

DECISIONS

COUNCIL DECISION (CFSP) 2015/528

of 27 March 2015

establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 26(2) and 41(2) thereof,

Whereas:

- (1) The European Council, meeting in Helsinki on 10 and 11 December 1999, agreed in particular that, 'cooperating voluntarily in Union-led operations, Member States must be able, by 2003, to deploy within 60 days and sustain for at least one year, military forces of up to 50 000 to 60 000 persons capable of the full range of Petersberg tasks'.
- (2) On 17 June 2002, the Council approved the arrangements for the financing of Union-led crisis-management operations having military or defence implications.
- (3) The Council, in its conclusions of 14 May 2003, confirmed the need for a rapid reaction capability, in particular for humanitarian and rescue tasks.
- (4) The European Council, meeting in Thessaloniki on 19 and 20 June 2003, welcomed the conclusions of the Council meeting on 19 May 2003, which in particular confirmed the need for a Union military rapid reaction capability.
- (5) On 22 September 2003, the Council decided that the Union should acquire the capacity to flexibly manage the financing of common costs of military operations of any scale, complexity or urgency, in particular by setting up, by 1 March 2004 at the latest, a permanent financing mechanism to assume charge of the financing of common costs of any future Union military operation.
- (6) On 23 February 2004, the Council adopted Decision 2004/197/CFSP ⁽¹⁾ establishing a mechanism to administer the financing of the common costs of Union operations having military or defence implications. That Decision has subsequently been amended and replaced several times, most recently by Council Decision 2011/871/CFSP ⁽²⁾.
- (7) The Union is capable of conducting military rapid response operations in accordance with the concept defined by the EU Military Committee. The Union is capable of deploying Battle Groups in accordance with the concept defined by the EU Military Committee.
- (8) The scheme for early financing is intended first and foremost for rapid response operations.
- (9) Exercises at the political and military strategic level of the command and control structures and procedures for Union military operations through Union headquarters exercises, as approved by the Political and Security Committee (PSC), contribute to enhancing the Union's overall operational readiness.
- (10) The Council decides on a case-by-case basis whether an operation has military or defence implications, within the meaning of Article 41(2) of the Treaty on European Union (TEU).

⁽¹⁾ Council Decision 2004/197/CFSP of 23 February 2004 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (OJ L 63, 28.2.2004, p. 68).

⁽²⁾ Council Decision 2011/871/CFSP of 19 December 2011 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) (OJ L 343, 23.12.2011, p. 35).

- (11) The second subparagraph of Article 41(2) of the TEU provides that Member States whose representatives in the Council have made a formal declaration pursuant to the second subparagraph of Article 31(1) thereof, shall not be obliged to contribute to the financing of the operation having military or defence implications concerned.
- (12) In accordance with Article 5 of the Protocol No 22 on the position of Denmark annexed to the TEU and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and implementation of decisions and actions of the Union which have defence implications. Denmark does not participate in this decision and therefore does not participate in the financing of the mechanism.
- (13) Provisions should be adopted to ensure that Athena protects individuals with regard to the processing of their personal data.
- (14) Pursuant to Article 43 of Decision 2011/871/CFSP, the Council has reviewed that Decision and agreed to amend it.
- (15) For the sake of clarity, Decision 2011/871/CFSP should be repealed and replaced by a new Decision,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purpose of this Decision:

- (a) 'participating Member States' means the Member States of the Union, except Denmark;
- (b) 'contributing States' means the Member States contributing to the financing of the military operation in question in accordance with Article 41(2) of the TEU and the third States contributing to the financing of the common costs of this operation pursuant to agreements between them and the Union;
- (c) 'operations' means the Union operations having military or defence implications;
- (d) 'military supporting actions' means the Union operations, or parts thereof, decided by the Council in support of a third State or a third organisation, which have military or defence implications, but which are not under the authority of Union Headquarters;
- (e) 'day' refers to a calendar day, not a working day, unless otherwise indicated.

CHAPTER 1

MECHANISM

Article 2

Establishment of the mechanism

1. A mechanism to administer the financing of the common costs of operations is hereby established.
2. The mechanism shall be called Athena.
3. Athena shall act on behalf of the participating Member States or, regarding the specific operations, the contributing States.

Article 3

Legal capacity

With a view to the administrative management of the financing of Union operations with military or defence implications, Athena shall have the necessary legal capacity, in particular, to hold bank accounts, acquire, hold or dispose of property, enter into contracts and administrative arrangements and be a party to legal proceedings. Athena shall be non-profit-making.

*Article 4***Coordination with third parties**

To the extent necessary to achieve its tasks, and in conformity with the objectives and policies of the Union, Athena shall coordinate its activities with the Member States, Union institutions and bodies, and international organisations.

CHAPTER 2

ORGANISATIONAL STRUCTURE*Article 5***Management bodies and staff**

1. Athena shall be managed, under the authority of the Special Committee, by:
 - (a) the administrator;
 - (b) the commander of each operation, in relation to the operation which he or she commands ('operation commander');
 - (c) the accounting officer.
2. Athena shall use existing administrative structures of the Union to the greatest possible extent. Athena shall resort to staff made available as necessary by the Union institutions or seconded by Member States.
3. The Secretary-General of the Council may provide the administrator and the accounting officer with the staff needed for them to carry out their functions, which may be on the basis of a proposal by a participating Member State.
4. Athena's bodies and staff shall be mobilised on the basis of operational needs.

*Article 6***Special Committee**

1. A Special Committee composed of one representative of each participating Member State is established.

Representatives of the European External Action Service (EEAS) and of the Commission shall be invited to attend the meetings of the Special Committee without taking part in its votes.

2. Athena shall be managed under the authority of the Special Committee.
3. When the Special Committee is discussing the financing of the common costs of a given operation:
 - (a) the Special Committee shall be composed of one representative of each contributing Member State;
 - (b) the representatives of contributing third States shall participate in the proceedings of the Special Committee. They shall neither take part in nor be present at its votes;
 - (c) the operation commander or his or her representative shall participate in the proceedings of the Special Committee, without taking part in its votes.
4. The Presidency of the Council shall convene and chair the meetings of the Special Committee. The administrator shall provide the secretariat for the Special Committee. He or she shall draw up the minutes of the result of the Committee's discussions. He or she shall not take part in its votes.
5. The accounting officer shall participate as necessary in the proceedings of the Special Committee, without taking part in its votes.

6. If a participating Member State, the administrator or the operation commander so requests, the Presidency shall convene the Special Committee within at most 15 days.
7. The administrator shall adequately inform the Special Committee of any claim or dispute involving Athena.
8. The Special Committee shall decide unanimously amongst its members, taking into account its composition as defined in paragraphs 1 and 3. Its decisions shall be binding.
9. The Special Committee approves all budgets, taking into account the relevant reference amounts, and generally exercises the competences pursuant to this Decision.
10. The Special Committee shall be informed by the administrator, the operation commander and the accounting officer as provided for in this Decision.
11. The text of the acts approved by the Special Committee pursuant to this Decision shall at the time of their approval be signed by the chairman of the Special Committee and by the administrator.

Article 7

Administrator

1. The Secretary-General of the Council, after informing the Special Committee, shall appoint the administrator and at least one deputy administrator for a period of three years.
2. The administrator shall carry out his or her duties on behalf of Athena.
3. The administrator:
 - (a) shall draw up and submit to the Special Committee any draft budget. The 'expenditure' section for an operation in any draft budget shall be drawn up on the basis of a proposal from the operation commander;
 - (b) shall adopt the budgets after their approval by the Special Committee;
 - (c) shall be the authorising officer for the sections 'revenue', 'common costs incurred in preparation for, or further to, operations' and 'operational common costs' incurred outside the active phase of the operation;
 - (d) as regards revenue, shall implement the financial arrangements made with third parties in relation to the financing of the common costs of the Union military operations;
 - (e) shall open one or more bank accounts on behalf of Athena.
4. The administrator shall ensure that the rules established by this Decision are complied with, and that the decisions of the Special Committee are implemented.
5. The administrator shall be authorised to adopt any measures which he or she deems necessary to implement the expenditure financed through Athena. He or she shall inform the Special Committee thereof.
6. The administrator shall coordinate work on financial questions relating to the Union military operations. He or she shall be the contact point with national administrations and, as appropriate, international organisations on these matters.
7. The administrator shall be accountable to the Special Committee.

Article 8

Operation commander

1. The operation commander shall carry out his or her duties on behalf of Athena in relation to the financing of the common costs of the operation which he or she commands.

2. For the operation which he or she commands, the operation commander shall:
 - (a) send the administrator his or her proposals for the 'expenditure — operational common costs' section of the draft budgets;
 - (b) as an authorising officer, implement the appropriations relating to the operational common costs as well as expenditure under Article 28; he or she shall exercise authority over any person participating in the implementation of those appropriations, including pre-financing; he or she may award contracts and enter into contracts on behalf of Athena; he or she shall open a bank account on behalf of Athena for the operation which he or she commands;
 - (c) as an authorising officer, implement the appropriations relating to expenditure under Article 30; he shall exercise authority over any person participating in the implementation of those appropriations, on the basis of the relevant provisions in the ad hoc administrative agreement with the third party. He or she may award and enter into contracts on behalf of the third party; he or she shall open one bank account for each third party contribution.
3. The operation commander shall be authorised to adopt any measures which he or she deems necessary to implement the expenditure financed through Athena, for the operation which he or she commands. He or she shall inform the administrator and the Special Committee thereof.
4. Except in duly warranted circumstances approved by the Special Committee following a proposal by the administrator, the operation commander shall use the accounting and asset management system provided by Athena. The administrator shall inform the Special Committee in advance when he or she considers that such circumstances exist.

Article 9

Accounting officer

1. The Secretary-General of the Council shall appoint the accounting officer and at least one deputy accounting officer for a period of three years.
2. The accounting officer shall carry out his or her duties on behalf of Athena.
3. The accounting officer shall be responsible for:
 - (a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
 - (b) preparing the financial statements for Athena each year, and, after completion of each operation, the accounts for that operation;
 - (c) supporting the administrator when he or she submits the annual accounts or the accounts for an operation to the Special Committee for approval;
 - (d) keeping the accounts for Athena;
 - (e) laying down the accounting rules and methods and the chart of accounts;
 - (f) laying down and validating the accounting systems for revenue and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information;
 - (g) keeping supporting documents;
 - (h) treasury management, jointly with the administrator.
4. The administrator and the operation commander shall provide the accounting officer with all the information necessary for the production of accounts which accurately represent Athena's financial assets and budget implementation administered by Athena. They shall guarantee its reliability.
5. The accounting officer shall be accountable to the Special Committee.

*Article 10***General provisions applicable to the administrator, the accounting officer and Athena's staff**

1. The functions of administrator or deputy administrator, on the one hand, and accounting officer or deputy accounting officer, on the other, shall be mutually incompatible.
2. Any deputy administrator shall act under the authority of the administrator. Any deputy accounting officer shall act under the authority of the accounting officer.
3. A deputy administrator shall replace the administrator when he or she is absent. A deputy accounting officer shall replace the accounting officer when he or she is absent.
4. Officials and other servants of the Union, when carrying out functions on behalf of Athena, shall remain subject to the rules and regulations applicable to them.
5. The staff made available to Athena by the Member States shall be subject to the same rules as those set out in the Council decision concerning the rules applicable to national experts on secondment, and to the provisions agreed on by their national administration and the Union institution or Athena.
6. Before their appointment, the staff of Athena must have received clearance for access to classified information up to at least 'SECRET UE/EU SECRET' level held by the Council, or equivalent clearance by a Member State.
7. The administrator may negotiate and enter into arrangements with the Member States or Union institutions with a view to designating in advance those staff who could, if need be, be made immediately available to Athena.

CHAPTER 3

ADMINISTRATIVE ARRANGEMENTS AND FRAMEWORK CONTRACTS*Article 11***Administrative arrangements and framework contracts**

1. Administrative arrangements may be negotiated with Member States, Union institutions and bodies, third States and international organisations in order to facilitate procurement and/or the financial aspects of mutual support in operations in the most cost-effective manner.
2. Such arrangements shall be:
 - (a) subject to consultation of the Special Committee if they are concluded with Member States, Union institutions or bodies;
 - (b) submitted for approval to the Special Committee if they are concluded with third States or international organisations.
3. Such arrangements shall be signed by the administrator or, where appropriate, the respective operation commander, acting on behalf of Athena, and by the competent administrative authorities of the other parties referred to in paragraph 1.
4. Framework contracts may be concluded in order to facilitate procurement in the most cost-effective manner. Such contracts shall be submitted for approval to the Special Committee before being signed by the administrator and shall be made available to Member States and operation commanders should they wish to make use of them. This provision will impose no obligation on any Member State to avail of or to procure goods or services on the basis of a framework contract.

*Article 12***Standing and ad hoc administrative arrangements on modalities for the payment of third States' contributions**

1. In the framework of the agreements concluded between the Union and third States indicated by the Council as potential contributors to Union operations or as contributors to a specific Union operation, the administrator shall negotiate with these third States standing or ad hoc administrative arrangements. These arrangements shall take the form of an Exchange of Letters between Athena and the competent administrative services of the third States concerned establishing the modalities necessary to facilitate swift payment of contributions.
2. Pending the conclusion of the agreements referred to in paragraph 1, the administrator may take the necessary measures to facilitate payments by the contributing third States.
3. The administrator shall inform the Special Committee in advance of the envisaged arrangements referred to in paragraph 1, before signing them on behalf of Athena.
4. When a military operation is launched by the Union, the administrator shall, for the amounts of contributions decided by the Council, implement the arrangements with the third States contributing to that operation.

CHAPTER 4

BANK ACCOUNTS*Article 13***Opening and purpose**

1. Any bank account shall be opened at a first-rate financial institution with its head office in a Member State and shall be a current or a short-term account in euro. In duly warranted circumstances, and after approval of the administrator, accounts may be opened at financial institutions with head office outside the Member States.
2. In duly warranted circumstances, accounts may be opened in currencies other than the euro.
3. The contributions from contributing States shall be paid into these bank accounts. They shall be used to make the necessary advances to the operation commander for the implementation of expenditure relating to the common costs of a military operation.
4. The contributions pursuant to Article 28 and 30 shall each be paid in separate bank accounts. They shall be used to implement the expenditures for which the administration has been entrusted to Athena as specified in the respective Articles.

*Article 14***Management of funds**

1. Any payment from Athena's account shall require the joint signature of the administrator or a deputy administrator on the one hand and the accounting officer or a deputy accounting officer on the other.
2. No bank account may be overdrawn.

CHAPTER 5

COMMON COSTS*Article 15***Definition of common costs and periods for eligibility**

1. The common costs listed in Annex I shall be at the expense of Athena whenever they are incurred. When entered in an article of the budget showing the operation to which they are most related, they shall be regarded as operational costs of that operation. Otherwise, they shall be regarded as common costs incurred in preparation for, or following, operations.

2. Furthermore, Athena shall bear the operational common costs listed in Annex II during the period from the approval of the crisis management concept for the operation until the appointment of the operation commander. In particular circumstances, after the PSC has been consulted, the Special Committee may modify the period during which these costs shall be borne by Athena.

3. During the active phase of an operation, which runs from the date on which the operation commander is appointed to the day on which the operation headquarters ceases its activity, Athena shall bear as operational common costs:

- (a) the common costs listed in Part A of Annex III;
- (b) the common costs listed in Part B of Annex III, when the Council so decides;
- (c) the common costs listed in Part C of Annex III, when the operation commander so requests and if the Special Committee approves it.

4. During the active phase of a military supporting action, as determined by the Council, Athena shall bear as operational common costs the common costs defined by the Council on a case-by-case basis by reference to Annex III.

5. The operational common costs of an operation also include the expenditure necessary to wind it up, as listed in Annex IV.

The operation is wound up when the equipment and infrastructure commonly funded for the operation have found their final destination and the accounts for the operation have been approved.

6. No expenditure incurred with a view to covering costs which would in any case have been borne by one or more contributing States, a Union institution or an international organisation, independently of the organisation of an operation, may be eligible as a common cost.

7. The Special Committee may decide on a case-by-case basis that, in view of particular circumstances, certain incremental costs other than those listed in Part B of Annex III shall be regarded as common costs for one given operation during its active phase.

8. If unanimity cannot be achieved in the Special Committee, the latter may, at the initiative of the Presidency, refer the question to the Council.

Article 16

Exercises

1. The common costs of the Union's exercises shall be financed through Athena following the rules and procedures similar to those for operations to which all participating Member States contribute.

2. These exercise common costs shall be composed of, firstly, incremental costs for deployable or fixed headquarters and, secondly, incremental costs incurred by the Union recourse to NATO common assets and capabilities when made available for an exercise.

3. Exercise common costs shall not include costs related to:

- (a) capital acquisitions, including those related to buildings, infrastructure and equipment;
- (b) the planning and preparatory phase of exercises, unless approved by the Special Committee;
- (c) transport, barracks and lodging for forces.

*Article 17***Reference amount**

Any Council decision by which the Council decides to establish or extend a Union military operation shall contain a reference amount for the common costs of that operation. The administrator shall, with the support in particular of the Union military staff and, if he or she is in office, the operation commander, evaluate the amount judged necessary to cover the common costs of the operation for the planned period. The administrator shall propose this amount through the Presidency to the Council body responsible for examining the draft decision. The members of the Special Committee shall be invited to the discussions of this body concerning the reference amount.

CHAPTER 6

BUDGET*Article 18***Budgetary principles**

1. The budget, drawn up in euro, is the act which for each financial year lays down and authorises all the revenue and expenditure relating to common costs administered by Athena.
2. All expenditure shall be linked to a specific operation, except where appropriate for the costs listed in Annex I.
3. The appropriations entered in the budget are authorised for the duration of a financial year which begins on 1 January and ends on 31 December of the same year.
4. Budget revenue and expenditure shall be in balance.
5. No revenue or expenditure relating to common costs may be implemented other than by allocation to a heading in the budget and within the limit of the appropriations entered there, except pursuant to Article 34(5).

*Article 19***Annual budget**

1. Each year the administrator shall draw up a draft budget for the following financial year, with the assistance of each operation commander for his or her operation.
2. The draft shall include:
 - (a) the appropriations deemed necessary to cover the common costs incurred in preparation for, or further to, operations;
 - (b) the appropriations deemed necessary to cover the operational common costs for ongoing or planned operations, including, where appropriate, to reimburse common costs which have been pre-financed by a State or third party;
 - (c) the provisional appropriations as referred to in Article 26;
 - (d) a forecast of the revenue needed to cover expenditure.
3. The commitment and payment appropriations shall be classified in titles and chapters grouping expenditure together by type or purpose, subdivided as necessary into articles. Detailed comments by chapter or article shall be included in the draft budget. One specific title shall be dedicated to each operation. One specific title shall be the general part of the budget and shall include the common costs incurred in preparation for, or further to, operations.
4. Each title may include a chapter entitled 'provisional appropriations'. These appropriations shall be entered where there is uncertainty, based on serious grounds, about the amount of appropriations needed or the scope for implementing the appropriations entered.

5. Revenue shall consist of:
 - (a) contributions payable by the participating and contributing Member States and, where appropriate, by contributing third States;
 - (b) miscellaneous revenue, subdivided by title, which includes interest received, revenue from sales and the budget outturn from the previous financial year, after it has been determined by the Special Committee.
6. The administrator shall propose the draft budget to the Special Committee by 31 October at the latest. The Special Committee shall approve the draft budget by 31 December. The administrator shall adopt the approved budget and notify the participating Member States and contributing third States.

Article 20

Amending budgets

1. In the case of unavoidable, exceptional or unforeseen circumstances, including when an operation is launched during the course of the financial year, the administrator shall propose a draft amending budget. The draft amending budget shall be drawn up, proposed, approved and adopted and notification given in accordance with the same procedure as the annual budget. The Special Committee shall discuss it taking account of its urgency.
2. When this draft amending budget results from the launching of a new operation or changes in the budget of an ongoing operation, the administrator will inform the Special Committee of the total costs foreseen for this operation. If these costs substantially exceed the relevant reference amount, the Special Committee may request the Council to approve it.
3. The draft amending budget resulting from the launching of a new operation shall be submitted to the Special Committee within a period of four months after the approval of the reference amount, unless the Special Committee decides on a longer deadline.

Article 21

Transfers

1. The administrator, where appropriate on the basis of a proposal by the operation commander, may make transfers of appropriations. The administrator shall inform the Special Committee of his or her intention, in so far as the urgency of the situation permits, at least one week in advance. However, the prior approval of the Special Committee shall be required when:
 - (a) the planned transfer will amend the total of the appropriations provided for an operation;or
 - (b) the planned transfers between chapters during the financial year exceed 10 % of the appropriations entered in the chapter from which the appropriations are being drawn, as appearing in the adopted budget for the financial year on the date when the proposal for the transfer in question is made.
2. When he or she deems this to be necessary for the proper conduct of an operation, in the three months following the date of launching of the operation, the operation commander may make transfers of appropriations allocated for the operation, between articles and between chapters in the 'operational common costs' section of the budget. He or she shall inform the administrator and the Special Committee thereof.

Article 22

Carryover of appropriations

1. In principle, the appropriations intended to cover the common costs incurred in preparation for, or further to, operations, which have not been committed are cancelled at the end of the financial year, if not otherwise provided for in paragraph 2.
2. Appropriations intended to cover the cost of storing material and equipment administered by Athena may be carried over once to the following financial year, when a commitment to that effect was made before 31 December of the current financial year. Appropriations intended to cover operational common costs may be carried over if they are necessary for an operation which has not been fully wound up.

3. The administrator shall submit proposals for the carrying over of non-committed appropriations from the preceding financial year to the Special Committee by 15 February. These proposals shall be deemed approved unless the Special Committee decides otherwise by 15 March.

4. The committed appropriations from the preceding financial year shall be carried over and the Special Committee shall be informed thereof by the administrator by 15 February.

Article 23

Anticipated implementation

Once the annual budget has been approved, appropriations may be used to cover commitments and payments in so far as operationally necessary.

CHAPTER 7

CONTRIBUTIONS AND REIMBURSEMENTS

Article 24

Determination of contributions

1. Payment appropriations to cover the common costs incurred in preparation for, or further to, operations which are not covered by miscellaneous revenue shall be financed by contributions from the participating Member States.

2. Payment appropriations to cover the operational common costs of an operation shall be covered by contributions from the contributing States.

3. The contributions payable by the contributing Member States for an operation shall be equal to the amount of the payment appropriations entered in the budget and intended to cover the operational common costs of that operation, after deduction of the amounts of the contributions payable for the same operation by contributing third States pursuant to Article 12.

4. The breakdown of contributions between the Member States from whom a contribution is required shall be determined in accordance with the gross national product scale as specified in Article 41(2) of the TEU and in accordance with the Council Decision 2014/335/EU, Euratom ⁽¹⁾, or any other Council Decision which may replace it.

5. The data for the calculation of contributions shall be those set out in the 'GNI-based own resources' column in the 'Summary of financing of the general budget by type of own resource and by Member State' table appended to the latest general budget adopted by the Union. The contribution of each Member State from whom a contribution is due shall be proportional to the share of gross national income (GNI) of that Member State in the total GNI aggregate of the Member States from whom a contribution is due.

Article 25

Schedule for payment of contributions

1. When the Council has adopted a reference amount for a Union military operation, the contributing Member States shall pay their contributions at the level of 30 % of the reference amount, unless the Council decides on a different percentage. The administrator shall call for contributions according to operational needs for the operation up to the agreed level.

2. The Special Committee, on the basis of a proposal by the administrator, may decide that additional contributions will be called before the adoption of an amending budget for the operation. The Special Committee may decide to refer the matter to the competent preparatory bodies at the Council.

⁽¹⁾ Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

3. When an amending budget has been adopted for a specific operation, the Member States shall pay the balance of the contributions which they owe for that operation in application of Article 24. However, when the operation is planned to last more than six months within a financial year, the balance of contributions shall be paid in two instalments. In such a case, the first instalment shall be paid within 60 days of the launching of the operation; the second instalment shall be paid by a deadline to be set by the Special Committee acting on a proposal from the administrator, taking into account operational needs. The Special Committee may depart from the provisions of this paragraph.
4. The administrator shall send the corresponding calls for contributions by letter to the national administrations whose details have been communicated to him or her when:
 - (a) a draft budget for a financial year is approved by the Special Committee provided for in Article 19. The first call for contributions covers the operational needs for eight months. The second call for contributions covers the remaining balance of contributions, taking into account the balance of the previous year budget outturn if the Special Committee decided to enter this balance in the current budget after the audit opinion has been received;
 - (b) a reference amount has been adopted as provided for in Article 25(1); or
 - (c) an amending budget is approved as provided for in Article 20.
5. Without prejudice to the other provisions in this Decision, the contributions shall be paid within 30 days following despatch of the relevant call for contributions, with the exception of the first call for contributions for a new financial year's budget, where the deadline for payment shall be 40 days following despatch of the relevant call for contributions.
6. Once the draft aggregated budget has been submitted to the Special Committee, for those Member States with budgetary and financial procedures not allowing payment of their contribution within the established deadlines the administrator may issue to the State concerned, an anticipated call for contributions before the end of the current financial year as a prepayment for the call for contributions for the following financial year's budget.
7. Each contributing State shall pay the bank charges relating to the payment of its own contribution.
8. The administrator shall acknowledge receipt of contributions.

Article 26

Early financing

1. In the case of a Union military rapid response operation, contributions shall be due by contributing Member States at the level of the reference amount. Without prejudice to Article 25(3), payments shall be made as defined below.
2. For the purpose of the early financing of the Union military rapid response operations, the participating Member States shall either:
 - (a) pay contributions to Athena in advance; or
 - (b) when the Council decides to conduct a Union military rapid response operation to the financing of which they contribute, pay their contributions to the common costs of that operation within five days following despatch of the call at the level of the reference amount, unless the Council decides otherwise.
3. For the purpose referred to in paragraph 2, the Special Committee, composed of one representative of each of the Member States contributing in advance, shall establish provisional appropriations in a specific title in the budget. These provisional appropriations shall be covered by contributions payable by the Member States contributing in advance within 90 days following despatch of the call for these contributions.
4. Any provisional appropriations referred to in paragraph 3 which are used for an operation shall be replenished within 90 days following despatch of the call.

5. Without prejudice to paragraph 1, any Member State contributing in advance may in specific circumstances authorise the administrator to use its contribution paid in advance to cover its contribution to an operation in which it participates, other than a rapid response operation. The contribution paid in advance shall be replenished by the Member State concerned within 90 days following despatch of the call.
6. Where funds are required for an operation, other than a rapid response operation, before sufficient contributions to that operation have been received:
 - (a) contributions paid in advance by Member States which contribute to financing that operation after approval by the Member States contributing in advance, may be used up to 75 % of their amount to cover contributions due to that operation. The contributions paid in advance shall be replenished by the Member States contributing in advance within 90 days following despatch of the call;
 - (b) in the case referred to in point (a) of this paragraph, contributions due for the operation under Article 25(1) from Member States that had not contributed in advance shall be paid, after approval by the Member States concerned, within five days following despatch of the call by the administrator.
7. The operation commander may commit and pay the amounts made available to him or her, including pursuant to Article 34(3).
8. Any Member State may reverse its option by notifying the administrator at least three months in advance.
9. Interest earned on the early financing will be apportioned annually to the Member States contributing in advance and added to their provisional appropriations. The amounts will be notified to those Member States as part of the annual budgetary approval process.

Article 27

Reimbursement of pre-financing

1. A Member State, a third State or, as appropriate, an international organisation which has been authorised by the Council to pre-finance a part of the common costs of an operation may obtain reimbursement from Athena by making a request accompanied by the necessary supporting documents and addressed to the administrator at the latest two months after the date of completion of the operation concerned.
2. No request for reimbursement may be honoured if it has not been approved by the operation commander, if still in office, and by the administrator.
3. If a request for reimbursement presented by a contributing State is approved, it may be deducted from the next call for contributions addressed to that State by the administrator.
4. If no call for contributions is anticipated when the request is approved, or if the approved request for reimbursement would exceed the anticipated contribution, the administrator shall make payment of the amount to be reimbursed within 30 days, taking account of Athena's cash flow and of what is needed to finance the common costs of the operation concerned.
5. Reimbursement shall be due in accordance with this Decision even if the operation is cancelled.
6. Reimbursement shall include interest earned on the amount made available through pre-financing.

Article 28

Management by Athena of expenditure not included in common costs

1. The Special Committee, on the basis of a proposal by the administrator, with the assistance of the operation commander, or by a Member State, may decide that the administrative management of certain expenditure in relation to an operation ('nation borne costs'), while remaining the responsibility of the Member State which it concerns, shall be entrusted to Athena.

2. The Special Committee, in its decision, may authorise the operation commander to enter into contracts on behalf of the Member States participating in an operation and, where appropriate, third parties, for the acquisition of the services and supplies to be financed as nation borne costs.
3. The Special Committee, in its decision, shall lay down the modalities for the pre-financing of nation borne costs.
4. Athena shall keep accounts of the nation borne costs entrusted to it and incurred by each Member State and, where appropriate, third parties. Each month it shall send each Member State and, where appropriate, those third parties, a statement of the expenditure borne by it and incurred by it or by its staff during the preceding month, and shall call for the necessary funds to pay for this expenditure. The Member States and, where appropriate, those third parties, shall pay Athena the funds required within 30 days following despatch of the call for funds.

Article 29

Management by Athena of pre-financing and expenditure not included in common costs to facilitate the initial deployment of the forces to an operation

The Special Committee, if particular operational circumstances so require, on the basis of a proposal by the administrator, with the assistance of the operation commander, or by a Member State, may decide that the pre-financing and administrative management of certain expenditure in relation to an operation, while remaining the responsibility of the Member State which it concerns, shall be entrusted to Athena in order to facilitate the initial deployment of the forces to an operation, before participating Member States are confirmed. The management of these costs shall be assured within existing means and resources and the initial outlay capped at 20 % of the reference amount. In this case the Special Committee shall outline in its decision the modalities for pre-financing and reimbursement of the pre-financed amounts by the future participating Member States and third parties.

Article 30

Management by Athena of third party financial contributions

1. In line with the relevant provisions of the operation's legal framework and following PSC decision to accept the implementation or management of a project by the operation or a financial contribution by a third party or a Member State to the expenditure arising from the operation, the Special Committee may authorise that the administrative management of the funding for that project or of that financial contribution to be entrusted to Athena, within existing means and resources. This may include projects funded by the Union.
2. The cost relating to the management of the contribution should be covered by the contribution itself. The Special Committee may decide that certain costs associated with the contribution and relative to the active phase of the operation are eligible as common costs on a case-by-case basis.
3. For the purposes of the management of a contribution by a third party, the Union or a Member State, the administrator shall, upon approval by the Special Committee, negotiate and sign an ad hoc administrative arrangement with the third party, the Union or the Member State, defining the purpose, costs to be covered by the contribution and the management modalities of the contribution, including the accountability of the operation commander to the Special Committee. The Administrator shall make sure that the management of the contribution shall respect the ad hoc arrangements and shall provide to the contributor concerned, directly or through the operation commander, all the relevant information relating to the management of the contribution.

Article 31

Interest on late payment

1. If a State does not fulfil its financial obligations, the Union rules on interest on late payment determined by Article 78 of Regulation (EU, Euratom) No 966/2012⁽¹⁾ of the European Parliament and of the Council or any other Regulation which may replace it in relation to the payment of contributions to the Union budget shall be applicable by analogy.
2. When payment is late by no more than 20 days, no interest shall be charged. When payment is late by more than 20 days, interests shall be charged for the entire delay.

⁽¹⁾ 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).

CHAPTER 8

IMPLEMENTATION OF EXPENDITURE*Article 32***Principles**

1. Athena's appropriations shall be used in accordance with the principles of sound financial management, i.e. economy, effectiveness and efficiency.
2. Authorising officers shall be responsible for implementing Athena's revenue and expenditure in accordance with the principles of sound financial management and for ensuring that the requirements of legality and regularity are complied with. To implement expenditure, the authorising officers shall make budgetary commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminaries for the implementation of appropriations. An authorising officer may delegate his or her duties by a decision determining:
 - (a) staff at an appropriate level for such delegation;
 - (b) the extent of the conferred powers;
 - (c) the scope for beneficiaries to subdelegate their powers.
3. The implementation of appropriations according to the principle of the segregation of the authorising officer and the accounting officer shall be ensured. The duties of authorising officer and accounting officer shall be mutually incompatible. Any payment made from funds administered by Athena shall require the joint signature of an authorising officer and an accounting officer.
4. Without prejudice to this Decision, when the implementation of common expenditure is entrusted to a Member State, a Union institution or, as appropriate, an international organisation, that State, institution or organisation shall apply the rules applicable to the implementation of its own expenditure. When the administrator implements expenditure directly, it shall comply with the rules applicable to the implementation of the 'Council' section of the general budget of the Union.
5. However, the administrator may provide the Presidency with elements for proposal to the Council or the Special Committee on rules for the implementation of common expenditure.
6. The Special Committee may approve rules for the implementation of common expenditure which depart from paragraph 4.

*Article 33***Common costs incurred in preparation for, or further to, operations, or not linked directly to a specific operation**

The administrator shall perform the duties of authorising officer for expenditure covering the common costs incurred in preparation for, or further to, operations, as well as common costs which cannot be linked directly to a specific operation.

*Article 34***Operational common costs**

1. The operation commander shall carry out the duties of authorising officer for expenditure covering the operational common costs of the operation he or she commands. However, the administrator shall carry out the duties of authorising officer for expenditure covering the operational common costs incurred during the preparatory phase of a specific operation, which are implemented directly by Athena, or related to the operation after the end of its active phase.

2. The sums required for the implementation of expenditure on an operation shall be transferred by the administrator from Athena's bank account to the operation commander, upon his or her request, into the bank account opened on behalf of Athena, of which the operation commander has provided the details.

3. By way of derogation from Article 18(5), the adoption of a reference amount shall activate the right of the administrator and the operation commander, each in his or her area of competence, to commit and pay expenses for the operation concerned up to the percentage of the reference amount approved as provided for in Article 25(1), unless the Council decides on a higher level for commitments.

The Special Committee, on the basis of a proposal from the administrator or the operation commander and taking into account the operational necessity and urgency, may decide that additional expenditure may be committed and, as appropriate, paid. The Special Committee may decide to refer the question to the competent preparatory bodies at the Council through the Presidency unless operational circumstances dictate otherwise. This derogation shall not be applied as from the date of adoption of a budget for the operation concerned.

4. During the period prior to the adoption of a budget for an operation, the administrator and the operation commander or his or her representative shall report to the Special Committee every month, each reporting on the matters concerning him or her, as regards the expenses which are eligible as common costs for that operation. The Special Committee, on the basis of a proposal by the administrator, the operation commander or a Member State, may issue directives on the implementation of expenditure during that period.

5. By way of derogation from Article 18(5), in the case of imminent danger to the lives of personnel involved in a Union military operation, the operation commander for that operation may implement the necessary expenditure to save the lives of those personnel, in excess of the appropriations entered in the budget. He or she shall inform the administrator and the Special Committee as soon as possible. In such a case, the administrator shall, liaising with the operation commander, propose the transfers needed to finance this unexpected expenditure. If it is not possible to ensure sufficient funding for such expenditure by means of a transfer, the administrator shall propose an amending budget.

CHAPTER 9

FINAL DESTINATION OF EQUIPMENT AND INFRASTRUCTURE FINANCED IN COMMON

Article 35

Equipment and infrastructure

1. A depreciation rate for equipment and other assets for all operations shall be proposed by the administrator to the Special Committee. If operational circumstances so require, and upon approval by the Special Committee, the operation commander may apply a different depreciation rate.

2. With a view to winding up the operation which he or she has commanded, the operation commander shall propose to the Special Committee a final destination for the equipment and infrastructure financed in common for that operation.

3. The administrator shall manage the equipment and infrastructure remaining after the end of the active phase of the operation, with a view if necessary to finding its final destination.

4. The final destination of equipment and infrastructure financed in common shall be approved by the Special Committee, taking into account operational needs and financial criteria. The final destination may be as follows:

(a) in the case of infrastructure, be sold or transferred through Athena to the host country, a Member State or a third party;

(b) in the case of equipment, be sold through Athena to a Member State, the host country or a third party, or be stored and maintained by Athena, a Member State or such a third party, for use in a subsequent operation.

5. When sold, equipment and infrastructure shall be sold for their market value, or, where no market value can be determined, for a fair and reasonable price taking into account specific local conditions.

6. Sale or transfer to the host country or a third party shall be in accordance with the relevant security rules in force.
7. When it is decided that Athena shall retain equipment financed in common for an operation, the contributing Member States may ask for financial compensation from the other participating Member States. The Special Committee, composed of the representatives of all the participating Member States, shall take the appropriate decisions on the basis of a proposal from the administrator.

CHAPTER 10

ACCOUNTING AND INVENTORY

Article 36

Accounting for operational common costs

The operation commander shall keep accounts of transfers received from Athena, of expenditure he or she has committed and of payments made and of revenue received, as well as an inventory of the movable property financed by the Athena budget and used for the operation which he or she commands.

Article 37

Consolidated accounts

1. The accounting officer shall keep the accounts of contributions called for and transfers made. He or she shall also draw up the accounts for the common costs incurred in preparation for, or further to, operations, and for operational expenditure and revenue implemented under the direct responsibility of the administrator.
2. The accounting officer shall draw up the consolidated accounts for Athena's revenue and expenditure. Each operation commander shall send him or her the accounts for the expenditure he or she has committed and the payments he or she has made, and of revenue received.

CHAPTER 11

AUDIT AND PRESENTATION OF ACCOUNTS

Article 38

Regular reports to the Special Committee

Every three months, the administrator shall present to the Special Committee a report on the implementation of revenue and expenditure since the beginning of the financial year. To this end, every operation commander shall provide the administrator with a report on expenditure relating to the operational common costs of the operation which he or she commands.

Article 39

Conditions for the exercise of controls

1. The persons responsible for auditing Athena's revenue and expenditure shall, before carrying out their task, have received clearance for access to classified information up to at least 'SECRET UE/EU SECRET' level held by the Council, or equivalent clearance from a Member State or NATO, as appropriate. Those persons shall ensure that they respect the confidentiality of the information and protect the data of which they acquire knowledge during their audit task, in accordance with the rules applicable to that information and those data.
2. The persons responsible for auditing Athena's revenue and expenditure shall have access without delay and without giving prior notice to the documents and to the contents of all data supports relating to that revenue and expenditure, and to the premises where those documents and supports are kept. They may make copies. The persons involved in implementing Athena's revenue and expenditure shall give the administrator and the persons responsible for the audit of that revenue and expenditure the necessary assistance in performing their task.

Article 40

External auditing of the accounts

1. When the implementation of Athena's expenditure has been entrusted to a Member State, a Union institution or an international organisation, that State, institution or organisation shall apply the rules which apply to the auditing of its own expenditure.
2. However, the administrator or persons appointed by him or her may at any time carry out an audit of the common costs of Athena incurred in preparation for, or further to, operations, or the operational common costs of an operation. Furthermore, the Special Committee, on the basis of a proposal by the administrator or a Member State, may at any time appoint external auditors, whose tasks and conditions of employment it shall determine.
3. With a view to external audits, a six-member College of Auditors shall be established. The Special Committee shall appoint members for a three-year period, renewable once, from candidates proposed by the Member States. The Special Committee may extend a member's mandate by up to six months.

The candidates must be members of the highest national audit body of a Member State, or recommended by that body, and offer adequate guarantees of security and independence. They must be available to carry out tasks on behalf of Athena as needed. In carrying out these tasks:

- (a) the members of the College of Auditors shall continue to be paid by their audit body of origin; Athena shall bear their mission expenses in accordance with the rules applicable to officials of the Union of an equivalent grade;
- (b) the members shall neither request nor receive instructions other than from the Special Committee; within its audit mandate the College of Auditors and its members shall be completely independent and solely responsible for the conduct of the external audit;
- (c) the members shall only report on their task to the Special Committee;
- (d) the members shall check during the financial year as well as *ex post*, through controls on the spot as well as on supporting documents, that expenditure financed or pre-financed through Athena is implemented in accordance with the legislation applicable and the principles of sound financial management, i.e. economy, effectiveness and efficiency, and that internal controls are adequate

Each year, the College of Auditors shall elect its chairman from amongst its members or extend his or her term of office. It shall adopt the rules applicable to audits carried out by its members in accordance with the highest international standards. The College of Auditors shall approve the audit reports drawn up by its members before their transmission to the administrator and to the Special Committee.

4. The Special Committee may decide on a case-by-case basis and upon specific motivations to use other external bodies.
5. The cost of the audits carried out by auditors acting on behalf of Athena shall be considered as a common cost to be borne by Athena.

Article 41

Internal auditing of the accounts

1. On the basis of a proposal by the administrator and after informing the Special Committee, the Secretary-General of the Council shall appoint an internal auditor of the Athena mechanism, and at least one deputy internal auditor, for a period of four years, renewable up to a total period not exceeding 8 years; internal auditors must have the necessary professional qualifications and offer sufficient guarantees of security and independence. The internal auditor may not be either an authorising officer or accounting officer; he or she may not take part in the preparation of financial statements.
2. The internal auditor shall report to the administrator on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the internal audit in operations and promoting sound financial management. He or she shall be responsible in particular for assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing policies and reaching objectives by reference to the risks associated with them.

3. The internal auditor shall perform his or her duties on all departments involved in the collection of Athena's revenue or the implementation of expenditure financed through Athena.
4. The internal auditor shall perform one or more audits during the financial year as appropriate. He or she shall report to the administrator and inform the operation commander of his or her findings and recommendations. The operation commander and the administrator shall ensure that action is taken on recommendations resulting from the audits.
5. The administrator shall submit a report each year to the Special Committee on the internal audit work done, indicating the number and type of internal audits carried out, observations made, recommendations put forward and how those recommendations were followed up.
6. Furthermore, each operation commander shall give the internal auditor full access to the operation which he or she commands. The internal auditor shall check that the financial and budgetary systems and procedures function correctly, and shall ensure that robust and effective internal audit systems are in operation.
7. The proceedings and reports of the internal auditor shall be made available to the College of Auditors along with all supporting documents relating thereto.

Article 42

Annual presentation and closure of accounts

1. Each operation commander shall provide Athena's accounting officer by 31 March following the end of the financial year, or within four months following the end of the operation which he or she commands, whichever is the earlier, with the necessary information to establish the annual accounts for common costs, the annual accounts for expenditure pursuant to Article 28 and the annual activity report.
2. The administrator, with the assistance of the accounting officer and each operation commander, shall establish and provide to the Special Committee and the College of Auditors, by 15 May following the end of the financial year, the financial statements and the annual activity report.
3. The Special Committee shall be provided, within eight weeks of the transmission of the financial statements, by the College of Auditors with an audit opinion and, by the administrator, assisted by the accounting officer and each operation commander, with Athena's audited financial statements
4. The Special Committee shall be provided, by 30 September following the end of the financial year, with the audit report by the College of Auditors, and shall examine the audit report, the audit opinion and the financial statements with a view to granting a discharge to the administrator, the accounting officer and each operation commander.
5. In a manner consistent with Regulation (EU, Euratom) No 966/2012 or any other Regulation which may replace it, all accounts, inventories and related documents shall be retained, each at its level, by the accounting officer, each operation commander and when applicable by the administrator for a period of five years from the date on which the corresponding discharge was granted. When an operation is terminated, the operation commander shall ensure transmission of all accounts and inventories to the accounting officer.
6. The Special Committee shall decide to enter the balance of the budget outturn for a financial year for which the accounts have been approved in the budget for the following financial year, as revenue or expenditure depending on the circumstances, by means of an amending budget. The Special Committee may, however, decide to enter the balance of the abovementioned budget outturn after having received the audit opinion from the College of Auditors.
7. The part of the balance of the budget outturn for a financial year which comes from the implementation of appropriations intended to cover common costs incurred in preparation for, or further to, operations, shall be entered against the next contributions from participating Member States.
8. The part of the balance of the budget outturn which comes from the implementation of appropriations intended to cover the operational common costs of a given operation shall be entered against the next contributions from the Member States which have contributed to that operation.

9. If reimbursement cannot be done by deduction from the contributions due to Athena, the balance of the budget outturn shall be repaid to the Member States concerned according to the GNI key of the year of reimbursement.

10. Each Member State participating in an operation may provide information by 31 March each year to the administrator, where appropriate through the operation commander, on the incremental costs it has incurred for the operation during the previous financial year. This information shall be broken down to show the main items of expenditure. The administrator shall compile this information in order to provide the Special Committee with an overview of the incremental costs of the operation.

Article 43

Closure of the accounts of an operation

1. When an operation is complete, the Special Committee may decide, on the basis of a proposal by the administrator or by a Member State, that the administrator, with the assistance of the accounting officer and of the operation commander, shall submit to the Special Committee the financial statements for that operation, at least up to the date on which it was completed, and, if possible, up to the date on which it was wound up. The deadline imposed on the administrator may not be less than four months from the date on which the operation was completed.

2. If the financial statements cannot, within the given deadline, include the revenue and expenditure connected with the winding up of that operation, that revenue and expenditure shall appear in the financial statements for Athena and shall be examined by the Special Committee in the context of the procedure foreseen in Article 42.

3. The Special Committee shall, based on an opinion of the College of Auditors, approve the financial statements for the operation which have been submitted to it. It shall grant a discharge to the administrator, the accounting officer and each operation commander for the operation in question.

4. If reimbursement cannot be done by deduction from the contributions due to Athena, the balance of the budget outturn shall be repaid to the Member States concerned according to the GNI key of the year of reimbursement.

CHAPTER 12

MISCELLANEOUS PROVISIONS

Article 44

Liability

1. The conditions governing the disciplinary or criminal liability of the operation commander, the administrator and other staff made available in particular by the Union institutions or Member States, in the event of misconduct or negligence in the implementation of the budget shall be governed by the staff regulations or the arrangements applicable to them. In addition, Athena may at its own initiative or at the request of a contributing State or third party bring a civil action against the abovementioned staff.

2. In no case may the Union or the Secretary-General of the Council be held liable by a contributing State as a result of the performance of their duties by the administrator, the accounting officer or the staff assigned to them.

3. The contractual liability which may arise from contracts concluded in the context of implementation of the budget shall be covered through Athena by the contributing States or third parties. It shall be governed by the law applicable to the contracts in question.

4. In the case of non-contractual liability, any damage caused by the operation headquarters, force headquarters and component headquarters of the crisis structure, the composition of which shall be approved by the operation commander, or by their staff in the course of their duties shall be covered through Athena by the contributing States or third parties, in accordance with the general principles common to the laws of the Member States and the staff regulations of the forces, applicable in the theatre of operations.

5. In no case may the Union or the Member States be held liable by a contributing State for contracts concluded in the framework of budget implementation or for damage caused by the units and departments of the crisis structure, the composition of which shall be approved by the operation commander, or by their staff in the course of their duties.

*Article 45***Security**

Council Decision 2013/488/EU ⁽¹⁾ or any other Council Decision which may replace it shall apply in relation to classified information relating to Athena proceedings.

*Article 46***Protection of personal data**

Athena shall protect individuals with regard to the processing of their personal data in accordance with the principles and procedures laid down in Regulation (EC) No 45/2001 ⁽²⁾ of the European Parliament and of the Council. To this effect, the Special Committee shall adopt the necessary implementing rules upon a proposal of the Administrator.

*Article 47***Review and revision**

All or part of this Decision, including its Annexes, shall be reviewed, if necessary, at the request of a Member State or following each operation. It shall be revised at least every three years. In the course of review or revision, all experts relevant to the proceedings, including in Athena's management bodies, may be called upon.

*Article 48***Repeal**

Decision 2011/871/CFSP is hereby repealed.

*Article 49***Entry into force**

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 27 March 2015.

For the Council
The President
E. RINKĒVIČS

⁽¹⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

⁽²⁾ 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).

ANNEX I

COMMON COSTS BORNE BY ATHENA WHENEVER THEY ARE INCURRED

In cases when the following common costs cannot be linked directly to a specific operation, the Special Committee may decide to allocate the corresponding appropriations to the general part of the annual budget. These appropriations should, as much as possible, be entered in the articles showing the operation to which they are most related.

1. Mission expenditure incurred by the operation commander and his or her staff for submitting an operation's accounts to the Special Committee.
2. Indemnities for damages and costs resulting from claims and legal actions to be paid through Athena.
3. Costs pursuant to any decision to store material which was acquired in common for an operation (where these costs are attributed to the general part of the annual budget, a link to a specific operation shall be indicated).

The general part of the annual budget shall furthermore include appropriations, where necessary, to cover the following common costs in operations to the financing of which the participating Member States contribute:

1. Banking costs.
2. Auditing costs.
3. Common costs relative to the preparatory phase of an operation as defined at Annex II.
4. Costs related to the development and maintenance of the Athena accounting and asset management system.
5. Costs related to the Administrative Arrangements and framework contracts in accordance with Article 11.

ANNEX II

OPERATIONAL COMMON COSTS RELATING TO THE PREPARATORY PHASE OF AN OPERATION BORNE BY ATHENA

Incremental costs necessary for exploratory missions and preparations (in particular fact-finding missions and reconnaissance) by military and civilian personnel with a view to a specific Union military operation: transport, accommodation, use of operational communications tools, recruitment of local civilian personnel for the execution of the mission, e.g. interpreters and drivers.

Medical services: the cost of emergency medical evacuations (Medevac) of persons taking part in exploratory missions and preparations by military and civilian personnel with a view to a specific Union military operation, when medical treatment cannot be provided in theatre.

ANNEX III

PART A

OPERATIONAL COMMON COSTS RELATIVE TO THE ACTIVE PHASE OF OPERATIONS ALWAYS BORNE BY ATHENA

For any Union military operation, Athena will bear as operational common costs the incremental costs required for the operation defined below.

1. Incremental costs for (deployable or fixed) headquarters for Union-led operations

1.1. Definition of headquarters whose incremental costs are financed in common:

- (a) Headquarters (HQ): the headquarters (HQ); the command and support elements approved in the operation plan (OPLAN).
- (b) Operation Headquarters (OHQ): the static, out-of-area headquarters of the operation commander, which is responsible for building up, launching, sustaining and recovering a Union force.

The definition of common costs applicable to an OHQ for an operation shall also be applicable to the General-Secretariat of the Council, the EEAS and Athena in so far as they are acting directly for that operation.

- (c) Force Headquarters (FHQ): the headquarters of a Union force deployed to the area of operations.
- (d) Component Command Headquarters (CCHQ): the headquarters of a Union component commander deployed for the operation (i.e. air, land, maritime and other special forces commanders whom it could be deemed necessary to designate depending on the nature of the operation).
- (e) Mission Headquarters (MHQ): the headquarters of a Union operation deployed to the area of operations replacing some or all the functions of both OHQ and FHQ.

1.2. Definition of incremental costs financed in common:

- (a) Transport costs: transport to and from the theatre of operations to deploy, sustain and recover FHQs and CCHQs.
- (b) Travel and accommodation: travel and accommodation costs incurred by the OHQ for official journeys necessary to an operation; travel and accommodation costs incurred by personnel from deployed HQs travelling on official journeys to Brussels and/or operation related meetings.
- (c) Transport/travel (excluding 'per diem' costs) of HQs within the theatre of operations: expenditure related to vehicle transport and other travel by other means and freight costs, including travel by national augmentees and visitors; incremental costs of fuel over and above what normal operations would have cost; lease of additional vehicles; third-party insurance costs imposed by some countries upon international organisations conducting operations in their territory.
- (d) Administration: additional office and accommodation equipment, contractual services and utilities, maintenance costs of the HQ buildings.
- (e) Civilian personnel recruited specifically in the eligible HQs for the requirements of the operation: civilian personnel working in the Union, international and local personnel hired in theatre needed for the conduct of the operation over and above the normal operational requirements (including any overtime compensation payments).
- (f) Communications between eligible HQs and between eligible HQs and directly subordinate forces: capital expenditure for the purchase and use of additional communications and IT equipment and costs for rendered services (lease and maintenance of modems, telephone lines, satphones, cryptofaxes, secure lines, internet providers, data lines, local area networks).
- (g) Barracks and lodging/infrastructure: expenditure for acquisition, rental or refurbishing of required HQ facilities in theatre (rental of buildings, shelters, tents), if required.

- (h) Public information: costs related to information campaigns and to inform media at HQ level, in accordance with the information strategy developed by the HQ.
- (i) Representation and hospitality: representational costs; costs at HQ level necessary for the conduct of an operation.

2. Incremental costs incurred for providing support to the force as a whole

The costs defined below are those incurred as a consequence of the force deployment to its location:

- (a) Works for deployment/infrastructure: expenditure absolutely needed for the force as a whole to fulfil its mission (jointly used airport, railway, harbours, main logistical roads, including points of disembarkation and forward assembly areas; water surveys, pumping, treatment, distribution and disposal, water and power supply, earthworks and static force protection, storage facilities (in particular for fuel and ammunition), logistical assembly areas; technical support for jointly financed infrastructure).
- (b) Identification marking: specific identification marks, 'European Union' identity cards, badges, medals, flags in Union colours or other Force or HQ identification marking (excluding clothes, hats or uniforms).
- (c) Medical services and facilities: emergency medical evacuations (Medevac). Role 2 and 3 services and facilities at theatre operational element level, such as airports and disembarkation ports approved in the operation plan (OPLAN).]
- (d) Acquisition of information: Satellite images for intelligence approved in the operation plan (OPLAN), if they cannot be financed from the funds available in the budget of the European Union Satellite Centre (EUSC).

3. Incremental costs incurred by Union recourse to NATO common assets and capabilities made available for a Union-led operation.

The cost for the Union of the application for one of its military operations of the arrangements between the Union and NATO relating to release, monitoring and return or recall of NATO common assets and capabilities made available for a Union-led operation. Reimbursements by NATO to the Union.

4. Incremental costs incurred by the Union for goods, services or works included in the list of common costs and made available in a Union-led operation by a Member State, a Union institution, a third State or an international organisation pursuant to an arrangement referred to in Article 11. Reimbursements by a State, a Union institution or an international organisation based on such an arrangement.

PART B

OPERATIONAL COMMON COSTS RELATING TO THE ACTIVE PHASE OF A SPECIFIC OPERATION, BORNE BY ATHENA WHEN THE COUNCIL SO DECIDES

Transport costs: transport to and from the theatre of operations to deploy, support and recover the forces necessary for the operation.

Multinational task force headquarters: the multinational headquarters of Union task forces deployed in the area of operation.

PART C

OPERATIONAL COMMON COSTS BORNE BY ATHENA WHEN REQUESTED BY THE OPERATION COMMANDER AND APPROVED BY THE SPECIAL COMMITTEE

- (a) Barracks and lodging/infrastructure: expenditure for acquisition, rental or refurbishing of premises in theatre (buildings, shelters, tents), as necessary for the forces deployed for the operation.
- (b) Essential additional equipment: the rental or purchase in the course of the operation of unforeseen specific equipment essential for the execution of the operation, in so far as the purchased equipment is not repatriated at the end of the mission.

- (c) Medical services and facilities: Role 2 services and facilities in theatre, other than those mentioned in Part A.
- (d) Acquisition of information: acquisition of information (satellite images; theatre-level intelligence, reconnaissance and surveillance (ISR), including air-to-ground surveillance (AGSR); human intelligence).
- (e) Other critical theatre-level capabilities: demining if needed for the operation, chemical, biological, radiological and nuclear (CBRN) protection; storage and destruction of weapons and ammunitions collected within the area of operation.

ANNEX IV

OPERATIONAL COMMON COSTS RELATIVE TO THE WINDING-UP OF AN OPERATION, BORNE BY ATHENA

Costs incurred for finding the final destination for the equipment and infrastructure commonly funded for the operation.

Incremental costs of drawing up the accounts for the operation. The eligible common costs shall be determined in accordance with Annex III, keeping in view the fact that the staff needed to draw up the accounts belong to the headquarters for that operation, even after the latter has ceased its activities.
