



European Union Agency for Law Enforcement Training

FRAMEWORK PARTNERSHIP AGREEMENT

AGREEMENT NUMBER – [...]

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

On the one part,

The **European Union** ("the Union"), represented by the European Union Agency for Law Enforcement Training ("CEPOL"), represented for the purposes of signature of this Framework agreement by the Executive Director, Detlef Schroeder, Dr h.c.,

and

on the other part,

"the partner"

[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]

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")

¹ To be deleted or filled in according to the "Legal Entity" form.

² To be deleted or filled in according to the "Legal Entity" form.

- Annex III Model specific grant decision
- Annex IV [Model Training Report (T43)]
- Annex V [Model Financial Report (T44)]
- Annex VI [Model terms of reference for the certificate on the financial statements]
[Model terms of reference for the certificate on the financial statements:
not applicable]
- Annex VII [Model terms of reference for the certificate on the compliance of the cost
accounting practices] [Model terms of reference for the certificate on the
compliance of the cost accounting practices: not applicable]
- Annex VIII [Model terms of reference for the operational verification report][Model
terms of reference for the operational verification report: not applicable]

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

For the purposes of implementing the Union policy in the field of the mandate of CEPOL , Regulation (EU) 2015/2219³ CEPOL has selected one or more 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 [...] ⁴ in the above-mentioned area of activity and which justify the establishment of a partnership are the following:

Implementation of the agency's annual work programmes.

Implementation of the outcome of the EU-STNA.

Fostering of cooperation between Member State training institutes within the network and promoting the mutual recognition of law enforcement.

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, OJ L319/1, 4.12.2015.

⁴ Mention the name of the partner signatory of the Framework agreement.

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ARTICLE I.1 – SUBJECT MATTER OF THE FRAMEWORK AGREEMENT – AWARD OF SPECIFIC GRANTS

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 partner ("the partnership") with the aim to contribute to the objectives of the Union policy 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 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 partnership CEPOL may award to the partner specific grants for an action.

The Framework agreement applies to any specific grant awarded for implementation of the partnership and to the Grant Decision notified to the partner of the present Framework Agreement.

Signature of the Framework agreement does not give rise to any obligation of CEPOL to award specific grants. It does not affect the partner's 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.1.1.4 Articles II.13.4 and point (ii) of Article II.25.3(a) do not apply.

I.1.2 Procedure for award of specific grants

CEPOL may consult its partner 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 *a call for proposals open to all applicants meeting the announced criteria*. The call for proposals must define the *selection and award criteria* to be applied. The partner is not obliged to submit a proposal in response to such a consultation.

I.1.3 Grant Decision

Where CEPOL decides to award a specific grant that shall be formalised in a Grant Decision, in accordance with the model set out in Annex III. The Grant Decision shall be notified to the authorized representatives of the partner, thereafter "beneficiary".

The Grant Decision shall take effect on the date of its notification to the beneficiary. This date shall be 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 Grant Decision governed by the Framework agreement.

ARTICLE I.2 – ENTRY INTO FORCE OF THE FRAMEWORK AGREEMENT AND DURATION OF THE PARTERSHIP

- 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 is concluded for **four years** starting from the date of its entry into force.

ARTICLE I.3 - DATA CONTROLLER

The entity acting as a data controller as provided for in Article II.7 is the Head of Training Unit of CEPOL.

ARTICLE I.4 – INELIGIBILITY OF VALUE ADDED TAX

As an exception to Article II.19.2(h), paid value added tax (VAT) is not eligible under the Framework agreement.

SIGNATURES

For the partner
[function/forename/surname]

For CEPOL
Detlef Schroeder, Dr.h.c.

[signature]
Done at [place], [date]

[signature]
Done at [place], [date]

In duplicate in English

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PART A – LEGAL AND ADMINISTRATIVE PROVISIONS

ARTICLE II.1 - DEFINITIONS

The following definitions apply for the purpose of the Framework agreement and the Grant decisions:

‘Action’: in case of a specific *grant for an action*, the term refers to the set of activities or the project for which the grant is awarded;

‘Breach of obligations’: failure by the partner to fulfil one or more of its contractual obligations;

‘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 Grant decision 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 Grant decision by the partner is compromised for reasons involving family, emotional life, political or national affinity, economic interest, any other direct or indirect personal interest, or any other shared interest with CEPOL or any third party related to the subject matter of the Framework agreement or a Grant decision;

‘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 Grant decision, 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 act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget, the non-disclosure of information in violation of a specific obligation, with the same effect or the

misapplication of such funds or assets for purposes other than those for which they were originally granted;

'Grave professional misconduct': a violation of applicable laws or regulations or ethical standards of the profession to which a person or entity belongs, or any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence;

'Implementation period': the period of implementation of the Framework agreement as specified in I.2.2 or the period of implementation of the activities forming part of the *action*, as specified in Article 2.2 of the Grant decision;

'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 the 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 Grant decision;

'Pre-existing material': any materials, document, technology or know-how which exists prior to the 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 natural or legal person who is a member of the administrative, management or supervisory body of the partner or 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 in accordance with Article 2.2 of the Grant decision;

'Subcontract': a procurement contract within the meaning of Article II.10, which covers the implementation by a third party of tasks forming part of the *action* as described in Annex I of the Grant decision;

ARTICLE II.2 – GENERAL OBLIGATIONS OF THE PARTNER

The partner must:

- (a) respect the common general objectives that formed the basis for establishing the partnership, as mentioned in the Preamble and in the *Action* plan set out in Annex I, and endeavour to achieve in practice those objectives in each *action* for which a specific grant is awarded;

- (b) maintain relations of mutual co-operation and regular and transparent exchanges of information with CEPOL on the implementation and the follow-up to implementation of the *Action* plan set out in Annex I and of any specific grant awarded by CEPOL under the Framework agreement, as well as on other matters of common interest related to the Framework agreement;
- (c) comply with any legal obligations it is bound by under applicable EU, international and national law;
- (d) carry out the *actions*, for which specific grants were awarded, in accordance with the terms and conditions of the Framework agreement and the Grant decisions;
- (e) inform CEPOL immediately of any events or circumstances of which the partner is aware, that are likely to affect or delay the implementation of an *action*;
- (f) inform CEPOL immediately:
 - (i) of any change in its legal, financial, technical, organisational or ownership situation and of any change in its name, address or legal representative;
 - (ii) of any change in the legal, financial, technical, organisational or ownership situation of its affiliated entities and of any change in their name, address or legal representative.
 - (iii) of any change regarding the exclusion situations listed in Article 136 of Regulation (EU) 2018/1046, including for its affiliated entities;

ARTICLE II.3 – COMMUNICATIONS BETWEEN THE PARTIES

II.3.1 Form and means of communications

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

- (a) be made in writing (in paper or electronic form);
- (b) bear the number of the agreement concerned; and
- (c) be made using the communication details identified in Article 6 of the Grant decision.

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 Grant decision 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 e-mail, provided that it is sent to the email address indicated in Article 6 of the

Grant decision. 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 the department identified in Article 7.1 of the Grant decision.

Formal notifications are considered to have been received by the receiving party on the date of receipt indicated in the proof received by the sending party that the message was delivered to the specified recipient.]

ARTICLE II.4 – LIABILITY FOR DAMAGES

- II.4.1** CEPOL may not be held liable for any damage caused or sustained by the partner, 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 partner 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 Grant decision.

ARTICLE II.5 – CONFLICT OF INTERESTS

- II.5.1** The partner must take all necessary measures to prevent any situation of *conflict of interests*.
- II.5.2** The partner must inform CEPOL without delay of any situation constituting or likely to lead to a *conflict of interests*. It 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 Grant decision 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 Grant decisions must be processed by CEPOL in accordance with Regulation (EU) No 2018/1725.⁵

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 Grant decisions or to protect the financial interests of the EU, including checks, audits and investigations in accordance with Article II.27.

The partner has the right to access rectify or erase its own personal data and the right to restrict or, where applicable, the right to data portability or the right to object to data processing in accordance with Regulation (EU) No 2018/1725. For this purpose, it must send any queries about the processing of its personal data to the data controller identified in Article I.3.

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

II.7.2 Processing of personal data by the partner

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

The partner may grant its personnel access only to data that is strictly necessary for implementing, managing and monitoring the Framework agreement and the Grant decisions. The partner must ensure that the personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality.

The partner must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing of the personal data concerned. This is in order to ensure, as appropriate:

⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- (e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

ARTICLE II.8 – VISIBILITY OF UNION FUNDING

II.8.1 Information on Union funding and use of the European Union emblem

Unless CEPOL requests or agrees otherwise, any communication or publication made by the partner that relates to an *action*, including at 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* has received funding from the Union; and
- (b) display the European Union emblem.

When displayed in association with another logo, the European Union emblem must have appropriate prominence.

The obligation to display the European Union emblem does not confer on the partner a right of exclusive use. The partner may not appropriate the European Union emblem or any similar trademark or 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 partner may use the European Union emblem 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 partner in any form and using any means, must indicate:

- (a) that it reflects only the author's view; and
- (b) 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 partner

The partner retains 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 the Grant Decision.

II.9.2 Pre-existing rights

If CEPOL sends the partner a written request specifying which of the results it intends to use, the partner 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 partner must ensure that it or its affiliated entities have all the rights to use any *pre-existing rights* during the implementation of the Grant Decision.

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

The partner grants the Union the following rights to use the results of an *action*:

- (i) 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;
- (ii) 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;
- (iii) 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;
- (iv) distribution: the right to authorise any form of distribution of results or copies of the results to the public;
- (v) adaptation: the right to modify the results;
- (vi) translation;
- (vii) 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;
- (viii) 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 Grant Decision.

Additional rights of use for the Union may be provided for in the Grant Decision.

The partner 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 Grant Decision.

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 partner grants rights of use to CEPOL, this does not affect its confidentiality obligations under Article II.6 or the partner's obligations under Article II.2.

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

II.10.1 If the implementation of an *action* requires the partner to procure goods, works or services, it may award the contract in accordance with their usual purchasing practices provided that the contract is awarded to the tender offering best value for money or, as appropriate, to the tender offering the lowest price. In doing so, it must avoid any *conflict of interests*.

The partner must ensure that Article II.27 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.27 towards the contractors.

II.10.2 The partner that is a "contracting authority" within the meaning of Directive 2014/24/EU⁶ or "contracting authority" within the meaning of Directive 2014/25/EU⁷ must comply with the applicable national public procurement rules.

The partner must ensure that the conditions applicable to it under Articles II.4, II.5, II.6 and II.9 are also applicable to the contractor.

II.10.3 The partner remains solely responsible for carrying out the *action* concerned and for compliance with the Framework agreement and the Grant Decision.

II.10.4 If the partner *breaches its obligations* under Article II.10.1 the costs related to the contract concerned are considered ineligible in accordance with Article II.19.2 (c), (d) and (e).

If the partner *breaches its obligations* under Article II.10.2 the grant may be reduced in accordance with Article II.25.4.

⁶ 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

⁷ 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

ARTICLE II.11 – SUBCONTRACTING OF TASKS FORMING PART OF AN ACTION

II.11.1 The partner may *subcontract* tasks forming part of an *action*. If it does so, it 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 Grant Decision;
- (d) any recourse to *subcontracting*, if not provided for in Annex I of the Grant Decision, is communicated by the partner and approved by CEPOL. CEPOL may grant approval:
 - (i) before any recourse to *subcontracting*, if the partner requests an amendment as provided for in Article II.13; or
 - (ii) after recourse to *subcontracting* if the *subcontracting*:
 - is specifically justified in the interim or final technical report referred to in Article 4.1 of the Grant Decision; and
 - does not entail changes to the Framework agreement or the Grant Decision 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 partner ensures that the conditions applicable to it under Article II.8 are also applicable to the subcontractors.

II.11.2 If the partner *breaches its 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.19.2 (f).

If the partner *breaches its obligation* under Article II.11.1 (e) the grant may be reduced in accordance with Article II.25.4.

ARTICLE II.12 - FINANCIAL SUPPORT TO THIRD PARTIES

Not applicable.

ARTICLE II.13 – AMENDMENTS TO THE FRAMEWORK AGREEMENT AND THE GRANT DECISIONS

II.13.1 Any amendment to the Framework agreement or a Grant Decision must be made in writing.

II.13.2 An amendment may not have the purpose or the effect of making changes to the Framework agreement or a Grant Decision 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.13.3 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 Grant Decision.

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

II.13.4 Not applicable.**II.13.5** Amendments to the Framework Agreement enter into force on the date on which the last party signs or on the date of approval of the request for amendment.

Amendments to the Grant Decision enter into force on the date on which the amended Grant Decisions are notified to the beneficiary.

Amendments take effect on a date agreed by the parties or, in the absence of such an agreed date, on the date on which the amendment enters into force.

ARTICLE II.14 – ASSIGNMENT OF CLAIMS FOR PAYMENTS TO THIRD PARTIES**II.14.1** The partner may not assign any of its claims for payment against CEPOL to any third party, except if approved by CEPOL on the basis of a reasoned written request by the partner.

If CEPOL does not accept the assignment or the terms of it are not complied with, the assignment has no effect on it.

II.14.2 In no circumstances may an assignment release the partner from its obligations towards CEPOL.**ARTICLE II.15 – FORCE MAJEURE****II.15.1** 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.15.2** 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.15.3** The party faced with *force majeure* may not be considered in *breach of its obligations* under the Framework agreement or a Grant Decision if it has been prevented from fulfilling them by *force majeure*.

ARTICLE II.16 – SUSPENSION OF THE IMPLEMENTATION

II.16.1 Suspension of the implementation of an action by the partner

The partner 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 partner 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 partner to resume implementing the *action*, the partner must inform CEPOL immediately and present a request for amendment of the Framework agreement or a Grant Decision as provided for in Article II.16.3.2 This obligation does not apply if the Framework agreement or Grant Decision is terminated in accordance with Article II.17.1 or points (b) or (c) of Article II.17.2.2.

II.16.2 Suspension of implementation by CEPOL

II.16.2.1 Grounds for suspension

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 the partner has committed *irregularities, fraud or breach of obligations* in the award procedure or while implementing the Framework agreement or the Grant Decision;
- (b) if CEPOL has evidence that the partner has committed systemic or recurrent *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 *irregularities, fraud or breach of obligations* have a material impact on one or more specific grants awarded under the Framework agreement; or
- (c) if CEPOL suspects *irregularities, fraud or breach of obligations* committed by the partner in the award procedure or while implementing the Framework agreement or the Grant Decision 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.16.2.2 Procedure for suspension

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

- (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.16.2.1; 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 the partner 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.16.2.1; or
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.16.2.1.

The suspension takes effect on the day the *formal notification* is received by the partner or on a later date specified in the *formal notification*.

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

II.16.2.3 Resuming implementation

In order to resume the implementation, the partner 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 Grant Decisions are met or the necessary verifications are carried out, CEPOL must send a *formal notification* to the partner:

- (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.16.3.2 This obligation does not apply if the Framework agreement or the Grant Decision is terminated in accordance with Articles II.17.1 or points (b), (f) or (g) of Article II.17.2.2.

II.16.3 Effects of the suspension

II.16.3.1 If the Framework agreement is not terminated, it may be adapted to the new implementing conditions in accordance with Article II.13.

The suspension of the implementation of the Framework agreement and of all automatically suspended *actions* in accordance with the last subparagraph of Article II.16.2.1 is deemed lifted as from the date of the notification by CEPOL referred to in point (a) of Article II.16.2.3. In this case Article II.16.3.2 does not apply.

- II.16.3.2** If the implementation of the suspended *action* can be resumed and the Grant Decision has not been terminated, an amendment to the Grant Decision must be made in accordance with Article II.13 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.16.3.3** 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 CEPOL's right to terminate the concerned agreement in accordance with Article II.17.2, reduce the grant or recover amounts unduly paid in accordance with Articles II.25.4 and II.26.

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

ARTICLE II.17 – TERMINATION OF THE FRAMEWORK AGREEMENT AND WITHDRAWAL OF THE GRANT DECISIONS

II.17.1 Termination of the Framework agreement or withdrawal of a Grant Decision by the partner

II.17.1.1 Termination of the Framework agreement

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

The partner 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.17.1.2 Withdrawal of a Grant Decision

CEPOL may withdraw the Grant Decision upon request of the beneficiary as specified in article II.16.1 of the General Conditions of the Grant Decision.

The beneficiary must send a *formal request for withdrawal* to CEPOL, stating:

- (a) the reasons; and
- (b) the date on which the withdrawal shall take effect. This date must be set after the *formal notification*.

If the partner does not state the reasons for the request of withdrawal or if CEPOL considers that the reasons are not justified, the Grant Decision is considered to have been terminated improperly.

CEPOL must send a formal notification of the withdrawal of the Grant Decision to the beneficiary, specifying the reason and the date on which the withdrawal takes effect.

II.17.2 Termination of the Framework agreement or withdrawal of a Grant Decision by CEPOL

II.17.2.1 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 the partner specifying the date on which the termination takes effect. The notification must be sent before the termination is due to take effect.

II.17.2.2 Termination of the Framework agreement or withdrawal of a Grant Decision based on explicit grounds

CEPOL may terminate the Framework agreement or withdraw a Grant Decision 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 Grant Decision substantially or calls into question CEPOL's decision to establish the framework partnership or to award the specific grant, or a change regarding the exclusion situations listed in Article 136 of Regulation (EU) 2018/1046, that calls into question the decision to award the grant;
- (b) partner, any *related person* or any natural person who is essential for the award or for the implementation of the Agreement have committed serious *breach of obligations*, including improper implementation of an *action* as described in Annex I of the Grant Decision;
- (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 Grant Decision 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) the partner or a natural or legal person that assumes unlimited liability for the debts of the partner

- (i) is declared bankrupt, is subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a Court, has entered into an agreement with creditors, has suspended business activities or is in any analogous situation arising from a similar procedure provided for under the Union or national law;
 - (ii) is in *breach of its obligations* relating to the payment of taxes or social security contributions in accordance with the applicable law;;
- (e) the partner or any *related person* or any natural person who is essential for the award or for the implementation of the Agreement has committed:
 - (i) *grave professional misconduct* proven by any means;
 - (ii) *fraud*;
 - (iii) corruption;
 - (iv) conduct related to criminal organisations;
 - (v) money laundering;
 - (vi) terrorism-related crimes (including terrorism financing);
 - (vii) child labour or other offences concerning trafficking of human beings;
- (f) CEPOL has evidence that the partner or any *related person* or any natural person who is essential for the award or for the implementation of the Framework Partnership agreement or the Grant Decision has committed *irregularities, fraud or breach of obligations* in the award procedure or while implementing the Framework agreement or any Grant Decision, including if the partner or *related person* or natural person has submitted false information or failed to provide required information;
- (g) Commission has evidence that the partner has committed systemic or recurrent *irregularities, fraud or serious breach of obligations* in other Union or Euratom grants awarded to it under similar conditions and such *irregularities, fraud or breach of obligations* have a material impact on a specific grant awarded under the Framework agreement;
- (h) The partner or any *related person* or any natural person who is essential for the award or for the implementation of the Framework Partnership agreement or the Grant Decision has created an entity under a different jurisdiction with the intend to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business;
- (i) The partner or any *related person* has been created with the intend referred to in point (h) or
- (j) CEPOL has sent the partner a *formal notification* asking it to end the participation of its affiliated entity because that entity is in a situation provided for in points (d) to (i) and the partner has failed to request an amendment ending the participation of the entity and reallocating its tasks.

II.17.2.3 Procedure for termination or Withdrawal

Step 1 Before terminating the Framework agreement or a Grant Decision on one of the grounds specified in Article II.17.2.2, CEPOL must send a *formal notification* to the partner/beneficiary:

- (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; and
 - (ii) in the case of point (b) of Article II.17.2.2, to inform CEPOL of the measures to ensure compliance with the obligations under the Framework agreement or the Grant Decision 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 partner/beneficiary informing it of the termination/withdrawal and the date on which it takes effect.

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

The termination/withdrawal takes effect:

- (a) for terminations under points (a), (b) and (d) of Article II.17.2.2: on the day specified in the *formal notification* of termination/withdrawal referred to in the second subparagraph (i.e. in Step 2 above);
- (b) for terminations under points (c), (e) to (j) of Article II.17.2.2: on the day after the partner receives the *formal notification* of termination/withdrawal referred to in the second subparagraph (i.e. in Step 2 above).

II.17.3 Effects of termination/withdrawal

Where the Framework agreement is terminated by the partner in accordance with Article II.17.1.1 or by CEPOL in accordance with Articles II.17.2.1 or II.17.2.2:

- (a) the partner must complete the implementation of any Grant Decision, 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 Grant Decision, 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 withdrawal of a Grant Decision takes effect, the partner must submit a request for payment of the balance as provided for in Article 4.1 of the Grant Decision.

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

If the Grant Decision is withdrawn by CEPOL because the partner *has breached its obligation* to submit the request for payment, the partner may not submit any request for payment after withdrawal. In that case the third subparagraph applies.

CEPOL calculates the final grant amount as referred to in Article II.25 and the balance as referred to in Article I.4.1 of the Grant Decision on the basis of the reports submitted. Only activities undertaken before the date when the withdrawal takes effect or the end date of the *implementation period* as specified in Article I.2.2 of the Grant Decision, whichever is the earliest, must be taken into account. Where the grant takes the form of reimbursement of costs actually incurred as provided for in Article I.3(a) of the Grant Decision, only costs incurred before termination takes effect are reimbursed or covered by the specific grant. Costs relating to contracts due for execution only after withdrawal are not taken into account and are not reimbursed or covered by the grant.

CEPOL may reduce a specific grant in accordance with Article II.25.4 in case of:

- (a) improper termination of the Grant Decision by the partner within the meaning of Article II.17.1.2; or
- (b) withdrawal of the Grant Decision by CEPOL on any of the grounds set out in points (b), (e) to (j) of Article II.17.2.2.

Neither party may claim damages on the grounds that the other party terminated the Framework agreement or a Grant Decision.

After termination, the partner's obligations continue to apply, in particular those under Article 4 of the Grant Decision, Articles II.6, II.8, II.9, II.14, II.27 and any additional provisions on the use of the results, as set out in the Special Conditions or the Grant Decision concerned.

ARTICLE II.18 – APPLICABLE LAW, COMPETENT COURT AND ENFORCEABLE DECISIONS

II.18.1 The Framework agreement is governed by the applicable Union law complemented, where necessary, by the law of Belgium. Any Grant Decision is governed by the applicable Union law

II.18.2 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 the partner concerning the interpretation, application or validity of the Framework agreement or any Grant Decision,

II.18.3 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.

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.19 – ELIGIBLE COSTS/CO-FINANCING/PAYMENTS

II.19.1 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 Grant Decision, with the exception of costs relating to the request for payment of the balance and the corresponding supporting documents referred to in Article I.4.1 of the Grant Decision;
- (b) they are indicated in the estimated budget of an *action*. The estimated budget is set out in Annex II of the Grant Decision;
- (c) they are incurred in connection with the *action* as described in Annex I of the Grant Decision 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.19.2 Eligible direct costs

To be eligible the *direct cost* of an *action* must comply with the eligibility conditions set out in Article II.19.1.

The 'direct cost' mentioned above is to be understood as referring to any cost mentioned in Annex I to CEPOL Executive Director Decision 3/2019/IGN Integrated Guidance Note for Cepol Residential Training and Activities that satisfies the criteria set out in Article II.19.1.

II.19.3 Eligible indirect costs

Indirect costs are not eligible for CEPOL contribution, nevertheless they can be considered eligible for the Action if they are claimed as own costs under co-financing as specified in Article II.19.5. To be eligible, *indirect costs* of the *action* must represent a fair apportionment of the overall overheads of the partner and must comply with the conditions of eligibility set out in Article II.19.1.

II.19.4 Ineligible costs

In addition to any other costs which do not fulfil the conditions set out in Article II.19.1, the following costs may not be considered eligible:

- (a) return on capital and dividends paid by the 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 the partner;
- (h) costs declared by the 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 CEPOL for the purpose of implementing the Union budget. In particular, if the 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.

II.19.5 Co-financing principle

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. Article 190 of Regulation (EU, Euratom) 2018/1046 shall apply. In particular:

1. The co-financing may be provided either from the partner's own resources and/or from other sources of external finance.
2. Contributions in kind and eligible indirect costs including overhead on staff costs shall be eligible for co-financing.
3. Contributions in kind and eligible indirect costs including overhead on staff costs shall be eligible for co-financing.

II.19.6 Pre-financing

Pre-financing is intended to provide the partner with a float. Beneficiaries of the Grant Decision might be entitled to receive pre-financing specified in Article I. of the Grant Decision.

II.19.7 Further pre-financing payments

Not applicable.

II.19.8 Interim payments

Not applicable.

II.19.9 Payment of the balance

Payment of the balance is specified in Article I.4 of the Grant Decision.

ARTICLE II.20 – IDENTIFIABILITY AND VERIFIABILITY OF THE AMOUNTS DECLARED

II.20.1 Declaring costs and contributions

The partner must declare as eligible costs or as a requested contribution for actual costs: the costs it actually incurred for the *action*;

II.20.2 Records and other documentation to support the costs and contributions declared

The partner must provide the following if requested to do so in the context of the checks or audits described in Article II.27: for actual costs: 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;

II.20.3 Conditions to determine the compliance of cost accounting practices

Not applicable.

ARTICLE II.21 – ELIGIBILITY OF COSTS OF ENTITIES AFFILIATED TO THE PARTNER

If the Special Conditions or the Grant Decision contain a provision on entities affiliated to the partner, costs incurred by such an entity are eligible, if:

- (a) they satisfy the same conditions under Articles II.19 and II.20 as apply to the partner, and
- (b) the partner ensures that the conditions applicable to it under Articles II.4, II.5, II.6, II.8, II.10, II.11 and II.27 are also applicable to the entity.

ARTICLE II.22 – BUDGET TRANSFERS

The partner is allowed to adjust the estimated budget set out in Annex II of the Grant Decision, by transfers between the different budget categories if the *action* is implemented as described in Annex I of the Grant Decision. This adjustment does not require an amendment of the Grant Decision as provided for in Article II.13.

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

ARTICLE II.23 – NON-COMPLIANCE WITH THE REPORTING OBLIGATIONS

CEPOL may terminate the Framework agreement or a Grant Decision as provided for in Article II.17.2.2(b) and may reduce the specific grant as provided for in Article II.25.4 if the 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 Grant Decision within 60 calendar days following the end of the corresponding reporting period; and
- (b) still fails to submit such a request within further 60 calendar days following a written reminder sent by CEPOL.

ARTICLE II.24 – SUSPENSION OF PAYMENTS AND TIME LIMIT FOR PAYMENT

II.24.1 Suspension of payments

II.24.1.1 Grounds for suspension

CEPOL may, at any time during the implementation of the Grant Decision, suspend, in whole or in part, the pre-financing payments, interim payments or payment of the balance:

- (a) if CEPOL has evidence that the partner has committed *irregularities, fraud or breach of obligations* in the award procedure or while implementing the Framework agreement or a Grant Decision;
- (b) if CEPOL has evidence that the partner has committed systemic or recurrent *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 *irregularities, fraud or breach of obligations* have a material impact on a specific grant awarded under the Framework agreement; or
- (c) if CEPOL suspects *irregularities, fraud or breach of obligations* committed by the partner in the award procedure or while implementing the Framework agreement or the Grant Decision and needs to verify whether they have actually occurred.

II.24.1.2 Procedure for suspension

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

- (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.24.1.1, 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 partner 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.24.1.1;
- (d) the indicative date of completion of the necessary verification in the case referred to in point (c) of Article II.24.1.1.

The suspension takes effect on the day CEPOL sends *formal notification* of suspension (Step 2).

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

II.24.1.3 Effects of suspension

During the period of suspension of payments the partner is not entitled to submit any requests for payments and supporting documents referred to in Articles 4.2, 4.3 and 4.4 of the Grant Decision.

The corresponding requests for payments and supporting documents may be submitted as soon as possible after resumption of payments or may be included in the first request for payment due following resumption of payments in accordance with the schedule laid down in Article 4.1 of the Grant Decision.

The suspension of payments does not affect the right of the partner to suspend the implementation of the *action* as provided for in Article II.16.1 or to terminate the Framework agreement or the Grant Decision as provided for in Article II.17.1.2.

II.24.1.4 Resuming payments

In order for CEPOL to resume payments, the partner 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 partner informing it of this.

II.24.2 Suspension of the time limit for payments

II.24.2.1 CEPOL may at any moment suspend the time limit for payment specified in Articles 5.2, 5.3 and 5.4 of the Grant Decision if a request for payment cannot be approved because:

- (a) it does not comply with the Grant Decision 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.24.2.2** CEPOL must send a *formal notification* to the partner 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.24.2.3** 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 partner 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 Grant Decision or the Framework agreement and the revised report or statement is not submitted or was submitted but is also rejected, CEPOL may terminate the Grant Decision and the Framework agreement as provided for in Article II.17.2.2(b) and reduce the grant as provided for in Article II.25.4.

ARTICLE II.25 – CALCULATION OF THE FINAL AMOUNT OF A SPECIFIC 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 Grant Decision 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 and addition of the financing not linked to 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, irregularity, fraud or breach of obligations.

II.25.1 Step 1 — Application of the reimbursement rate to the eligible costs

This step is applied as follows:

If, as provided for in Article I.3.2(a)(i), the grant takes the form of the reimbursement of eligible costs actually incurred, the reimbursement rate specified in that Article is applied to those eligible costs as approved by CEPOL for the corresponding categories of costs, for the partner and its affiliated entities

II.25.2 Step 2 — Limit to maximum amount of the grant

The total amount paid to the partner 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.25.3 Step 3 — Reduction due to the no-profit rule

The grant may not produce a profit for the partner, unless specified otherwise in the Special Conditions or in the Grant Decision.

The profit must be calculated as follows:

- (a) calculate the surplus of the total receipts of the *action*, over the total eligible costs of the *action*, as follows:
- { receipts of the *action*
 - minus
 - the consolidated total eligible costs and contributions approved by CEPOL corresponding to the amounts determined in accordance with Step 1 }

The receipts of the *action* are calculated as follows:

- { the revenue generated by the *action* for the partner and its affiliated entities other than non-profit organisations
- plus
- the amount obtained following Steps 1 and 2 }

The total revenue generated by the *action* is the consolidated revenue established, generated or confirmed for the partner and its affiliated entities other than non profit organisations on the date on which the request for payment of the balance is drawn up by the partner.

The following are not considered receipts:

- (i) in kind and financial contributions made by third parties;
 - (ii) in case of an operating grant, amounts dedicated to the building up of reserves.
- (b) If the amount calculated under (a) is positive, this amount will be deducted from the amount calculated following Steps 1 and 2 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 Article 3.2(a)(i) of the Grant Decision.

II.25.4 Step 4 — Reduction due to improper implementation, irregularity, fraud or breach of 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 Grant Decision (i.e. if it has not been implemented or has been implemented poorly, partially or late), or in case of *irregularity*, *fraud* or breach of an obligation under the Framework agreement or the Grant Decision.

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 *irregularity, fraud or breach of obligation*.

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

- (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 partner 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 *irregularity, fraud or 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.26 – RECOVERY

II.26.1 Recovery

Where an amount is to be recovered under the terms of the Framework agreement and any Grant Decision, the partner must repay CEPOL the amount in question.

The 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.26.2 Recovery procedure

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

- (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 or the European Commission (from the Union or the European Atomic Energy Community (Euratom) budget ("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) not applicable;
- (c) by taking legal *action* as provided for in Article II.18.2 or in the Special Conditions or by adopting an enforceable decision as provided for in Article II.18.3.

II.26.3 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 interest at the rate set out in Article 5.6 of the Grant Decision 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 payment must first be credited against charges and late payment interest and then against the principal.

II.26.4 Bank charges

Bank charges incurred in the recovery process must be borne by the partner, unless Directive 2007/64/EC⁸ applies.

ARTICLE II.27 – CHECKS, AUDITS AND EVALUATION

II.27.1 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 partner is implementing the *action* properly and is complying with the obligations under the Grant Decision or the Framework agreement.

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

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.

⁸ Directive 2007/64/EC 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.

CEPOL may initiate such checks, audits or evaluations during the implementation of the Grant Decision 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 must inform that affiliated entity.

II.27.2 Duty to keep documents

The partner must keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when they are authorised by its 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.

This 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 on-going audits, appeals, litigation or pursuit of claims concerning the grant, including in the cases referred to in Article II.27.7. In such cases, the partner must keep the documents until such audits, appeals, litigation or pursuit of claims have been closed.

II.27.3 Obligation to provide information

The partner must provide any information, including information in electronic format, requested by CEPOL, or by any other outside body authorised by CEPOL.

If the partner does not comply with the obligation set out in the first subparagraph, CEPOL may consider any cost insufficiently substantiated by information provided by the partner as ineligible.

II.27.4 On-the-spot visits

During an on-the-spot visit, the partner must allow CEPOL staff and outside personnel authorised by the 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.

The partner 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 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.27.5 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, 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 within 60 calendar days of expiry of the time limit for submission of observations.

II.27.6 Effects of audit findings

On the basis of the final audit findings, CEPOL may take the measures it considers necessary, including recovery of all or part of the payments made by it under the Grant Decision concerned, as provided for in Article II.26.

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 partner under the Grant Decision for the implementation of the *action*.

II.27.7 Correction of systemic or recurrent irregularities, fraud or breach of obligations

II.27.7.1 CEPOL may extend audit findings from other grants to a specific grant awarded under the Framework agreement if:

- (a) the partner is found to have committed systemic or recurrent *irregularities, fraud or breach of obligations* in other EU or Euratom grants awarded under similar conditions and such *irregularities, fraud or breach of obligations* have a material impact on a specific grant awarded under the Framework agreement; and
- (b) the final audit findings are sent to the partner through a *formal notification*, together with the list of grants affected by the findings within the period referred to in Article II.27.1.

The extension of findings may lead to:

- (i) the rejection of costs as ineligible;
- (ii) reduction of the grant as provided for in Article II.25.4;
- (iii) recovery of undue amounts as provided for in Article II.26;
- (iv) suspension of payments as provided for in Article II.24.1;
- (v) suspension of the *action* implementation as provided for in Article II.16.2;
- (vi) termination as provided for in Article II.17.2.

II.27.7.2 CEPOL must send a *formal notification* to the partner informing it of the systemic or recurrent *irregularities, fraud or breach of obligations* 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 CEPOL to calculate the amounts to be rejected on the basis of the systemic or recurrent *irregularities, fraud or breach of obligations*, if the partner:
 - considers that the submission of revised financial statements is not possible or practicable; or
 - will not submit revised financial statements.

Step 2 — The partner 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 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 the CEPOL accepts it, CEPOL must send a *formal notification* to the partner 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 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 *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.25 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 partner under the Grant Decision 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 has 60 calendar days from receiving the *formal notification* to submit observations or to propose a duly substantiated alternative flat-rate.

II.27.8 Rights of 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 2185/96⁹ and Regulation (EU, Euratom) No 883/2013¹⁰ 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 the partner.

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

II.27.9 Rights of the European Court of Auditors and EPPO

The European Court of Auditors and the European Public Prosecutor's Office established by Council Regulation (EU) 2017/1939 ('the EPPO') have the same rights as CEPOL, particularly the right of access, for the purpose of checks, audits and investigations.

⁹ 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*.

¹⁰ 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).