

(Acts adopted under Title VI of the Treaty on European Union)

COUNCIL DECISION 2005/681/JHA

of 20 September 2005

establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(c) and Article 34(2)(c) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) At its meeting in Tampere on 15 and 16 October 1999, the European Council agreed that a European Police College, hereinafter referred to as 'CEPOL', should be established to train senior officers of police forces.

(2) The European Police College was established by Council Decision 2000/820/JHA ⁽²⁾.

(3) It has become apparent that the functioning of CEPOL could be improved if it were financed from the general budget of the European Union and if the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities applied to the Director and the staff of the CEPOL Secretariat.

(4) The conclusions of the Council of 24 February 2005 therefore called for the aforementioned amendments to be implemented, which makes it necessary to repeal Decision 2000/820/JHA and to replace it by a new Council Decision concerning CEPOL.

(5) CEPOL should continue to function as a network, linking national training institutes whose tasks include the training of senior police officers of the Member States, in accordance with the general principles as laid down in Decision 2000/820/JHA.

(6) CEPOL should carry out its tasks by progressive stages in the light of the objectives set out in the annual work programmes and with due regard for available resources.

(7) A number of technical changes are necessary in order to bring the structure of CEPOL in line with the procedures to be followed in the framework of the general budget of the European Union and of the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities.

(8) As regards other provisions, these are as far as possible based on Decision 2000/820/JHA.

(9) The technical changes include amendments to the provisions dealing with the relations with third States, the functioning of the Governing Board, the tasks of the Director, the staff of the CEPOL Secretariat, the financial requirements, access to documents and evaluation.

(10) In order to guarantee continuity, specific transitional provisions are required,

HAS DECIDED AS FOLLOWS:

CHAPTER I

ESTABLISHMENT, LEGAL PERSONALITY AND SEAT

Article 1

Establishment

1. A European Police College (CEPOL) is hereby established. It shall be regarded as the successor of CEPOL, as established by Decision 2000/820/JHA.

2. Without prejudice to future developments, CEPOL shall function as a network, by bringing together the national training institutes in the Member States whose tasks include the training of senior police officers, which shall cooperate closely to that end.

⁽¹⁾ Opinion delivered on 12 April 2005 (not yet published in the Official Journal).

⁽²⁾ OJ L 336, 30.12.2000, p. 1. Decision as last amended by Decision 2004/567/JHA (OJ L 251, 27.7.2004, p. 20).

3. CEPOL's task shall be to implement the programmes and initiatives decided upon by the Governing Board.

Article 2

Legal personality

1. CEPOL shall have legal personality.
2. CEPOL shall enjoy in each Member State the most extensive legal and contractual capacity available to legal persons under national law. CEPOL may in particular acquire and dispose of movable or immovable property and be a party to legal proceedings.
3. The Director shall represent CEPOL in all legal acts and obligations.

Article 3

Privileges and Immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Director of CEPOL and the staff of its Secretariat, with the exception of staff seconded from the Member States.

Article 4

Seat

The seat of CEPOL shall be in Bramshill, United Kingdom.

CHAPTER II

PURPOSE, OBJECTIVES AND TASKS

Article 5

Purpose

The aim of CEPOL shall be to help train the senior police officers of the Member States by optimising cooperation between CEPOL's various components. It shall support and develop a European approach to the main problems facing Member States in the fight against crime, crime prevention, and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems.

Article 6

Objectives

CEPOL's objectives shall be as follows:

1. to increase knowledge of the national police systems and structures of other Member States and of cross-border police cooperation within the European Union;
2. to improve knowledge of international and Union instruments, in particular in the following sectors:

(a) the institutions of the European Union, their functioning and role, as well as the decision-making mechanisms and legal instruments of the European Union, in particular as regards their implications for law-enforcement cooperation;

(b) Europol's objectives, structure and functioning, as well as ways to maximise cooperation between Europol and relevant law-enforcement services in the Member States in the fight against organised crime;

(c) Eurojust's objectives, structure and functioning;

3. to provide appropriate training with regard to respect for democratic safeguards, with particular reference to the rights of defence.

Article 7

Tasks

In order to achieve those objectives, CEPOL may, in particular, undertake the following actions:

(a) provide training sessions, based on common standards, for senior police officers;

(b) contribute to the preparation of harmonised programmes for the training of middle-ranking police officers, middle-ranking police officers in the field and police officers in the field with regard to cross-border cooperation between police forces in Europe, and help set up appropriate advanced training programmes as well as develop and provide training for trainers;

(c) provide specialist training for police officers playing a key role in combating cross-border crime, with a particular focus on organised crime;

(d) disseminate best practice and research findings;

(e) develop and provide training to prepare police forces of the European Union for participation in non-military crisis management;

(f) develop and provide training for police authorities from the candidate countries, including training for police officers with a key role;

(g) facilitate relevant exchanges and secondments of police officers in the context of training;

(h) develop an electronic network to provide back-up for CEPOL in the performance of its duties, ensuring that the necessary security measures are put in place;

- (i) enable the senior police officers of the Member States to acquire relevant language skills.

Article 8

Cooperation with other bodies

1. CEPOL may cooperate with relevant bodies of the European Union in the field of law enforcement and other related areas and with relevant training bodies in Europe.

2. CEPOL may cooperate with national training institutes of non-member States of the European Union, in particular with those of the candidate countries, as well as with those of Iceland, Norway and Switzerland.

3. The Governing Board may authorise the Director of CEPOL to negotiate cooperation agreements with any of the bodies mentioned in paragraphs 1 and 2.

Such cooperation agreements may be concluded only with the authorisation of the Governing Board.

Cooperation agreements with bodies of non-member States of the European Union can only be concluded after the approval of the Council has been obtained.

4. CEPOL may take into account recommendations made by Europol and/or the Task Force of Chiefs of Police of the Member States of the EU, without prejudice to the rules governing the adoption of the CEPOL work program.

CHAPTER III

ORGANS, STAFF AND CONTACT POINTS

Article 9

Organs

The organs of CEPOL shall be:

1. The Governing Board.
2. The Director, heading the CEPOL Secretariat.

Article 10

The Governing Board

1. The Governing Board shall be made up of one delegation from each Member State. Each delegation shall have one vote.

2. The members of the Governing Board shall preferably be directors of national training institutes. Where there are several directors from a single Member State, they shall together form a

delegation. The Governing Board shall be chaired by the representative of the Member State holding the Presidency of the Council of the European Union.

3. Representatives of the Commission and of the General Secretariat of the Council of the European Union and Europol shall be invited to attend meetings as non-voting observers.

4. Members of the Governing Board may be accompanied by experts.

5. The Director of CEPOL shall participate in the meetings of the Governing Board, without the right to vote.

6. The Governing Board shall meet at least twice a year.

7. Except when otherwise indicated in this Decision, the Governing Board shall act by a two-thirds majority of its members.

8. The Governing Board shall establish its rules of procedure.

9. The Governing Board shall adopt:

- (a) common curricula, training modules, learning methods, and any other learning and teaching tools;
- (b) the decision appointing the Director;
- (c) by unanimity, the draft budget to be submitted to the Commission;
- (d) the work programme, after having consulted the Commission, to be submitted to the Council for approval;
- (e) the annual report and the CEPOL five-year report to be submitted to the Commission and the Council, in order to allow the Council to take note of them and endorse them;
- (f) the implementing rules applicable to the CEPOL staff, on a proposal from the Director and after seeking agreement from the Commission.

10. The Governing Board may decide, in cases of strict necessity, to establish working groups to make recommendations, to develop and propose strategies, training concepts and tools, or to perform any other advisory task deemed necessary by the Governing Board. The Governing Board shall draw up the rules governing the creation and functioning of the working groups.

11. The Governing Board shall exercise the powers laid down in Article 13(3) in respect of the Director.

12. Without prejudice to paragraph 9(d) and (e), the work programme, the annual report on CEPOL's activities and the CEPOL five-year report shall be forwarded to the European Parliament and the Commission for information and shall be made public.

Article 11

The Director

1. The Director shall be appointed by the Governing Board from a list of at least three candidates presented by a selection committee, for a four-year period extendable once.

The Governing Board shall establish rules regarding the selection of the candidates. Such rules shall be approved by the Council prior to their entry into force.

2. The Governing Board may decide to extend the term of office of the Director.

3. The Governing Board may remove the Director from his/her office.

4. The Director shall be responsible for the day-to-day administration of CEPOL's work. He or she shall support the work of the Governing Board. He or she shall:

- (a) exercise, in respect of the staff, the powers laid down in Article 13(3);
- (b) take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure that CEPOL functions in accordance with the provisions of this Decision;
- (c) draw up the preliminary draft budget, the preliminary draft annual report and the preliminary draft work programme to be submitted to the Governing Board;
- (d) implement the budget;
- (e) maintain contacts with the relevant services in the Member States;
- (f) coordinate the implementation of the work programme;

(g) perform any other function attributed to him/her by the Governing Board.

5. The Director shall be accountable for his/her activities to the Governing Board.

6. If the Council so requests, the Director shall report on the carrying out of his/her duties. The Director may do the same if the European Parliament so requests.

7. The Director shall negotiate a headquarters agreement with the government of the host Member State, and submit it for approval to the Governing Board.

Article 12

The CEPOL Secretariat

The CEPOL Secretariat shall assist CEPOL with the administrative tasks necessary for it to function and implement the annual programme and, where appropriate, the additional programmes and initiatives.

Article 13

Staff of the CEPOL Secretariat

1. The Staff Regulations of officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for the purposes of the application of those Staff Regulations and Conditions of employment shall apply to the Director of CEPOL and the staff of CEPOL's Secretariat recruited after the entry into force of this Decision.

2. For the purpose of implementing Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff regulations of officials and the Conditions of employment of other servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission⁽¹⁾, CEPOL is an agency within the meaning of Article 1a, paragraph 2, of the Staff regulations of officials of the European Communities.

3. The powers conferred on the appointing authority by the Staff regulations and on the authority authorised to conclude contracts by the Conditions of employment of other servants shall be exercised by CEPOL in respect of the staff of its Secretariat in accordance with the provisions of Articles 10(11) and 11(4)(a) of this Decision.

⁽¹⁾ OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 723/2004 (OJ L 124, 27.4.2004, p. 1).

4. The staff of CEPOL's Secretariat shall consist of officials seconded by an institution within the meaning of the Staff regulations of officials of the European Communities, of experts seconded by Member States, and of other servants recruited by CEPOL as necessary to carry out its tasks, all on a temporary basis.

5. The secondment of national experts from the Member States to the CEPOL Secretariat shall be in accordance with Council Decision 2003/479/EC of 16 June 2003 concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council⁽¹⁾, which shall apply by analogy.

Article 14

Contact points

A CEPOL national contact point may be set up in each Member State. Without prejudice to the Member States' right to organise this contact point as it sees fit, the contact point shall preferably be the Member State's delegation at the Governing Board. The national contact point shall ensure effective cooperation between CEPOL and the training institutes.

CHAPTER IV

FINANCIAL REQUIREMENTS

Article 15

Budget

1. The revenues of CEPOL shall consist, without prejudice to other types of income, of a subsidy from the Community entered in the general budget of the European Union (Commission section).

2. The expenditure of CEPOL shall include the staff, administrative, infrastructure and operational expenses.

3. The Director shall draw up an estimate of the revenues and expenditure of CEPOL for the following financial year and shall forward it to the Governing Board together with a provisional establishment plan.

4. Revenue and expenditure shall be in balance.

5. The Governing Board shall adopt the draft estimate, including the provisional establishment plan accompanied by the preliminary work programme, and forward them by 31 March of each year, at the latest, to the Commission. If the Commission has objections to the draft estimate, it shall consult the Governing Board within 30 days following receipt thereof.

6. The estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) together with the preliminary draft budget of the European Union.

7. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

8. The budgetary authority shall authorise the appropriations for the subsidy to CEPOL. The budgetary authority shall adopt the establishment plan for CEPOL.

9. The Governing Board shall adopt the CEPOL budget and the establishment plan. They shall become definitive following the final adoption of the general budget of the European Union. Where appropriate, they shall be adjusted accordingly.

10. Any modification to the budget, including the establishment plan, shall follow the procedure laid down in paragraphs 5 to 9.

11. The Governing Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project that may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

12. Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Governing Board within a period of six weeks from the date of notification of the project.

Article 16

Implementation and control of the budget

1. The Director shall implement CEPOL's budget.

2. By 1 March at the latest following each financial year, CEPOL's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽²⁾ (Financial Regulation).

⁽¹⁾ OJ L 160, 28.6.2003, p. 72. Decision as last amended by Decision 2004/240/EC (OJ L 74, 12.3.2004, p. 17).

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward CEPOL's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for that financial year shall also be forwarded to the European Parliament and the Council.

4. On receipt of the Court of Auditors' observations on CEPOL's provisional accounts, pursuant to Article 129 of the Financial Regulation, the Director shall draw up CEPOL's final accounts under his/her own responsibility and forward them to the Governing Board for an opinion.

5. The Governing Board shall deliver an opinion on CEPOL's final accounts.

6. By 1 July of the following year at the latest, the Director shall send the final accounts, together with the opinion of the Governing Board, to the Commission, the Court of Auditors, the European Parliament and the Council.

7. The final accounts shall be published.

8. The Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He or she shall also send this reply to the Governing Board.

9. Upon a recommendation from the Council, the European Parliament shall, before 30 April of year $n + 2$, give a discharge to the Director of CEPOL in respect of the implementation of the budget for year n .

Article 17

Financial provision

The financial rules applicable to CEPOL shall unanimously be adopted by the Governing Board after having consulted the Commission. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁽¹⁾, unless specifically required for CEPOL's operation and with the Commission's prior consent. The budgetary authority shall be informed of these derogations.

Article 18

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 of

⁽¹⁾ OJ L 357, 31.12.2002, p. 72.

the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF)⁽²⁾ shall apply without restriction.

2. CEPOL shall accede to the Inter-institutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) and shall issue, without delay, the appropriate provisions applicable to the Director of CEPOL and the staff of CEPOL's Secretariat.

3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may, if necessary, carry out on-the-spot checks among the recipients of CEPOL's funding and the agents responsible for allocating it.

CHAPTER V

MISCELLANEOUS PROVISIONS

Article 19

Languages

The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community⁽³⁾ shall apply to CEPOL. The annual report to the Council referred to in Article 10(9)(e) shall be drawn up in the official languages of the Union institutions.

Article 20

Access to documents

On the basis of a proposal by the Director, and not later than six months after this Decision takes effect, the Governing Board shall adopt rules for access to CEPOL documents, taking into account the principles and limits stated in 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⁽⁴⁾.

Article 21

Evaluation

1. Within five years after this Decision takes effect, and every five years thereafter, the Governing Board shall commission an independent external evaluation of the implementation of this Decision as well as of the activities carried out by CEPOL.

2. Each evaluation shall assess the impact of this Decision and the utility, relevance, effectiveness and efficiency of CEPOL and its working practices.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

⁽³⁾ OJ 17, 6.10.1958, p. 385/58. Regulation as last amended by the 2003 Act of Accession.

⁽⁴⁾ OJ L 145, 31.5.2001, p. 43.

3. The Governing Board shall receive the evaluation and issue recommendations regarding CEPOL's structure and its working practices to the Commission. Both the evaluation findings and recommendations shall be part of the five-year report, to be established in accordance with the procedure provided for in Article 10(9)(e).

Article 22

Decisions by the Council

When acting pursuant to Articles 8(3), 10(9)(d) and (e), 11(1) and 16(9), the Council shall decide by a qualified majority of its members.

CHAPTER VI

TRANSITIONAL PROVISIONS

Article 23

General legal succession

1. CEPOL, as established by this Decision, shall be the general legal successor in respect of all contracts concluded by, liabilities incumbent on, and properties acquired by CEPOL, as established under Decision 2000/820/JHA.

2. Without prejudice to Article 11(7), the Headquarters Agreement, concluded on the basis of Article 4(1) of Decision 2000/820/JHA, shall remain in force for CEPOL, established by this Decision, until repealed.

Article 24

The Director and Staff

1. The Director, appointed on the basis of Article 4(2) of Decision 2000/820/JHA shall, for the remaining period of his/her term, be the Director within the meaning of Article 11 of this Decision.

2. In the event that he/she is unwilling or unable to act in accordance with paragraph 1, the Governing Board shall appoint an interim Director for a maximum period of 18 months, pending the appointment procedure as provided for in Article 11(1) of this Decision.

3. Employment contracts concluded before the adoption of this Decision shall be honoured.

4. The seconded national experts who are posted to CEPOL, established on the basis of Decision 2000/820/JHA, shall be entitled to continue their secondments to CEPOL in accordance with the rules referred to in Article 13(5) of this Decision.

Article 25

Budget

1. The discharge procedure in respect of the budgets, established on the basis of Article 5(3) of Decision 2000/820/JHA, shall be carried out in accordance with the financial regulation adopted on the basis of Article 5(3) of Decision 2000/820/JHA.

2. All expenditure resulting from commitments made by CEPOL in accordance with the financial regulation adopted on the basis of Article 5(3) of Decision 2000/820/JHA before the entry into force of this Decision which has not yet been paid at that time shall be covered by the budget of the CEPOL, as established by this Decision.

3. Before the expiry of a period of nine months after the entry into force of this Decision, the Governing Board shall unanimously establish the amount covering the expenditure referred to in paragraph 2. A corresponding amount, financed from the accumulated surplus of the budgets approved on the basis of Article 5(3) of Decision 2000/820/JHA, shall be transferred into the 2006 budget established by this Decision and shall constitute an assigned revenue to cover this expenditure.

If the surpluses are not sufficient to cover the expenditure referred to in paragraph 2, the Member States shall provide the financing necessary on the basis of Decision 2000/820/JHA.

4. The remainder of the surpluses of the budgets approved on the basis of Article 5(3) of Decision 2000/820/JHA shall be paid back to the Member States. The amount to be paid to each of the Member States shall be calculated on the basis of the annual contributions from the Member States to the CEPOL budgets, established on the basis of Article 5(2) of Decision 2000/820/JHA.

The remainder shall be paid back to the Member States within three months after the amount referred to in paragraph 3 has been established and the discharge procedures regarding the budgets approved on the basis of Article 5(3) of Decision 2000/820/JHA have been completed.

5. CEPOL shall continue to implement the Community financed projects in which CEPOL, established on the basis of Decision 2000/820/JHA, is participating, including projects adopted under the CARDS and MEDA programs.

Article 26

Work programme and annual report

1. The annual continuing education programme, adopted on the basis of Article 3 of Decision 2000/820/JHA, shall be regarded as the work programme referred to in Article 10(9)(d), subject to any amendments adopted in accordance with the provisions of this Decision.

2. The annual report on CEPOL's activities for the year 2005 shall be established in accordance with the procedure provided for in Article 3 of Decision 2000/820/JHA.

Article 27

Institutional arrangements

1. For the purpose of implementing the transitional provisions of this Decision, the Governing Board set up on the basis of Article 10 of this Decision shall substitute itself for the Governing Board set up on the basis of Decision 2000/820/JHA.

2. Notwithstanding Article 28 of this Decision, the relevant provisions of Decision 2000/820/JHA, and all rules and regulations adopted for their implementation, shall remain in force for the purpose of implementing the transitional provisions of this Decision.

Article 28

Measures to be prepared before entry into force

The Governing Board set up on the basis of Decision 2000/820/JHA, as well as the Director, appointed on the basis of that Decision, shall prepare the adoption of the instruments listed below:

- (a) the rules of procedure of the Governing Board as referred to in Article 10(8);
- (b) the implementing rules applicable to CEPOL staff as referred to in Article 10(9)(f);
- (c) the rules regarding the selection of the candidates, as referred to in Article 11(1);
- (d) the measures referred to in Article 11(4)(b);

(e) the financial rules applicable to CEPOL referred to in Article 17;

(f) the measures required in Article 18(2); and

(g) the rules for access to CEPOL documents referred to in Article 20.

CHAPTER VII

FINAL PROVISIONS

Article 29

Repeal

Without prejudice to Chapter VI of this Decision, Decision 2000/820/JHA is repealed.

Article 30

Taking of effect

This Decision shall take effect on 1 January 2006. However, Article 28 shall apply from the day following the publication of this Decision in the *Official Journal of the European Union*.

Article 31

Publication

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 20 September 2005.

For the Council
The President
M. BECKETT