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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a European Union agency for law enforcement training (Cepol), repealing and replacing the Council Decision 2005/681/JHA – Outcome of the European Parliament's first reading (Strasbourg, 26 to 29 October 2015)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure [1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Mrs Kinga GAL (EPP-HU) presented one compromise amendment, (amendment 31) to the proposal for Regulation, on behalf of the Committee on Civil Liberties, Justice and Home Affairs. This amendment had been agreed during the informal contacts referred to above.

[1] OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 29 October 2015, the plenary adopted the compromise amendment (amendment 31) to the proposal for a Regulation. The Commission's proposal as thus amended and the legislative resolution constitute the Parliament's first-reading position[2], it reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[2] The text of the amendment adopted and the European Parliament's legislative resolution are set out in the Annex. The amendment is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in ***bold and italics***. The symbol " ▌ " indicates deleted text.

ANNEX

(29.10.2015)

EU Agency for Law Enforcement Training (CEPOL) ***I

European Parliament legislative resolution of 29 October 2015 on the proposal for a regulation of the European Parliament and of the Council establishing a European Union agency for law enforcement training (Cepol), repealing and replacing Council Decision 2005/681/JHA (COM(2014)0465 – C8-0110/2014 – 2014/0217(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2014)0465),

– having regard to Article 294(2) and Article 87(2)(b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0110/2014),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the undertaking given by the Council representative by letter of 29 June 2015 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A8-0048/2015),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Calls on the Commission to provide an overall analysis of the administrative cooperation between European Union agencies and of where such cooperation could create synergies in the future;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 29 October 2015 with a view to the adoption of Regulation (EU) 2015/... of the European Parliament and of the Council *on the* European Union Agency for Law Enforcement Training (CEPOL) and ▌ replacing *and repealing* Council Decision 2005/681/JHA

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 87(2)(b) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure[3],

[3] Position of the European Parliament of 29 October 2015.

Whereas:

(1) The European Police College (CEPOL) was established by Council Decision 2005/681/JHA[4] as an entity of the Union with the aim of training senior police officers of the Member States and facilitating cooperation between national police forces by organising and coordinating training activities with a European policing dimension.

(2) The 'Stockholm Programme - An open and secure Europe serving and protecting citizens' aims to create a genuine European law enforcement culture by setting up European training schemes and exchange programmes for all relevant law enforcement professionals at national and Union level.

[4] Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA (OJ L 256, 1.10.2005, p. 63).

(3) ***In response*** to the call from the European Council in the Stockholm Programme to step up training on Union related issues and to make such training systematically accessible to law enforcement ***officials of all ranks***, and to the request from the European Parliament for a stronger Union framework for judicial and police training***, the objectives of CEPOL should, while putting particular emphasis on the protection of human rights and fundamental freedoms in the context of law enforcement, be structured in line with the following set of general principles: first, to support Member States in providing training in order to improve basic knowledge of the Union dimension of law enforcement; second, to support Member States, upon their request, in the development of bilateral and regional cooperation through law enforcement training; third, to develop, implement and coordinate training in specific thematic areas; and fourth, to develop, implement and coordinate training in relation to Union missions and law enforcement capacity-building activities in third countries. That set of general principles should represent the European Law Enforcement Training Scheme (LETS), which aims to ensure that Union level training for law enforcement officials is of a high quality, coherent and consistent. Those general principles reflect the four strands identified by the Commission on the basis of the mapping of training needs and delivery conducted by CEPOL in cooperation with Member States***.

(4) In its training activities, CEPOL should promote common respect for, and understanding of, fundamental rights in law enforcement, such as privacy, data protection and the rights, support and protection of victims, witnesses and suspects of crime, including safeguarding the rights of victims of gender-based violence.

(***5***) The simplification and improvement of the functioning of CEPOL in light of LETS widens the possibilities for CEPOL to support, develop, ***implement*** and coordinate training activities for the law enforcement authorities of Member States, without prejudice to national initiatives undertaken by Member States in the field of training for law enforcement ***officials, where such training activities can add value for Member States and the Union***.

(6) In order to make the most efficient use of its resources, CEPOL's activities should be focussed on priorities and areas where training can add value for Member States and the Union in line with current and future needs and business requirements.

(7) ▌ CEPOL should ensure that training is evaluated and that conclusions from training needs assessments are part of its planning to enhance the effectiveness of future actions. CEPOL should ***be able to*** promote ***the mutual recognition of law enforcement training in Member States and*** the recognition ***by*** Member States of training provided at Union level.

(8) To avoid duplication ***or overlap and to ensure better coordination*** of training activities for competent law enforcement ***officials*** carried out by ▌ Union agencies and other relevant bodies, CEPOL should assess strategic training needs and address Union priorities in the area of internal security and its external aspects, in line with the relevant policy cycles.

(***9***) ***CEPOL should bring together a network of*** Member State training institutes ***for law enforcement officials and should liaise with a single*** national unit ***in each Member State functioning within the network.***

(10) The ▌ Member States ***and the Commission*** should be represented on CEPOL's Management Board (the 'Management Board') in order to supervise CEPOL's exercise of its functions effectively. The ▌ members ***of the Management Board and their alternates should be*** appointed on the basis of their ▌ knowledge of national policy on training for law enforcement ***officials and their relevant managerial, administrative and budgetary skills***.

(11) In order to ensure continuity of the Management Board's work, all parties represented on it should make efforts to limit the turnover of their representatives. All parties should aim to achieve balanced gender representation on the Management Board.

(12) The ***Management*** Board should be entrusted with the necessary powers***, in particular*** the power to establish the budget, to verify its execution, to adopt appropriate financial rules and CEPOL's ***multi-annual programming and annual work programmes***, to establish transparent working procedures for CEPOL's decision making, to appoint the ***Executive*** Director, to establish performance indicators and to exercise appointing authority powers, in accordance with the Staff Regulations of Officials of the European Union (the 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (the 'Conditions of Employment of Other Servants') laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68[5].

(13) To ensure efficient day-to-day functioning of CEPOL, the Executive Director should be its legal representative and manager, acting ***independently*** in the performance of his or her duties and ensuring that CEPOL carries out the tasks provided for by this Regulation. In particular, the Executive Director should be responsible for preparing budgetary and planning documents for submission to the Management Board for a decision, and for implementing CEPOL's ▌ multi-annual programming and annual work programmes.

[5] OJ L 56, 4.3.1968, p. 1.

(14) ***Where appropriate, and taking into account business requirements and financial resources, the Management Board should decide to establish a Scientific Committee for Training as an independent advisory body*** to ensure the scientific quality of CEPOL's work. ▌ That committee should be composed of independent ***high level academics and law enforcement practitioners*** in the areas covered by this Regulation ▌. ***The Members of the Scientific Committee should be appointed by the Management Board following a transparent call for applications and selection procedure to be published in the Official Journal of the European Union.***

(15) CEPOL should ensure that its training integrates relevant developments in research. It should promote and establish a partnership with Union bodies competent in matters covered by this Regulation as well as with public and private academic institutions and should be able to encourage the creation of stronger partnerships between universities and law enforcement training institutes in the Member States***, in order to create synergies between them by means of strengthened cooperation***.

(16) In order to ensure its full autonomy and ▌ independence ***and to enable it to properly perform the objectives and tasks assigned to it by this Regulation***, CEPOL should be granted an ***adequate and*** autonomous budget with revenue stemming essentially from a contribution from the general budget of the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. The accounts should be audited by the Court of Auditors.

(17) For the purpose of performing its tasks, CEPOL should also be able to award grants to the training and research institutes of Member States for the implementation of CEPOL's courses, seminars and conferences. Such grants should further contribute to fostering cooperation between Member State training institutes within the network and to promoting the mutual recognition of law enforcement.

(18) For the purpose of fulfilling its mission and to the extent required for the performance of its tasks, CEPOL should be able to cooperate with ▌Union ▌bodies, ▌authorities ***and training institutes*** of third countries and international organisations competent in matters covered by this Regulation within the framework of working arrangements concluded in accordance with this Regulation or concluded with national training institutes of third countries on the basis of Article 8 of Decision 2005/681/JHA, ***as well as with private parties.***

(19) Decision 2005/681/JHA provided for CEPOL to have its seat in Bramshill, United Kingdom. In accordance with Regulation (EU) No 543/2014 of the European Parliament and of the Council[6], CEPOL's seat was moved to Budapest, Hungary, and the Commission was invited to submit a report on the effectiveness of Decision 2005/681/JHA following a thorough cost-benefit analysis and impact assessment.

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6 Regulation (EU) No 543/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Decision 2005/681/JHA establishing the European Police College (CEPOL) (OJ L 163, 29.5.2014, p. 5).

(20) The host Member State should provide the necessary conditions for the smooth operation of CEPOL, including multilingual, European-oriented schooling and appropriate transport connections so as to attract high-quality human resources from as wide a geographical area as possible.

(21) This Regulation aims to amend and expand the provisions of Decision 2005/681/JHA, as amended by Regulation (EU) No 543/2014. Since the amendments to be made by this Regulation are of substantial number and nature, Decision 2005/681/JHA, as amended by Regulation (EU) No 543/2014, should, in the interests of clarity, be replaced in its entirety in relation to the Member States bound by this Regulation. CEPOL, as established by this Regulation, should replace and assume the functions of CEPOL, as established by Decision 2005/681/JHA, which, as a consequence, should be repealed.

(22) Regulation (EC) No 1049/2001 of the European Parliament and of the Council[7] should apply to CEPOL***.***

[7] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

(23) Since the objective of this Regulation, namely the establishment of an ***agency*** responsible for law enforcement training at Union level, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

(24) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ('the Charter'), in particular the right to the protection of personal data and the right to privacy as protected by Articles 7 and 8 of the Charter, as well as by Article 16 of the Treaty on the Functioning of the European Union (TFEU).

(25) In accordance with ***Articles 1, 2 and Article 4a(1)*** of ▌ Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, ***and without prejudice to Article 4 of that Protocol,*** those Member States ***are not taking part*** in the adoption of this Regulation and ***are*** not ▌ bound by ***it*** or ▌ subject to its application.

(26) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS, OBJECTIVES AND TASKS OF THE AGENCY

Article 1

Establishment of the European Union Agency for Law Enforcement Training

1. A European Union Agency for Law Enforcement Training (CEPOL) is hereby established [redacted].

2. CEPOL, as established by this Regulation, shall replace and succeed CEPOL as established by Decision 2005/681/JHA.

Article 2

Definitions

For the purposes of this Regulation:

(1) 'law enforcement ***officials***' means ***staff*** of police, customs and other relevant services***, as defined by individual Member States***, that are responsible for, and staff of Union bodies that have tasks relating to, the following***:***

(a) the prevention of and fight against serious crime affecting two or more Member States, terrorism and forms of crime that affect a common interest covered by a Union policy***;*** or

(b) crisis management and ***public order, in particular*** international policing of major events;

(2) ‘Union bodies’ means institutions, ▌ bodies, missions, offices and agencies set up by, or on the basis of, the TEU and the TFEU;

(3) ‘international organisations’ means international organisations and their subordinate bodies governed by public international law or other bodies which are set up by, or on the basis of, an agreement between two or more countries, as well as Interpol.

Article 3

Objectives ***of CEPOL***

1. CEPOL shall support, develop***, implement*** and coordinate training for law enforcement ***officials, while putting particular emphasis on the protection of human rights and fundamental freedoms in the context of law enforcement***, in particular in the areas of ***prevention of and*** fight against serious crime affecting two or more Member States and terrorism, ***maintenance of*** public order***, in particular international policing of major*** events, and planning and command of Union missions, ***which may also include training on*** law enforcement leadership and language skills***. More specifically, CEPOL shall***:

(a) ***support Member States in providing training in order to*** raise awareness and knowledge of:

(i) ***the implementation and use of*** international and Union instruments on law enforcement cooperation;

(ii) Union bodies, in particular Europol, Eurojust and Frontex, their functioning and role;

(iii) ***police and*** judicial aspects of law enforcement cooperation and practical knowledge about access to information ***exchange*** channels;

(b) ***support Member States, at their request, in*** the development of regional and bilateral cooperation ***through law enforcement training*** between Member States, Union bodies and third countries;

(c) ***develop, implement and coordinate training*** address***ing*** specific criminal or policing thematic areas ▌;

▌

(d) ***develop, implement and coordinate training*** which ***aims to*** support Member States and Union bodies in ***training law enforcement officials for participation in Union missions and*** law enforcement capacity-building activities in third countries;

(e) train trainers and assist in improving and exchanging best learning practices.

2. CEPOL shall develop and ***upgrade*** learning tools and methodologies and shall apply them in a lifelong learning perspective to strengthen the skills of law enforcement ***officials***. It shall evaluate the results of such actions with a view to enhancing the quality, coherence and effectiveness of future actions ***at Union level***.

3. CEPOL shall bring together ***a*** network of Member State training institutes for law enforcement ***officials*** and shall liaise with a single national unit in each Member State functioning within the network ▌ .

4. The learning activities referred to in paragraph 1 shall be ***carried out*** by CEPOL in cooperation with the network of Member State training institutes in accordance with the financial rules applicable to CEPOL.

Article 4

Tasks

1. CEPOL shall prepare multi-annual strategic training needs analyses and multi-annual learning programmes.

2. CEPOL shall ***support,*** develop***,*** implement ***and coordinate*** training activities and learning products, which ▌ include:

   (a) courses, seminars, conferences, ***as well as*** web-based***,*** e-learning ***and other innovative and advanced training*** activities;

   (b) common curricula ***for law enforcement training on specific subjects with a Union dimension***;

   (c) training modules graduated according to progressive stages or levels of complexity of skills needed by the relevant target group, and focussed either on a specific geographical region, a specific thematic area of criminal activity or on a specific set of professional skills;

(d) exchange and secondment programmes ***as well as study visits*** in the context of ***law enforcement*** training ▌.

3. CEPOL's training activities and learning products may be supported, enhanced and completed by the operation of an electronic network.

4. ***CEPOL shall*** support ***Union*** missions and capacity-building in third countries ***by one or more of the following***:

(a) ***assessing, in coordination with other relevant Union bodies,*** the impact of existing Union-related law enforcement training policies and initiatives;

(b) ***developing*** and ***providing*** training to prepare ▌law enforcement ***officials*** for participation in Union missions, including to enable them to acquire relevant language skills, in coordination with the European Security and Defence College ***and existing initiatives in the Member States***;

(c) ***developing*** and ***providing*** training for law enforcement ***officials*** from third countries, in particular from countries that are candidates for accession to the Union and the countries under the European Neighbourhood Policy;

(d) ***managing*** dedicated Union External Assistance funds to assist third countries in building their capacity in relevant ***law enforcement*** policy areas, in line with the established priorities of the Union.

5. CEPOL shall promote the mutual recognition of law enforcement training in Member States and ***the recognition by Member States of training provided at Union level with due regard to the principle of subsidiarity***.

6. CEPOL may engage in communication activities on its own initiative in the fields within its mandate. Such communication activities shall not be detrimental to the tasks referred to in paragraph 1 and shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

Article 5

Research relevant for training

1. CEPOL shall contribute to ***and encourage*** the development of research relevant for training activities ***within the scope of its objectives as set out in Article 3(1) and shall disseminate research findings***. ***For that purpose, CEPOL may carry out relevant surveys and may develop repositories of available research as well as law enforcement training needs***.

2. CEPOL shall promote and establish a partnership with Union bodies as well as with public and private academic institutions and ***may*** encourage the creation of stronger partnerships between universities and law enforcement training institutes in Member States.

CHAPTER II

COOPERATION BETWEEN MEMBER STATES AND CEPOL

Article 6

CEPOL national units

1. Each Member State shall establish or designate a national unit***, which shall be the liaison body with CEPOL within its network of national training institutes for law enforcement officials in the Member States.***. ▌

2. The national units shall be responsible for carrying out the tasks set out in this Article. They shall, ***in particular***:

   (a) ▌ supply CEPOL with the information necessary for it to carry out its tasks;

   (b) contribute to CEPOL's effective communication and cooperation with all relevant training institutes, including relevant research institutes in the Member States;

   (c) contribute to and promote CEPOL's work programmes, annual calendars and web-site;

(d) respond to CEPOL's requests for information and advice;

(e) organise and coordinate appropriate nominations of participants and experts for activities at the national level in a timely and transparent manner;

(f) coordinate the implementation of activities and meetings within their Member State;

(g) provide support in the establishment and implementation of exchange programmes for law enforcement officials;

(h) promote the use of CEPOL's electronic network for the training of law enforcement officials.

3. The ***representatives*** of the national units shall meet on a regular basis, at the request of the Management Board***,*** of the Executive Director ***or on their own initiative***, ***in relation*** to ***CEPOL's*** operational ***and educational*** matters. They shall, in particular, ▌ consider and develop proposals that improve CEPOL's operational effectiveness and encourage commitment by the Member States***.***

▌

4. Each Member State shall ***determine*** the organisation and the staff of its national unit in accordance with its national ***law and resources***.

CHAPTER III

ORGANISATION OF CEPOL

Article 7

Administrative and management structure ***of CEPOL***

The administrative and management structure of CEPOL shall comprise:

(a) a Management Board ▌;

(b) an Executive Director ▌;

(c) ***where appropriate,*** a Scientific Committee for Training ***established by the Management Board*** in accordance with Article ***15***;

(d) where appropriate, other advisory bodies established by the Management Board in accordance with ***point (q)*** of Article 9(1).

SECTION 1

MANAGEMENT BOARD

Article 8

Composition ***of the Management Board***

1. The Management Board shall be composed of one representative from each Member State and ▌ the Commission.Each representative shall have voting rights.

2. Each member of the Management Board shall have an alternate member, who shall represent the member in his or her absence.

3. Members of the Management Board and their alternates shall be appointed ***taking into account*** their knowledge in the field of training for law enforcement ***officials and*** their relevant managerial, administrative and budgetary skills. ***The principle of*** a balanced gender representation on the Management Board ***shall also be taken into account***.

4. ***Without prejudice to the right of the Member States and the Commission to terminate the mandate of their respective member and alternate member, the*** membership of the Management Board ▌ shall be for a period of four years. That term shall be extendable.

Article 9

Functions ***of the Management Board***

1. The Management Board shall:

(a) adopt each year, by a majority of two-thirds of ***its*** members ▌ and in accordance with Article 10, a document containing CEPOL's multi-annual programming and its annual work programme for the following year;

(b) adopt, by a majority of two-thirds of ***its*** members ▌ , the annual budget of CEPOL and exercise other functions in respect of CEPOL's budget pursuant to Chapter IV;

(c) adopt a consolidated annual activity report on CEPOL's activities and, ▌ by 1 July ***of the following*** year, ***send it*** to the European Parliament, ***the national parliaments***, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;

(d) adopt the financial rules applicable to CEPOL in accordance with Article 21;

(e) adopt an internal anti-fraud strategy, proportionate to the risk of fraud, taking into account the costs and benefits of the measures to be implemented;

(f) adopt ***internal*** rules for the prevention and management of conflicts of interest in respect of its members ***and the members of the selection committee***, as well as ***the*** members of ***a*** Scientific Committee for Training;

(g) adopt and regularly update the communication and dissemination plans referred to in Article 4, based on an analysis of needs;

(h) adopt its rules of procedure;

(i) in accordance with paragraph 2, exercise, with respect to the staff of CEPOL, the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants on the authority empowered to conclude a contract of employment of other servants ('the appointing authority powers');

▌

(j) adopt appropriate implementing rules giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;

(k) establish, where ***appropriate***, an internal audit capability;

(l) adopt internal rules regarding the selection procedure of the Executive Director, including the rules on the composition of the selection committee ensuring its independence and impartiality;

(m) appoint the Executive Director and, where relevant, extend his or her term of office or remove him or her from office in accordance with Article 23;

(n) appoint an accounting officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be ***functionally*** independent in the performance of his or her duties;

(o) ***where appropriate, and taking into consideration business requirements and financial resources, decide to establish a Scientific Committee for Training in accordance with Article 15 and*** appoint ***its*** members ***in accordance with Article 16(2)***;

(p) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-Fraud Office (OLAF);

(q) take all decisions, taking into consideration both business and financial requirements, on ▌ the establishment of CEPOL's internal structures and, where necessary, their modification***;***

(r) authorise the conclusion of working arrangements in accordance with Article 34;

(s) adopt common curricula, training modules, learning methods and any other learning and teaching tools;

(t) adopt, where appropriate, other internal rules.

2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating the relevant appointing authority powers to the Executive Director and establishing the conditions under which ***such*** delegation of powers ***may*** be suspended. The Executive Director shall be authorised to sub-delegate those powers.

3. Where exceptional circumstances so require, the Management Board may, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and any sub-delegation of such powers and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 10

Multi-annual programming and annual work programmes

1. The Management Board shall, by 30 November each year, adopt a ***document containing*** CEPOL's multi-annual ***programming*** and annual work programme, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and, as regards the multi-annual programming, after having consulted the European Parliament ▌. The Management Board shall forward that document to the European Parliament, the Council, the Commission and the national parliaments.

   The document referred to in the first subparagraph shall become definitive after the final adoption of the general budget and, where necessary, shall be adjusted accordingly.

2. The multi-annual ***programming*** shall set out overall strategic programming, including the objectives, expected results and performance indicators, as well as resource planning, including the multi-annual budget and staff. It shall include a strategy for relations with third countries ***and*** international organisations.

The multi-annual programming shall be implemented by means of annual work programmes and shall, where appropriate, be updated following the outcome of the external and internal evaluations referred to in Article 32. The conclusion of those evaluations shall also be reflected, where appropriate, in the annual work programme for the following year.

3. The annual work programme shall comprise detailed objectives, expected results and performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be consistent with the multi-annual ***programming***. It shall clearly indicate tasks that have been added, changed or deleted compared to the previous financial year. ***The*** annual ***work programme*** shall include the strategy for relations with third countries ***and*** international organisations referred to in Article 3 and the actions linked to that strategy.

4. Where, after adoption of an annual work programme, a new task is assigned to CEPOL, the Management Board shall amend the annual work programme.

5. Any substantial amendment to the annual work programme shall be adopted by the same procedure as that applicable to adoption of the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

Article 11

Chairperson and Deputy Chairperson ***of the Management Board***

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among ***its*** members ***representing the group of three Member States that have jointly prepared the Council's 18-month programme***. ***They shall serve for the 18-month period of that Council programme. If, however, the Chairperson's or the Deputy Chairperson's membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on the same date***.

2. The Chairperson and the Deputy Chairperson shall be elected by a majority of two thirds of the members of the Management Board ▌.

3. Where the Chairperson is unable to carry out his or her duties, he or she shall automatically be replaced by the Deputy Chairperson.

▌

Article 12

Meetings ***of the Management Board***

1. The Chairperson shall convene ***the*** meetings of the Management Board.

2. The Executive Director shall take part in the deliberations ▌ of the Management Board.

3. The Management Board shall hold two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson ***or*** at the request of the Commission or of at least one-third of its members.

4. The Management Board ***and the Executive Director*** may invite any person whose opinion may be relevant for the discussion to attend a meeting as ***a non-voting*** observer.

5. The members ***and the alternate members*** of the Management Board may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.

6. CEPOL shall provide the secretariat for the Management Board.

Article 13

Voting rules ***of the Management Board***

1. Without prejudice to points (a) and (b) of Article 9(1)***, Article 11(2), Article 15,*** Article 23(6) ***and Article 27(2)***, the Management Board shall take decisions by a majority of ***its*** members ▌ .

2. Each member ▌ shall have one vote. In the absence of a ***voting*** member ▌ , his or her alternate shall be entitled to exercise that member's right to vote.

▌

3. The Executive Director shall not take part in the vote.

4. The Management Board's rules of procedure shall establish detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

SECTION 2

EXECUTIVE DIRECTOR

Article 14

Responsibilities of the Executive Director

1. The Executive Director shall manage CEPOL. The Executive Director shall be accountable to the Management Board.

2. Without prejudice to the powers of the Commission and of the Management Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or any other body.

3. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.

4. The Executive Director shall be the legal representative of CEPOL.

5. The Executive Director shall be responsible for the implementation of the tasks assigned to CEPOL by this Regulation***,*** in particular ▌ :

(a) the day-to-day administration of CEPOL;

(b) making proposals to the Management Board as regards the establishment of CEPOL's internal structures ***and, where necessary, their modification***;

(c) implementing decisions adopted by the Management Board;

(d) preparing the draft multi-annual programming and annual work programmes and submitting them to the Management Board, after having consulted the Commission***;***

(e) implementing the multi-annual programming and the annual work programmes and reporting to the Management Board on their implementation;

(f) preparing appropriate draft implementing rules to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations***;***

(g) preparing the draft consolidated annual report on CEPOL's activities and presenting it to the Management Board for ***adoption***;

(h) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF, and reporting on progress twice a year to the Commission and regularly to the Management Board;

(i) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activity***, without prejudice to the investigative competence of OLAF***, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;

(j) preparing a draft internal anti-fraud strategy for CEPOL and presenting it to the Management Board for ***adoption***;

(k) preparing draft financial rules applicable to CEPOL;

(l) preparing CEPOL's draft statement of estimates of revenue and expenditure and implementing its budget;

(m) supporting the Chairperson of the Management Board in preparing Management Board meetings;

(n) performing other tasks pursuant to this Regulation.

SECTION 3

SCIENTIFIC COMMITTEE FOR TRAINING

Article 15

Establishment

Where appropriate, and taking into consideration business requirements and financial resources, the Management Board shall decide, by a majority of two thirds of its members, to establish a Scientific Committee for Training. The same procedure shall apply to a decision revoking such establishment.

Article 16

General provisions, objective and tasks

1. ***When established by the Management Board,*** the Scientific Committee for Training shall be an independent advisory body ***ensuring*** the scientific quality of CEPOL's training-related work. ▌

2. The Scientific Committee for Training shall be composed of ***high-level academics and law enforcement practitioners*** in the subjects covered by Article 4. The Management Board shall appoint the members of the Scientific Committee for Training following a transparent call for applications and selection procedure to be published in the *Official Journal of the European Union*. The members of the Management Board shall not be members of the Scientific Committee for Training. The members of the Scientific Committee for Training shall be independent and shall neither seek nor take instructions from any government or any other body.

3. The ***Management Board shall entrust the*** Scientific Committee for Training ***with, inter alia, the following tasks***:

(a) advising the Executive Director on the drafting of the ***multi-annual programming and*** annual work programmes and other strategic documents, to ensure their scientific quality and their consistency with relevant Union sector policies and priorities;

(b) providing independent opinions and advice to the Management Board on matters falling within its remit;

(c) providing independent opinions and advice on the quality of curricula, applied learning methods, learning options and scientific developments;

(d) performing any other advisory task pertaining to the scientific aspects of CEPOL's work relating to training, at the request of the Management Board or the Executive Director.

4. When establishing the Scientific Committee for Training, the Management Board shall decide on its composition, its members' term of office, the frequency of its meetings and its rules of procedure, including its voting rules.

CHAPTER IV

FINANCIAL PROVISIONS

Article 17

Budget

1. Estimates of all revenue and expenditure for CEPOL shall be prepared each financial year, which shall correspond to the calendar year, and shall be shown in CEPOL's budget.

2. CEPOL's budget shall be balanced in terms of revenue and expenditure.

3. Without prejudice to other resources, CEPOL's revenue shall comprise a contribution from the Union entered in the general budget of the Union.

4. CEPOL may benefit from Union funding in the form of delegation agreements or ad-hoc grants in accordance with its financial rules referred to in Article 21 and with the provisions of the relevant instruments supporting the policies of the Union. ***Without prejudice to the principle of prohibition of double financing laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council*** [8] ***('Financial Regulation'), CEPOL may manage dedicated Union funds to perform specific activities within the scope of its objectives and tasks.***

[8] 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 and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

5. CEPOL’s expenditure shall include staff remuneration, administrative and infrastructure expenses and operating costs.

6. Budgetary commitments for actions relating to large-scale projects extending over more than one financial year may be broken down into several annual instalments.

Article 18

Establishment of the budget

1. Each year, the Executive Director shall draw up a draft statement of estimates of CEPOL's revenue and expenditure for the following financial year, including an establishment plan, and shall send it to the Management Board.

2. The Management Board shall, on the basis of the draft statement of estimates, adopt a provisional draft estimate of CEPOL's revenue and expenditure for the following financial year and shall send it to the Commission by 31 January each year.

3. The Management Board shall send the final draft estimate of CEPOL's revenue and expenditure to the Commission by 31 March each year.

4. The Commission shall send the statement of estimates to the European Parliament and to the Council, together with the draft general budget of the Union.

5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the Union the estimates that it considers necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the European Parliament and the Council in accordance with Articles 313 and 314 TFEU.

6. The European Parliament and the Council shall authorise the appropriations for the contribution from the Union to CEPOL.

7. The European Parliament and the Council shall adopt CEPOL's establishment plan.

8. CEPOL's budget shall be adopted by the Management Board. It shall become final following the final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.

9. For any building project likely to have significant implications for CEPOL's budget, Commission Delegated Regulation (EU) No 1271/2013[9] shall apply.

Article 19

Implementation of the budget

1. The Executive Director shall implement CEPOL's budget.

2. Each year the Executive Director shall send all information relevant to the findings of any evaluation procedures to the European Parliament and to the Council and shall ***also notify the Court of Auditors of any such findings***.

[9] Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

Article 20

Presentation of accounts and discharge

1. CEPOL's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's accounting officer and to the Court of Auditors by 1 March of the following financial year (year N + 1).

2. CEPOL shall send a report on the budgetary and financial management for year N to the European Parliament, the Council and the Court of Auditors by 31 March of year N + 1.

3. The Commission's accounting officer shall send CEPOL's provisional accounts for year N, consolidated with the Commission's accounts, to the Court of Auditors by 31 March of year N + 1.

4. On receipt of the Court of Auditors' observations on CEPOL's provisional accounts for year N pursuant to Article 148 of Financial Regulation, ***CEPOL's*** accounting officer shall draw up CEPOL's final accounts for that year. The Executive Director shall submit them to the Management Board for an opinion.

5. The Management Board shall deliver an opinion on CEPOL's final accounts for year N.

6. CEPOL's accounting officer shall, by 1 July of year N + 1, send the final accounts for year N to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion referred to in paragraph 5.

7. The final accounts for year N shall be published in the Official Journal of the European Union by 15 November of year N + 1.

8. The Executive Director shall send ***to*** the Court of Auditors a reply to its observations by 30 September ***of year N + 1***. The Executive Director shall also send this reply to the Management Board.

9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for year N, in accordance with Article 165(3) of the Financial Regulation.

10. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, grant a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 21

Financial rules

1. The financial rules applicable to CEPOL shall be adopted by the Management Board after consulting the Commission. They shall not depart from Delegated Regulation (EU) No 1271/2013 unless such departure is specifically required for the operation of CEPOL and the Commission has given its prior consent.

2. ***In duly justified cases and with the prior approval of the Management Board,*** CEPOL may award grants without ***an open*** call for proposals to Member States for providing training relating to the tasks referred to in Article 4(2) and (4).

CHAPTER V

STAFF

Article 22

General ***provision***

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and Conditions of Employment shall apply to the staff of CEPOL.

Article 23

Executive Director

1. The Executive Director shall be engaged as a temporary agent of CEPOL under Article 2(a) of the Conditions of Employment of Other Servants.

2. The Executive Director shall be appointed by the Management Board, ***following an open and transparent selection procedure,*** from a ***shortlist*** of ***at least three*** candidates proposed by ***a selection committee set up by the Management Board and composed of members designated by Member States and the Commission.***

The selection committee shall draw that shortlist from a list of all candidates, identified by the Commission in a transparent manner, whose profile matches the requirements for the function laid down in a notice of vacancy published in the Official Journal of the European Union.

The Commission shall transmit to the selection committee a copy of all applications received for the vacancy.

For the purpose of concluding a contract with the Executive Director, CEPOL shall be represented by the Chairperson of the Management Board.

3. The term of office of the Executive Director shall be ***four*** years. By the end of that period, the Commission, ***in association with the Management Board,*** shall undertake an assessment taking into account an evaluation of the Executive Director's performance and CEPOL's future tasks and challenges.

4. The Management Board, ***taking*** into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once and for no more than ***four*** years. In such a case, the Executive Director shall not participate in another selection procedure for the same post at the end of the overall period.

5. The Executive Director may be removed from office ▌ by a decision of the Management Board ▌ .

6. The Management Board shall reach decisions on the appointment, extension of the term of office, or removal from office, of the Executive Director ***by a majority*** of ▌ two-thirds ▌ of its members ▌ .

Article 24

Seconded national experts

1. CEPOL may make use of seconded national experts.

2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to CEPOL.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 25

Legal status

1. CEPOL shall be ***an agency*** of the Union. It shall have legal personality.

2. In each Member State, CEPOL shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.

3. The seat of CEPOL shall be in Budapest, Hungary.

Article 26

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Union shall apply to CEPOL and its staff.

Article 27

Language arrangements

1. The provisions laid down in Regulation No 1[10] shall apply to CEPOL.

2. The Management Board shall decide by a majority of two-thirds of its members on the internal language arrangements of CEPOL.

3. The translation services required for the functioning of CEPOL shall be provided by the Translation Centre of the bodies of the European Union.

[10] Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community (OJ 17, 6.10.1958, p. 385).

Article 28

Transparency

1. Regulation (EC) No 1049/2001 shall apply to documents held by CEPOL.

2. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.

3. Decisions taken by CEPOL under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the European Ombudsman or of an action before the Court of Justice of the European Union, in accordance with Articles 228 and 263 TFEU respectively.

4. The processing of personal data by CEPOL shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council[11].

[11] 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 (OJ L 8, 12.1.2001, p. 1).

Article 29

Combating fraud

1. In order to facilitate the fight against fraud, corruption and any other illegal activity under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[12], between ***1 July and 31 December 2016*** CEPOL ▌ shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-Fraud Office (OLAF)[13] and shall adopt appropriate provisions applicable to all employees of CEPOL using the template set out in the Annex to that Agreement.

2. The European Court of Auditors shall have a power of audit, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds from CEPOL.

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12 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

13 Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 15).

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract awarded by CEPOL. Such investigations shall be carried out in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and in Council Regulation (Euratom, EC) No 2185/96[14].

4. Without prejudice to paragraphs 1, 2 and 3, ***working*** agreements with ***Union bodies, authorities and training institutes of*** third countries***,*** international organisations ***and private parties***, contracts, grant agreements and grant decisions of CEPOL shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct the audits and investigations referred to in paragraphs 2 and 3, in accordance with their respective competences.

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14 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 (OJ L 292, 15.11.1996, p. 2).

Article 30

Security rules on the protection of classified and sensitive non-classified information

CEPOL shall ***apply, mutatis mutandis, the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, inter alia the rules for the exchange, processing and storage of such information, as set out in Commission Decisions (EU, Euratom) 2015/443[15] and (EU, Euratom) 2015/444[16].***

[15] ***Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).***

[16] ***Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).***

Article 31

Liability

1. CEPOL's contractual liability shall be governed by the law applicable to the relevant contract.

2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by CEPOL.

3. In the case of non-contractual liability, CEPOL shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damage referred to in paragraph 3.

5. The personal liability of CEPOL's staff towards CEPOL shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment of Other Servants applicable to them.

Article 32

Evaluation and review

1. By ***1 July 2021*** and every five years thereafter, the Commission shall ensure that an evaluation assessing, in particular, the impact, effectiveness and efficiency of CEPOL and of its working practices is carried out. ▌

2. The Commission shall submit the evaluation report ***to the Management Board. The Management Board shall provide its observations*** on the evaluation report ***within one month from the date of receipt. The Commission shall then submit the final evaluation report, together with the Commission's conclusions, and the Management Board's observations in an Annex thereto,*** to the European Parliament, the Council and the Management Board. The findings of that evaluation report shall be made public.

▌

Article 33

Administrative inquiries

CEPOL's activities shall be subject to inquiries by the European Ombudsman in accordance with Article 228 TFEU.

Article 34

Cooperation with Union bodies, third countries and international organisations

1. CEPOL shall be open to the participation of ***the authorities and training institutes of*** third countries that have entered into agreements with the Union to that effect.

2. In so far as necessary for the performance of its tasks, CEPOL may establish and maintain cooperative relations with Union bodies, in accordance with their objectives, with authorities and training institutes of third countries, with international organisations and with private parties.

3. In accordance with paragraphs 1 and 2, ***working*** arrangements shall be ***concluded*** specifying, in particular, the nature, extent and manner in which the ***authorities and training institutes of*** third countries***, international organisations and private parties*** concerned may participate in CEPOL's work, including provisions relating to participation in CEPOL's initiatives, financial contributions and staff. As regards staff matters, those arrangements shall comply with the Staff Regulations and the Conditions of Employment of Other Servants.

4. CEPOL shall cooperate with the Union bodies competent in matters covered by this Regulation and referred to in paragraph 2, within the framework of working arrangements concluded with those bodies, in accordance with this Regulation or with the relevant provisions of Decision 2005/681/JHA. ▌

5. The working arrangements referred to in paragraphs 3 and 4 may be concluded only with the authorisation of the Management Board after having consulted the Commission. They shall not be binding on the Union or on its Member States.

Article 35

Headquarters Agreement and operating conditions

The necessary arrangements concerning the accommodation to be provided for CEPOL in Hungary and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, CEPOL staff and members of their families, shall be laid down in a Headquarters Agreement between CEPOL and Hungary concluded after obtaining the approval of the Management Board .

CHAPTER VII

TRANSITIONAL PROVISIONS

Article 36

Legal succession

1. CEPOL, as established by this Regulation, shall be the legal successor in respect of all contracts concluded by, liabilities incumbent on, and properties acquired by CEPOL as established by Decision 2005/681/JHA.

2. This Regulation shall not affect the legal force of agreements concluded by CEPOL as established by Decision 2005/681/JHA, before …[*].

[*] OJ: please insert the date of entry into force of this Regulation.

Article 37

Transitional arrangements concerning the Management Board

1. The term of office of the members of CEPOL's Governing Board as established on the basis of Article 10 of Decision 2005/681/JHA shall terminate on ***1 July 2016***.

2. During the period from …* to ***1 July 2016***, the ***Governing*** Board as established on the basis of Article 10 of Decision 2005/681/JHA shall :

   (a) exercise the functions of the Management Board in accordance with Article 9 of this Regulation;

* OJ: please insert the date of entry into force of this Regulation.

(b) prepare the adoption of the rules relating to the application of Regulation (EC) No 1049/2001 with regard to CEPOL documents, as referred to in Article 28 of this Regulation**,** and to the obligations of confidentiality and discretion;

(c) prepare any instrument necessary for the application of this Regulation; and

(d) review the internal rules and measures which it has adopted on the basis of Decision 2005/681/JHA so as to allow the Management Board as established pursuant to Article 8 of this Regulation to take a decision pursuant to Article 41 thereof.

Article 38

Transitional arrangements concerning the Executive Director and staff

1. The Director of CEPOL appointed on the basis of Article 11(1) of Decision 2005/681/JHA shall, for the remaining period of his or her term of office, be assigned the responsibilities of Executive Director, as provided for in Article 14 of this Regulation. The other conditions of his or her contract shall remain unchanged. If the term of office ends between …[*] and ***1 July 2016***, it shall be extended automatically until ***1 July 2017***.

[*] OJ: please insert the date of entry into force of this Regulation.

2. If the ▌ Director ***of CEPOL, appointed on the basis of Article 11(1) of Decision 2005/681/JHA,*** is unwilling or unable to act in accordance with paragraph 1 of this Article, the Management Board shall designate an interim Executive Director to exercise the duties assigned to the Executive Director for a period not exceeding 18 months, pending the appointment provided for in Article 23(2) of this Regulation.

3. This Regulation shall not affect the rights and obligations of staff engaged under Decision 2005/681/JHA. Their employment contracts may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment of Other Servants.

Article 39

Transitional budgetary provisions

The discharge procedure in respect of the budgets approved on the basis of Article 25 of Decision 2005/681/JHA shall be carried out in accordance with the rules established by that Decision.

CHAPTER VIII

FINAL PROVISIONS

Article 40

Replacement and repeal

1. Decision 2005/681/JHA, as amended by Regulation (EU) No 543/2014, is hereby replaced with regard to the Member States bound by this Regulation with effect from 1 July 2016.

Therefore, Decision 2005/681/JHA is repealed.

2. With regard to the Member States bound by this Regulation, references to the acts referred to in paragraph 1 shall be construed as references to this Regulation.

Article 41

Maintenance in force of the internal rules adopted by the ***Governing*** Board

Internal rules and measures adopted by the ***Governing*** Board on the basis of Decision 2005/681/JHA shall remain in force after ***1 July 2016***, unless otherwise decided by the Management Board in the application of this Regulation.

Article 42

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. It shall apply from 1 July 2016.

However, Articles 37, 38 and 39 shall apply from … [*].

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at

For the European Parliament	*For the Council*
The President	*The President*

[*] OJ: please insert the date of entry into force of this Regulation.