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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE  
EUROPEAN PARLIAMENT**

**FINANCING OF CIVILIAN CRISIS MANAGEMENT OPERATIONS**

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## FINANCING OF CIVILIAN CRISIS MANAGEMENT OPERATIONS

### 1. SUMMARY

The EU needs more effective and reliable procedures for the rapid financing of civilian crisis interventions, including CFSP actions.

Financing of such actions through the regular budget has been too cumbersome in the past. Yet the EC budget still offers the best basis upon which to build, not least because it is best context in which to ensure principles of good governance and transparency, and in which to ensure coherence of EU action (both CFSP and Community). If the regular budget is to be used, however, it will be necessary to overcome both resource constraints and procedural obstacles.

- As concerns resources: Recourse could be made to a new flexibility instrument for civil crisis interventions, including CFSP action as well as to the current emergency reserve within the budget. The creation of a new flexibility instrument would permit the release of additional credits for external action in unforeseen and exceptional crisis situations, while remaining within the overall financial perspectives agreed at Berlin. Similar recourse to the emergency reserve in cases of particular urgency, while respecting the priority given to humanitarian action, would provide further flexibility and resources in EU crisis management.
- As concerns procedures: current financing mechanisms within the budget need to be reviewed and improved. This is true equally for CFSP financing procedures and for regular Community instruments. For the management of the new flexibility instrument a transparent and fast procedure has to be sought.

Continued use of the EC budget for most crisis management actions would not preclude the option of Member State contributions in exceptional cases, in accordance with Article 28 (3) of the EU Treaty.

### 2. INTRODUCTION

Since its inception the European Community has been involved through its external policy in conflict prevention and crisis management. The Treaties of Maastricht and Amsterdam introduced new instruments for political/diplomatic and security/military action under the CFSP/ESDP. In parallel with these developments, international experience with crisis management over the last decade has shown a change in the nature and scale of crises to which the European Union must respond. The combination of these two developments poses a double challenge to the Commission:

- of improving Community instruments and procedures to make them more flexible and adapted to the needs of crisis response; and

- of ensuring co-ordinated and cohesive development between Community instruments and the new instruments available under CFSP/ESDP.

The existing pillar structure of the European Union may not be the optimal architecture for a fully integrated approach, and the next Intergovernmental Conference may have to address this issue. But that is for the future. Our task now is to develop effective and integrated mechanisms on the basis of the Treaty we have. There are many examples in the past few years of coherent and co-ordinated interaction of European Union instruments within the existing structures, most recently in FYROM.

The Commission is playing its full part in the European Union's efforts to develop an effective overall crisis management and conflict prevention capability. In a crisis, the Union must be able to act quickly. There must be no confusion over the distribution of tasks.

With a view to improving its capacity to respond fast and effectively to crises the Commission has developed tools in order to mobilise Community instruments more quickly. The recently adopted Rapid Reaction Mechanism (RRM)<sup>1</sup> is an example. It allows fast access to necessary budgetary financial means by operating through a separate budget line in the regular budget. The Commission is also seeking to ensure that programmes under the Community instruments are designed in such a way as to permit flexible and rapid response in case of crises.<sup>2</sup>

Military aspects of crisis operations cannot be covered from the regular budget of the European Communities. It is for this reason that new structures<sup>3</sup> have been developed within the Council Secretariat and that ad-hoc arrangements are being put in place for the funding of operations with military implications.

Article 28 of the EU Treaty foresees that, as a general rule, expenditure generated by CFSP action in situations of crisis should be charged to the regular budget. This helps to ensure the consistency and continuity of the European Union's external activities. The Treaty, however, also leaves open the possibility of a derogation from this rule.

### **3. CIVILIAN CRISIS MANAGEMENT UNDER CFSP AND COMMUNITY INSTRUMENTS**

In two recent reports, one on CFSP and one on the European Agency for Reconstruction in Kosovo, the European Court of Auditors comes to very different assessments: While the Agency is praised for its diligence and effectiveness, the management of CFSP is seen as being cumbersome and often much too slow. In the case of the CFSP both, an insufficient involvement of the Commission in the preparatory phase of actions as well as coordination problems and other difficulties within the Commission are cited. Among other recommendations, including the request for a more transparent management of CFSP, the Court of Auditors calls for a more timely decision-making in Council where existing actions are to be prolonged and for using the potential for faster management by the Commission.

The Community has considerable experience in conflict prevention, crisis management and crisis resolution. For example, in South Africa, the Community gave active support to front-

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<sup>1</sup> Regulation (EC) No 381/2001 creating a rapid-reaction mechanism, *OJ L 57, 27.2.2001, p. 5.*

<sup>2</sup> As advocated in the Commission's Communication on Conflict Prevention COM(2001) 211 final.

<sup>3</sup> See Presidency Conclusions of the Nice European Council Meeting, 7,8 and 9 December 2000, Annex VI.

line states and NGOs during the apartheid era. Since 1994 it has intervened to support the transition, and helped with electoral and institution-building efforts. In Guatemala, the Community has helped to implement the peace agreement and contributed to institution-building in key sectors such as rule of law and police. In East Timor the Commission is supporting the UNTAET administration. And in the Balkans the Community is leading one of the UN pillars in Kosovo, engaged in reconstruction efforts as well as support to local administration and civil society.

The European Council in Feira identified four priority areas for civilian crisis management intervention: *police, rule of law, civil protection* and *civilian administration*. These priority areas fall within a much broader set of civilian crisis management interventions, for which the Community has clear competence, including, for example, trade, economic incentives, humanitarian interventions, rehabilitation and institution building. For many actions which might be contemplated within the four priority areas identified at Feira the Community has competence as well as valuable expertise.

It is the aim and content of an envisaged operation that determines the related legal basis<sup>4</sup> and consequently the source of financing under the budget – whether Community or CFSP. The extent of Community competence for European Union civilian crisis management is not always clearly understood. Annex I clarifies some of the boundaries between First and Second Pillar.

In budgetary terms, there are three possible categories of crisis management operations:

- a) operations under a Community instrument<sup>5</sup>, which are financed under the appropriate Community budget line;
- b) CFSP operations not having military or defence implications<sup>6</sup>, which are financed under the CFSP budget line;
- c) ESDP operations having military or defence implications, which fall outside the Community budget.

As regards a) – operations under Community instruments – it is worth noting that these may include actions which might at first sight be thought of as ‘CFSP’. For example, demining, civilian emergency assistance, Civil Protection assistance intervention, human rights, institution building, election monitoring, consolidation of democracy and the rule of law, food aid, securing the livelihoods and safety of refugees, rehabilitation, reconstruction, infrastructure development as well as economic aid fall under Community instruments.

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<sup>4</sup> See established case law of the European Court of Justice, recently confirmed by Case C-376/98 Germany v European Parliament and Council [2000] ECR I-8419.

<sup>5</sup> See non-exhaustive overview of range of possible crisis management operations under the Community (1<sup>st</sup> pillar) in Annex I.

<sup>6</sup> CFSP operations not having military or defence implications are for example structural and long-term issues such as non-proliferation, disarmament, security monitoring, security support for peace processes and stabilisation efforts, projects to combat terrorism, political facilitation and tasks undertaken by Special Representatives of the European Union as well as related preparatory fact-finding missions. Further progress of ESDP under CFSP will allow the European Union eventually to perform military actions, thus contributing to an overall crisis management capability. But the military dimension of crisis management is only one part of overall CFSP action in conflict and crisis situations.

As regards b) – CFSP operations without military or defence implications – Community budgetary law applies in full when such operations are charged to the budget (which is the general rule under Article 28 – though there is also an exceptional procedure to charge expenditure to Member States). The Council decides a Joint Action and the budgetary resources to put into it, and the Commission commits, contracts and disburses the budget allocated to the action. Such expenditure is subject to external controls by the Court of Auditors, the legal control of budgetary implementation by the European Court of Justice and the discharge procedure at the European Parliament. A transparent and democratically accountable procedure is thus assured for the financing of CFSP operations – though that procedure is admittedly too cumbersome at present.

As regards c) – ESDP operations having military or defence implications – the permanent political and military structures which have been set up in the past two years are designed to ensure synergy between the civilian and military aspects. Once again, it is the aim and content of an envisaged operation, not the nature of the implementing body, that determines the related legal basis and the source of financing for an action. In a future deployment of the Rapid Reaction Force or other military actions, the situation is clear: financing from within the Community budget, under any title, will be precluded. But even a military body may perform CFSP crisis management tasks without rendering the action automatically ‘military’<sup>7</sup>. This may be the case, for example, for certain monitoring or police missions.

#### **4. PROCEDURAL AND BUDGETARY CONSTRAINTS ON THE EFFECTIVENESS OF CFSP OPERATIONS**

It is clear that the present procedures related to CFSP operations within the budget are too cumbersome for crisis situations. Furthermore, there would not be sufficient resources in the present CFSP budget if the European Union ever decided, say, to extend the EU Monitoring Mission in the Balkans, or to undertake a major police operation. Both procedural and budgetary constraints, in other words, threaten to reduce the potential and credibility of the European Union’s new global role.

##### **4.1. Overcoming procedural constraints**

If CFSP is to continue to be financed within the budget, it is essential to develop new procedures adapted to the particular needs of crisis management, notably to increase speed and flexibility of disbursement. The practice of CFSP implementation does not yet match the political expectations. The budgetary rules contain no urgency mechanism for the rapid implementation of CFSP operations. This contrasts with the situation in other areas. It is therefore important that the provisions for CFSP and crisis management foreseen in the proposal<sup>8</sup> for a recast Financial Regulation (as adopted on 30 October by the Commission) are accepted by the Budgetary Authority.

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<sup>7</sup> Note that for example in line with the principle that the aim and content of an envisaged operation determines the legal basis, Article 3 of Regulation (EC) No 1257/96 concerning humanitarian aid, *OJ L 163, 2.7.1996, p. 1*. This Community instrument allows for the financing of outside staff, including military personnel, for the storage, transport, logistics and distribution of humanitarian aid. Said Community instrument is also one of the possible financial sources for civil protection assistance.

<sup>8</sup> Of specific interest among the proposed provisions are:  
(i) the derogation to the principle that subsidies to third parties should be pre-programmed;  
(ii) a possible derogation from the mandatory ex-post publishing of allocated subsidies for reason of confidentiality and security (Article 109 of the recast);

The Commission is streamlining the management of financial operations in other ways. It is shortening the decision-making process<sup>9</sup>. It is devolving financial management responsibilities to external Delegations which will enable them to react more quickly when they are asked to take responsibility for the implementation of a CFSP action. It is also worth noting that in the reform of external assistance the Commission has brought together the project cycle for external assistance projects in one implementing unit. This will have benefits for CFSP also.

#### 4.2. Providing budgetary flexibility

As a rule, expenditure for civilian actions under CFSP crisis management is charged to the budget dedicated to the CFSP<sup>10</sup>. In exceptional cases, the Council acting unanimously may decide to charge the expenditure to Member States<sup>11</sup>. Expenditure with military or defence implications is always charged to Member States. The possibility of charging operational expenditure to the Member States is, however, limited to CFSP actions. It is not legally possible, nor would it be financially sound, to charge expenses of Community instruments to the Member States.

The budgetary constraint might be eased *either* through systematic recourse to the possibility offered in Article 28 of the EU Treaty to draw on contributions from Member States *or* by creating greater flexibility within the regular budget. The first option is currently being discussed in the Council, in the context of a possible new ad-hoc fund.<sup>12</sup> The second option, which would keep CFSP crisis expenditure within the established budget structures, might involve either making better use of budgetary reserves, or perhaps greater recourse to the new flexibility instrument. The Commission believes that this second option deserves serious consideration.

Financing civilian CFSP operations in crises through a new ad-hoc fund may seem an attractive solution. But it would raise many questions:

- the EU Treaty is silent on the management and the control of such a fund. Unless management were to be given to the Commission, as in the case of the European Development Fund, Member States would have to create a body parallel to the existing budgetary machinery, running counter to a recent recommendation of the Court of Auditors which insisted on greater transparency in financing of CFSP operations<sup>13</sup>.
- it would widen divisions between the first and the second pillar and so threaten to undermine the consistency of the European Union's external activities.

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(iii) a derogation from the principle of non-retroactivity for subsidies targeting situations for crisis management or humanitarian aid (Article 111 of the recast);

(iv) simplified procedures regarding public procurement.

<sup>9</sup> An empowerment of a Member of Commission is envisaged in accordance with Article 13 of the rules of procedure of the Commission C(2000) 3614, *OJ L 308*, 8.12.2000, p. 26.

<sup>10</sup> Article 28(3) first subparagraph of the Treaty on European Union.

<sup>11</sup> See Annex II on applicable budgetary rules.

<sup>12</sup> See Council Document on financing operations of crisis management 10716/01 dated 09.07.2001, Council Document on financing CFSP/ESDP 11910/01 dated 17.09.2001 and Council Document as option paper on the financing of operations having military or defence implications 13043/01 dated 19.10.2001.

<sup>13</sup> See recommendation n° 2 (point 69) of Special Report No. 13/2001 on the management of the Common Foreign and Security Policy (CFSP), published on the website of the Court of Auditors ([http://www.eca.eu.int/EN/reports\\_opinions.htm](http://www.eca.eu.int/EN/reports_opinions.htm)).

- any new management body would have to be responsible for all aspects of the budgetary cycle from the preparatory phase through implementation, accounting and financial control to possible discharge procedures. Given the small volume of funding to be handled relative to the overall EU budget, it would be difficult to achieve cost-effectiveness in the administrative structures required to cope with these tasks.
- the lack of Parliamentary control for such a fund would raise serious concerns about accountability and about the division of responsibilities between the two branches of the Budgetary Authority. With two parallel sources of financing for crisis actions, it would be hard to conduct a political dialogue on priorities.
- an ad hoc outside the regular budget fund might be seen as a way to circumvent normal budgetary procedure rather than seeking to improve the effectiveness of existing mechanisms for crisis intervention, including CFSP action.

In sum, a separate ad-hoc fund would be likely to generate inconsistency, politically and financially, rather than closer cohesion.

By contrast, revising or introducing new budget mechanisms for CFSP financing of crisis operations could be done without any major amendments in existing budget management structures while respecting the provisions on CFSP in the Treaty of Amsterdam. Such expenditure would remain within the regular EC budget, respecting the principles of governance and transparency emphasised by the Court of Auditors. CFSP financing mechanisms within the budget could be streamlined and the possibility would remain to resort to Member State contributions in exceptional cases in accordance with Article 28 (3) of the EU Treaty.

## **5. THE CREATION OF A NEW BUDGETARY MECHANISM FOR CRISIS INTERVENTIONS**

Both Community and CFSP appropriations are subject to the current financial perspective, which runs until 2006. Hence, the current resources available for crisis management do not match the very ambitious targets developed since 1999 and would certainly not be sufficient to cover crisis actions such as a substitution of local police forces in non-member countries. Although situations of this kind are not likely to arise very often, we need to reflect on how to mobilise the resources that would be necessary to face them.

The most logical solution would be to establish a reserve for crisis management<sup>14</sup> outside the heading for external actions (Heading 4). This would match the recent step change in both the ambition and capability of EU, Community and CFSP, to address crisis situations. But it could involve a revision of the financial perspective ceiling.

Given the sensitivity of such a step it might be prudent, rather, to reach the same objective both by creating a new flexibility instrument for civil crisis interventions, including CFSP

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<sup>14</sup> Similar to the existing reserves (Article 23 (c) of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure). Heading 6 of the financial perspective currently foresees the monetary reserve, the reserve for guaranteeing loans to non-member countries and the emergency aid reserve.

action, and by extending the use of the current emergency reserve<sup>15</sup> to CFSP crisis interventions. Through the new flexibility instrument, it would be possible to address unforeseen and exceptional circumstances while maintaining the ceiling in Heading 4 within the overall financial perspective agreed at Berlin. Such a new instrument must be set up by a new Inter Institutional Agreement between Council, Parliament and Commission, by which the procedures for its mobilisation have to be determined. As for the emergency reserve, it is the Commission's view that, while maintaining priority for humanitarian action<sup>16</sup>, the provisions governing this reserve already allow for such extended use. In 2000, for example, the reserve was used to fund the special assistance granted to the Federal Republic of Yugoslavia in order to consolidate the new democratic government in the civil crisis following the ousting of Milosevic.

In management terms:

- Given past experience, it will be necessary to examine how to ensure a more rapid decision-making procedure for the new flexibility instrument, for example by accelerating the adoption of a Supplementary and Amending Budget (SAB). Equally, an assessment should be made of how other implementation procedures could be simplified and accelerated, including flexibility provisions in the respective regulations, the conclusion of framework agreements, etc.
- The mobilisation of the funds from the emergency reserve would follow present rules, involving a transfer proposal to be adopted by the Budgetary Authority.

This approach, drawing on the existing budgetary framework and procedures, has three advantages: First, the necessary resources are called in from Member States only when the reserve is implemented. Second, no new funding key is required. And third, by relying on the established budgetary management structures administrative overheads are kept to a minimum.

## CONCLUSION

The European Union must grow into its new role as a global player in crises and equip itself with the necessary means. This can be achieved within the existing budgetary structures.

Community instruments and CFSP instruments are complementary. They cannot substitute each other. The bulk of civilian crisis management can be undertaken using Community instruments.

The idea of a parallel budget process outside existing structures is superficially attractive, but it could lead to duplication; reduced management efficiency; lack of budgetary transparency; and incoherence in overall financial management in the EU.

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<sup>15</sup> Article 23 (c) of the Inter-institutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure reads explicitly: "[T]he purpose of the emergency aid reserve is to provide a rapid response to the specific aid requirements of non-member countries following events which could not be foreseen when the budget was established, first and foremost for humanitarian operations."

<sup>16</sup> The terms of the Inter-institutional Agreement are reiterated in Article 16(1), last sentence, of Regulation (EC) No 2040/2000 on budgetary discipline, *OJ L 244*, 29. 9.2000, p. 27, which speaks of "a rapid response to specific emergency aid requirements in non member countries resulting from unforeseeable events, with priority being given to humanitarian operations".

By working instead within the existing structures to maximise the funding available for crisis management under both Community instruments and the CFSP, and by improving the operational efficiency of these mechanisms, the European Union would be better equipped to develop its role in conflict prevention and crisis management. This approach would also reflect the close links, emphasised repeatedly by the European Council, between short-term crisis management interventions and long term conflict prevention.

## ANNEX I

### Community instruments for Civilian Crisis Management

1. The Community instruments range from trade, economic incentives, humanitarian interventions to institution building. Building upon the existing Community instruments the Rapid Reaction Mechanism (RRM) established by Regulation (EC) No 381/2001, *OJ L 57, 27.2.2001, p. 5*, provides the necessary speed and flexibility to mobilise any Community instrument (with the exception of humanitarian instruments which have specific emergency procedures) to be deployed in a crisis. In fact, in case of urgency, the RRM authorises the Commission to undertake any crisis management operation foreseen under the instruments listed in the RRM's annex irrespective of the geographical applicability of the underlying regulation (See recital (4) and Articles 4 and 9 of the mentioned Regulation (EC) No 381/2001). For its implementation, the RRM envisages the development of Framework agreements with the Member states (to agree i.a. procedures for the deployment of MS civilian personnel in crisis management operations); the launch of Calls for tender for private and public sector organisations to complement the existing experts databases within the Commission; and the preparation of Framework agreements with other international organisations.
  
2. Some specific areas of Community competence are highlighted hereafter:

- **Civil protection**

The definition of a concrete target in the field of civil protection for crisis management, as defined in the Feira/Göteborg conclusions, has given rise to some ambiguity concerning the procedures and scope for such interventions. However, it should be remembered that the Community competence in civil protection is well established, both within and outside the EU:

- *within* the EU this competence derives from the Community mechanism to facilitate reinforced co-operation in Civil Protection assistance intervention, which provides for co-ordination of Member States resources and the financing of assessment missions;
  
- *outside* the EU the competence derives from two sources: the Civil Protection Mechanism (which applies equally to intra- and extra-EU operations), and the Humanitarian Aid Regulation (Article 2 of Regulation (EC) No 1257/96 concerning humanitarian aid, *OJ L 163, 2.7.1996, p. 1*).

- **Police operations**

In the area of police, the Community has established competence and expertise in training, assistance of local forces, and local capacity building. Police missions may cover a large number of functions. Whenever the overall objective is reform and restructuring, the Community has a clear competence as the examples of Guatemala, South Africa, Algeria and more recently FYROM have shown. It is also for this reason that the Commission has set aside significant sums under the Regulation (EC) No 2666/2000 (CARDS-Regulation), *OJ L 206, 7.12.2000, p. 1* for Justice and Home affairs components in the Balkans.

- **Fact Finding Missions**

Fact-finding missions will in many cases cover a combination of different kinds of experts from the Member States, for example engineers or forensic experts. Moreover, fact-finding missions will need to be deployed within very short timeframes.

These characteristics of fact-finding missions require special arrangements: the Commission can mobilise the RRM for the deployment of fact-finding missions. The Commission is setting up such a provision under the RRM and will identify procedures within the framework agreements to be concluded with the Member States on provision of experts.

- **Civilian Monitoring Missions**

The Commission has regularly deployed election and human rights monitors in full co-operation with the Member States and other international organisations.

Civilian monitoring missions can be paid for under a variety of instruments, including notably the geographic instruments, the human rights and democratisation regulations (Regulation (EC) No 975/1999, *OJ L 120, 08.05.1999, p. 1* and Regulation (EC) No 976/1999, *OJ L 120, 08.05.1999, p. 8*) and the RRM. The best mechanism for funding for civilian monitoring missions will be identified on a case by case basis.

- **Training**

In order to assist Member States in meeting the Feira targets, the Commission is setting up with the Member States a first phase of a training pilot programme for civilian crisis management personnel.

It is hoped that this programme in a second phase will lead to agreement with the Member States on actual training modules to be implemented by Member States institutions. For 2001-2002 the project will be funded under the budget dedicated to the human right and democratisation regulations. In a second phase, funding of training programmes would require dedicated budgetary resources from 2003 onwards.

3. For further examples of activities covered by Community instruments, please consult the annex of the RRM enlisting "Geographical" Regulations/Decisions and "Sectoral" Regulations and Decisions (food aid, reconstruction, NGOs, etc)

**ANNEX II**

**FINANCING OF CRISIS MANAGEMENT OPERATIONS**

	TYPE OF ACTION		
<b>Crisis Management Operations</b> <sup>17</sup>	<p align="center"><b>Civilian Operations:</b></p> <p align="center"><i>E.g. as humanitarian aid, food aid, securing the livelihoods and safety of refugees, civilian emergency assistance, rehabilitation, reconstruction, infrastructure development, demining, economic aid, consolidation of democracy and the rule of law , institution building, human rights</i></p> <p align="center">⇓</p>	<p align="center"><b>Civilian Petersberg tasks, which are not covered by Community Competence</b><sup>18</sup>:</p> <p align="center"><i>E.g. non-proliferation, disarmament, security monitoring, certain executive police missions, including assignments to substitute for local police, and fact-finding missions preceding an envisaged operation related thereto</i></p> <p align="center">⇓</p>	<p align="center"><b>Military Operations:</b></p> <p align="center"><i>military Petersberg tasks i.e. peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking</i></p> <p align="center">⇓</p>
<b>Legal Base</b>	<p><u>1<sup>st</sup> pillar: Treaty establishing the European Community (TEC)</u></p> <p>See relevant Regulations such as Regulation No 1257/96 (ECHO); Regulation No 2666/2000 (CARDS); Regulation No 1080/2000 (UNMIK and OHR), Regulation No 381/2001 creating the RRM, in particular its annex enlisting "Geographical" Regulations/Decisions and "Sectoral" Regulations and Decisions (food aid, reconstruction, NGOs, etc).</p>	<p><u>2<sup>nd</sup> pillar: Title V (CFSP) of the Treaty on European Union (TEU)</u></p> <p>Specific joint action adopted under Article 14 TEU coupled with corresponding financing decision of the Commission.</p>	<p><u>2<sup>nd</sup> pillar: Title V (ESDP within CFSP) of the Treaty on European Union (TEU)</u></p> <p>Specific joint action adopted under Article 14 TEU on basis of Article 17 TEU.</p>
<b>Decision Making Procedure</b>	<p>Depending on relevant Regulation, if based on Article 179 (ex-Article 130w) TEC qualified majority; if based on Article 308 (ex-Article 235) TEC unanimity; implementation usually conferred on the Commission in accordance with so-called "comitology"-procedures as set up by Decision 1999/468/EC.</p>	<p>Depending on Joint Action, generally unanimity following Article 23 (1) TEU, unless taken on basis of a common strategy, then qualified majority following Article 23 (2) first indent TEU; implementing decision adopted by qualified majority following Article 23 (2) first indent TEU.</p>	<p>Joint Action and implementing decision always adopted by unanimity following Article 23 (1) and (2).</p>

<sup>17</sup>

P.M.: Title VI TEU (JAI) not applicable as only related to police, rule of law etc. action inside Union, no external crisis management , even if executed by Member State police forces.

<sup>18</sup>

According to Articles 3 and 47 TEU the financing of civilian crisis management operations through the Community and through CFSP financing are complementary, but they are not substituting each other nor are they interchangeable.

	<b>1<sup>st</sup> Pillar actions (Community framework)</b> ↓	<b>2<sup>nd</sup> Pillar Actions (CFSP)</b> ↓	<b>2<sup>nd</sup> Pillar Actions (ESDP)</b> ↓
<b>Applicable Budget</b>	Budget of European Communities.	Budget of European Communities, or, exceptionally, operational expenditure may be charged Member States.	Outside Budget of European Communities: Operational expenditure and administrative expenditure, which is <b>not</b> attributable to the European Institutions is charged to the Member States (Article 28 (2) TEU). Administrative expenditure stemming from military operations but attributable to European Institutions to be charged to the Council's section of the budget (The Commission is not involved in military operations).
<b>Administrative Expenditure</b>	Part A of the Commission's section of the budget or specific BA-lines under the relevant budget lines attributed to applicable legal base (regulation or decision).	<i>If</i> expenditure entailed for European Institutions: either charged to the Council's section of the budget (e.g.. EU special representatives) or, as concerns Commission administrative expenditure, to Part A of the Commission, both following Article 28(2) TEU.	<i>If</i> expenditure entailed for European Institutions (e.g. operating costs – logistics, facilities, travel, meetings – of military or ESDP related staff at Council): charged only to the Council's section of the budget, when related to the proper administrative functioning of Council following Article 28(2) TEU. If not attributable to proper functioning of Council, all administrative expenditure linked to military or defence operations fall outside the budget in analogy to Art 28 (3) TEU charged to Member States.
<b>Operational Expenditure</b>	Operational expenditure is charged to Part B of the Commission's section of the budget, mainly Budget-Subsection B7, according to relevant budget title or budget line corresponding to applicable legal base (regulation or decision) , e.g. notably B7-210 (ECHO) and B7-671 (RRM).	<u>As a general rule:</u> Operational expenditure are charged to Budget-Subsection B8 following Article 28(3) first subparagraph TEU.  <u>As an exception:</u> Unanimous Council decision to do otherwise following Article 28(3) first subparagraph TEU. Normally charged to Member States on GNP scale basis except if unanimously Council decision to do otherwise (e.g. fund) following Article 28(3) second subparagraph TEU.	Following Article 28(3) first subparagraph TEU always charged to Member States on GNP scale basis except if unanimously Council decision to do otherwise (e.g. fund) following Article 28(3) second subparagraph TEU.
<b>Responsible Managing Authority</b>	Commission according to Article 274 (ex-Article 205) TEC.	<u>For the budget:</u> Commission for operational expenditure, Council for administrative expenditure.  <u>For exceptionally charging expenditure to the Member States:</u> TEU foresees no provisions on managing authority.	TEU foresees no provisions on managing authority.

	<b>1<sup>st</sup> Pillar actions (Community framework)</b> ↓	<b>2<sup>nd</sup> Pillar Actions (CFSP)</b> ↓	<b>2<sup>nd</sup> Pillar Actions (ESDP)</b> ↓
<b>Applicable budgetary rules</b>	Application of financial provisions of Articles 268 to 280 (ex-Articles 199 to 209a) and corresponding secondary Community law such as Financial Regulation of 21.12.1977 applicable to the general budget of the European Communities.	<u>For the budget:</u> Article 28(4) TEU refers to application of financial provisions of TEC, among which Articles 268 to 280 (ex-Articles 199 to 209a) and corresponding secondary Community law such as Financial Regulation of 21.12.1977 applicable to the general budget of the European Communities, regardless whether the Commission or the Council is the responsible managing authority. This includes the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure with the possibility to draw on the emergency reserve and to have recourse to a new flexibility instrument. <u>For exceptionally charging expenditure to the Member States:</u> TEU foresees no provisions on budgetary rules, which still need to be devised.	TEU foresees no provisions on budgetary rules, which still need to be devised.
<b>Control by Court of Auditors</b>	Based on Article 238 (ex-Article 188c) TEC.	<u>For the budget:</u> Based on Article 238 (ex-Article 188c) TEC, regardless whether the Commission or the Council is the responsible managing authority. <u>For exceptionally charging expenditure to the Member States:</u> Not foreseen.	Not foreseen.
<b>Jurisdiction of the European Court of Justice</b>	Following Article 220 (ex-Article 164) TEC, jurisdiction on the substance of the applicable legal base (regulation or decision) and the related financing, notably on claims based on Articles 230 and 232 (ex-Articles 173 and 175) TEC.	Due to Article 46 TEU, no jurisdiction on substance, except on verifying that measures which fall within the scope of the CFSP do not encroach the powers conferred by the TEC on the Community. <u>For the budget:</u> <u>Additional jurisdiction</u> on financial decision, regardless whether the Commission or the Council is the responsible managing authority, by reference of Article 28(4) TEU to financial provisions of TEC, comprising related jurisdiction notably on claims based on Articles 230 and 232 (ex-Articles 173 and 175) TEC. <u>For exceptionally charging expenditure to the Member States:</u> Not foreseen.	Not foreseen.