



European Ombudsman

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European Ombudsman

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Visit to the European Police College (CEPOL)

Dear Dr Bánfi,

I am writing in order to share with you the results of the visit that I made to the European Police College (CEPOL) on Tuesday 3 May 2011. For practical reasons, the visit took place in the premises of the European Commission in London rather than at those of CEPOL. Before explaining my findings and suggestions, I shall briefly recall: (1) the purpose of the visit; (2) the topics identified for discussion; and (3) the meeting with yourself and your Head of Corporate Services, which was the key element of the visit.

1. The purpose of the Ombudsman's visit to CEPOL

The entry into force of the Treaty of Lisbon in December 2009, gave to the Charter of Fundamental Rights of the European Union the same legal value as the Treaties. Among the rights of citizenship that the Charter contains is the right to good administration (Article 41). Furthermore, the Lisbon Treaty provides for enhanced transparency, for greater opportunities for public participation in the Union's policy-making and for more dialogue with civil society. In order to help the EU institutions to fulfil these promises to citizens and thereby win and maintain their trust, I have decided to devote more of the resources of my office to promoting an administrative culture of service to citizens¹.

A culture of service involves not only a firm commitment to the principles set out in the European Code of Good Administrative Behaviour, but also

- engagement with citizens as part of core business;
- willingness to do more for citizens than merely fulfil legal obligations;
- a *proactive* approach towards informing and involving citizens and reconciling different rights and interests.

¹ See the Ombudsman's *Strategy for the Mandate*, September 2010 available on-line at: <http://www.ombudsman.europa.eu/resources/strategy.faces>



The past fifteen years or so have seen the creation of a large number of EU agencies². The current landscape of agencies results from a case-by-case approach rather than an overall vision of their place in the Union's institutional framework. Indeed, no generally agreed legal or administrative definition of the term "agency" exists, nor do the bodies that are commonly referred to as agencies have similar legal structures, or the same arrangements for accountability and governance³. Their diversity can make it difficult for citizens to understand how the Lisbon Treaty's promises of public participation, dialogue and greater transparency are to be fulfilled as regards the agencies. Moreover, taken together, agencies now account for approximately 10% of all the complaints that lead to the opening of an Ombudsman inquiry.

In view of the foregoing, it seems important to identify and spread best practices among the agencies in relation to a culture of service. I have decided, therefore, to organise a programme of visits to EU agencies for this purpose. A mission to London in the United Kingdom in early May 2011 provided the opportunity to launch the programme with visits to the European Banking Authority (EBA), the European Medicines Agency (EMA) and the European Police College (CEPOL).

2. The topics identified for discussion

The three agencies visited in early May 2011 (EBA, EMA and CEPOL) were informed in advance of the main questions the Ombudsman wished to address during his visit. These questions, which were the same for all three agencies, were framed on the basis of the above-mentioned general considerations. They were as follows:

- Does the agency make information and documents available to the public proactively, as well as responding correctly to requests?
- How well does the agency respond to complaints?
- Does the agency have appropriate policies and procedures for dealing with ethical issues?

As regards the first question, the Ombudsman's services carried out a preliminary analysis of CEPOL's website and sent it to CEPOL in advance of the visit. The analysis also covered the language policy of the website.

As regards the second question, the Ombudsman's services analysed the five complaints received since CEPOL was established in 2005. Two of these cases were declared inadmissible. Inquiries were opened in three cases, of which one was ongoing at the time of the visit.

² The Europa website http://europa.eu/agencies/index_en.htm now lists 42 bodies of various types, classified as: policy agencies (23), common security and defence policy agencies (3), police and judicial co-operation agencies (3), Euratom agencies (2), executive agencies (6), financial supervisory bodies (4) and the European Institute of Innovation and Technology.

³ Communication from the Commission to the European Parliament and the Council, *European agencies – The way forward*, COM(2008) 135 final, (SEC(2008) 323), 11 March 2008. The six Executive agencies are an exception, since they have a common legal basis (Council Regulation 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes 2003 OJ L 11 p. 1).



As regards the third question, the Ombudsman identified two aspects in particular that he wished to discuss: (a) the handling of potential conflicts of interest and (b) information to staff on whistleblowing.

3. The meeting on 2 May 2011

The meeting began at 10.15 and concluded at 11.45. The Ombudsman was accompanied by Mr Ian Harden, Secretary General. CEPOL was represented by its Director, Dr Ferenc Bánfi, who was accompanied by Mrs Kate Armitage, Head of Corporate Services.

The main points made by the CEPOL representatives at the meeting were as follows:

- CEPOL was established in 2001 and became an agency in 2006⁴. It has a statutory establishment plan of 26 posts (all temporary) and a total staff of 41.
- In 2008, the Court of Auditors identified serious problems in a number of areas and in 2009 an investigation by the European Anti-Fraud Office (OLAF) was launched. In February 2010, the former Director of CEPOL was replaced. The persons who caused the problems have now left CEPOL.
- As a result of the above, CEPOL was in a situation of crisis when the current Director took office. The first priority was to ensure the legality of CEPOL's operations. The Director and Head of Corporate Services believe that this objective has been achieved.
- CEPOL's management is now focused on the twin objectives of *compliance* with EU rules and procedures and *service* to all its stakeholders.
- A key requirement is to ensure adequate training in EU rules and procedures for CEPOL staff. To this end, a variety of training has been provided to staff commencing in 2010. In addition, this year for the first time, individual training needs and objectives have been identified for all staff.
- CEPOL currently relies on the legal services of the Council and Commission for legal advice, but is aiming to appoint its own legal adviser and has already detailed the need for this post in planning documents submitted to the Commission.
- The Director's vision for CEPOL is that it should be the training coordinator of the European law enforcement community (Eurojust, Europol and Frontex), and should serve as a complement to the Member States' Police training establishments, which form the CEPOL network. In this role, it should also focus on human rights in law enforcement. CEPOL has established co-operation with the Fundamental Rights Agency for this purpose.
- CEPOL's Governing Board was presented with a first strategic plan last year and gave its approval. Sub-strategies covering communications,

⁴ Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA..



Information, Communication and Technology, and Information Management will also be developed.

- CEPOL has already acted on the suggestions included in the Ombudsman's preliminary analysis of its website by adding information on: the right to request access to documents and the procedures for doing so; the right to complain to the European Ombudsman; and CEPOL's code of conduct.
- The Director has ordered a feasibility study into the use of more languages on the website. He considers that greater linguistic diversity would not only be good for citizens, but would also help CEPOL to reach out better to the national training agencies and to the persons whom it is training.
- CEPOL welcomes the Ombudsman's initiative to provide a statement of public service principles as a way to help ensure that the principles, which are not new, are better respected in practice.

4. The Ombudsman's findings and suggestions

A. Making information and documents available to the public proactively, as well as responding correctly to requests

The Ombudsman congratulates CEPOL on its website, which is user-friendly, easy to navigate and informative. He welcomes CEPOL's prompt action to implement some of the suggestions contained in the Ombudsman's preliminary analysis.

The Ombudsman's suggestion:

CEPOL should aim to make the homepage of its website, as well as information on its functions and language policy, available in all 23 Treaty languages. By greeting citizens who visit the website in their own language and explaining its functions to them, CEPOL would demonstrate clearly that it recognises that all citizens of the European Union have a legitimate interest in its work.

B. Responding to complaints

(i) Since CEPOL began operation in 2001, the Ombudsman has received five complaints, two of which were inadmissible. The Ombudsman opened inquiries into the other three cases. In March 2011, one of the inquiries (0784/2009/IP) was closed after CEPOL and the complainant accepted the Ombudsman's proposal for a friendly solution. The remaining two cases concern essentially the same subject matter. In one of them (2226/2009/TS), a proposal for a friendly solution was sent to CEPOL in April 2011. CEPOL provided a response on 23 May 2011, within the deadline set by the Ombudsman. The other case (2000/2009/TS) was closed after the complainant indicated that he was not interested in a friendly solution.

(ii) The Ombudsman recalls that his decision closing case 0784/2009/IP welcomed CEPOL's constructive collaboration in accepting the Ombudsman's proposal for a friendly solution.



C. Policies and procedures for dealing with ethical issues

(i) The Ombudsman notes the serious problems that arose in CEPOL. He welcomes the priority given by CEPOL's new director to ensuring the legality of operations and to ensuring that the Management Board is fully involved in decisions about CEPOL's future strategy.

(ii) The Ombudsman also welcomes the declared intention of CEPOL's senior management to ensure that all staff receive adequate training in EU rules and procedures, as well as their commitment to service to stakeholders.

The Ombudsman's suggestions:

(a) During his visit to the European Medicines Agency, the Ombudsman was informed that the EMA has produced guidance for its staff on whistleblowing, and that its internal newsletter reminds staff twice a year of the existence of this guidance and where to find it. The Ombudsman encourages CEPOL also to give guidance to its staff on their obligations and rights in this regard and to regularly remind staff of the guidance in its own internal newsletter.

(b) CEPOL should give high priority to appointing a legal adviser. An in-house legal adviser could provide advice more rapidly than an external legal service and ensure that CEPOL benefits fully from inter-agency co-operation through participation in the inter-agency legal network.

5. Concluding remarks

The European Ombudsman aims to be not only a form of external control, but also a resource to help those with management responsibilities in the EU institutions, bodies, offices and agencies to improve the quality of their administration and to build and maintain a culture of service to citizens. In addition to the suggestions made above, which I hope CEPOL will find useful, I and my staff are ready to give advice on request, within the limits of my competence and resources.

I would be grateful if you could inform me, by 30 September 2011 of the follow up you have given to the above suggestions.

Finally, I would like to thank you and Mrs Armitage for your excellent co-operation.

Yours sincerely,

P. Nikiforos Diamandouros