concerned through a *formal notification*, together with the list of grants affected by the findings within the period referred to in Article II.23.1.

The extension of findings may lead to:

- (a) the rejection of costs as ineligible;
- (b) reduction of the grant as provided for in Article II.21.4;
- (c) recovery of undue amounts as provided for in Article II.22;
- (d) suspension of payments as provided for in Article II.20.1;
- (e) suspension of the *action* implementation as provided for in Article II.13.2;
- (f) termination as provided for in Article II.14.2.

II.23.7.2 The CEPOL must send a *formal notification* to the partner concerned informing it of the systemic or recurrent errors and of its intention to extend the audit findings, together with the list of grants affected.

- (a) If the findings concern eligibility of costs the procedure is as follows:

Step 1 — The *formal notification* must include:

- (i) an invitation to submit observations on the list of grants affected by the findings;
- (ii) a request to submit revised financial statements for all grants affected;
- (iii) where possible, the correction rate for extrapolation established by the CEPOL to calculate the amounts to be rejected on the basis of the systemic or recurrent errors, *irregularities*, *fraud* or breach of obligations, if the partner concerned:
 - considers that the submission of revised financial statements is not possible or practicable; or
 - will not submit revised financial statements.

Step 2 — The partner concerned has 60 calendar days from when it receives the *formal notification* to submit observations and revised financial statements or to propose a duly substantiated alternative correction method. This period may be extended by CEPOL in justified cases.

Step 3 — If the partner concerned submits revised financial statements that take account of the findings CEPOL will determine the amount to be corrected on the basis of those revised statements.

If the partner proposes an alternative correction method and CEPOL accepts it, CEPOL must send a *formal notification* to the partner concerned informing it:

- (i) that it accepts the alternative method;
- (ii) of the revised eligible costs determined by applying this method.

Otherwise CEPOL must send a *formal notification* to the partner concerned informing it:

- (i) that it does not accept the observations or the alternative method proposed;
- (ii) of the revised eligible costs determined by applying the extrapolation method initially notified to the partner.

If the systemic or recurrent errors, *irregularities*, *fraud* or breach of obligations are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant, determined in accordance with Article II.21 on the basis of the revised eligible costs declared by the partner and approved by CEPOL or on the basis of the revised eligible costs after extrapolation; and
- (ii) the total amount paid to the partners under the Specific agreement for the implementation of the *action*;

(b) If the findings concern improper implementation or a breach of another obligation the procedure is as follows:

Step 1 — The *formal notification* must include:

- (i) an invitation to the partner to submit observations on the list of grants affected by the findings and
- (ii) the correction flat rate CEPOL intends to apply to the *maximum amount of the grant* or to part of it, according to the principle of proportionality.

Step 2 — The partner concerned has 60 calendar days from receiving the *formal notification* to submit observations or to propose a duly substantiated alternative flat-rate.

Step 3 — If CEPOL accepts the alternative flat rate proposed by the partner, it must send a *formal notification* to the partner concerned informing it:

- (i) that it accepts the alternative flat-rate;
- (ii) of the corrected grant amount by applying this flat rate.

Otherwise the Commission must send a *formal notification* to the partner concerned informing it:

- (i) that it does not accept the observations or the alternative flat rate proposed;
- (ii) of the corrected grant amount by applying the flat rate initially notified to the partner.

If the systemic or recurrent errors, *irregularities*, *fraud* or breach of obligations are found after the payment of the balance, the amount to be recovered corresponds to the difference between:

- (i) the revised final amount of the grant after flat-rate correction; and
- (ii) the total amount paid to the partners under the Specific agreement for the implementation of the *action*.

II.23.8 Checks and inspections by OLAF

The European Anti-Fraud Office (OLAF) has the same rights as CEPOL, particularly the right of access, for the purpose of checks and investigations.

Under Council Regulation (Euratom, EC) No 2185/96¹⁵ and Regulation (EU, Euratom) No 883/2013¹⁶ OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against *fraud* and other *irregularities*.

Where appropriate, OLAF findings may lead to CEPOL recovering amounts from partners.

Moreover, findings arising from an OLAF investigation may lead to criminal prosecutions under national law.

II.23.9 Checks and audits by the European Court of Auditors

The European Court of Auditors has the same rights as the CEPOL, particularly the right of access, for the purpose of checks and audits.

¹⁵ Council Regulation (Euratom, EC) 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 irregularities.

¹⁶ 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).

ANNEX IV MANDATE¹⁷

I, the undersigned,

[forename and surname of the legal representative of the future partner signing this mandate],

representing,

[full official name of the future partner] [ACRONYM]

[official legal status or form]¹⁸

[official registration No]¹⁹

[full official address]

[VAT number],

(‘the partner’),

for the purposes of signing and implementing the Framework agreement and Specific agreements signed under it [Title & No] with CEPOL (‘the agreements’) for the action entitled [insert title of the action] (‘the *action*’)

hereby:

1. Mandate

[full official name of the CKC Leader] [ACRONYM]

[official legal status or form]

¹⁷ One original version of this Annex to be included for each partner except for the CKC leader.

¹⁸ To be deleted or filled out in accordance with the ‘Legal Entity’ form.

¹⁹ To be deleted or filled out in accordance with the ‘Legal Entity’ form.

[official registration No]²⁰

[full official address]

[VAT number],

represented by [forename, surname and function of the legal representative of the coordinator] ('the coordinator')

to sign in my name and on my behalf the agreements and their possible subsequent amendments with CEPOL.

This mandate is annexed to the Framework agreement and forms an integral part of it.

SIGNATURE

[forename, surname, function of the legal representative of the mandating partner]

[signature]

Done at [place], [date]

In duplicate in English]

²⁰ To be deleted or filled out in accordance with the 'Legal Entity' form.