



# EUROPEAN COMMISSION

BRUSSELS, 29/10/2010

GENERAL BUDGET - 2010  
SECTION III - COMMISSION TITLES 27, 30

## TRANSFER OF APPROPRIATIONS No **DEC 58/2010**

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EUR

### **FROM**

**CHAPTER** - 3001 Administrative expenditure of 'Pensions and related expenditure' policy area

ITEM - 30 01 14 01 Allowances for staff assigned non-active status, retired in the interests of the service or dismissed

Non-Diff. - 2 456 108

ITEM - 30 01 15 03 Weightings and adjustments to pensions and allowances

Non-Diff. - 2 000 000

### **TO**

**CHAPTER** - 2701 Administrative expenditure of 'Budget' policy area

ITEM - 27 01 12 02 Coverage of expenditure incurred in connection with treasury management

Non-Diff. 4 456 108

## I. INCREASE

### a) Heading

**27 01 12 02 - Coverage of expenditure incurred in connection with treasury management**

### b) Figures at 15/10/2010

	<b>Non-Diff.</b>
1A. Appropriation in budget (initial budget + AB)	p.m.
1B. Appropriation in budget (EFTA)	0
2. Transfers	0
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3. Final appropriation for the year (1A+1B+2)	0
4. Utilisation of final appropriation	0
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<b>5. Amount not used/available (3-4)</b>	<b>0</b>
<b>6. Requirements up to year-end</b>	<b>4 456 108</b>
<b>7. Increase proposed</b>	<b>4 456 108</b>
8. Increase as percentage of appropriation in budget (7/1A)	N/A
9. Increase, as a percentage of the final appropriation for the year, in the sum of transfers referred to in Article 23(1)(b) and (c) of the Financial Regulation, calculated in accordance with Article 17a of the implementing rules	n/a

### c) Receipts arising from recovery (carried over) (C5)

	<b>Non-Diff.</b>
1. Appropriation available at start of year	0
2. Appropriation available on 15/10/2010	0
3. Rate of utilisation [(1-2)/1]	n/a

### d) Detailed grounds for the increase

#### **Adjustment of the amounts charged to a non-budget account in the FORTIS/PROMDEI case (EUR 3.056 million)**

The increase requested is intended to provide budgetary cover for the accounting adjustment of the amounts charged to a non-budget account in the FORTIS/PROMDEI case (EUR 3 056 107.09). The account in question can be closed as the Commission drew up a negative Recovery Order in December 2008 to cancel the claim on FORTIS for "error in law" after the Court of First Instance in Brussels issued a ruling which the Commission's lawyer and the Legal Service saw no reason to appeal against.

Payments in 1998 from the Commission's account with the GENERALE DE BANQUE (which later became FORTIS, and then BNP PARIBAS FORTIS) were not received in full by the beneficiary in Sarajevo, who is active in the humanitarian aid sector, because of inappropriate behaviour by the intermediate banks chosen by GENERALE DE BANQUE: PROMDEI BANKA ZAGREB and PROMDEI BANKA SARAJEVO.

On 10 March 1999, on the basis of legal advice, a Recovery Order was issued against GENERALE DE BANQUE and a letter of formal notice was sent to it for reimbursement of EUR 3 056 107.09 before 31 March 1999. Pending completion of the recovery procedure, and so as not to penalise the beneficiary, on 17 March 1999 the Commission again paid the EUR 3 056 107.09 which had not arrived and charged it to a non-budget account. The beneficiary acknowledged receipt of these funds.

Although the GENERALE DE BANQUE was at first prepared to reimburse the Commission, it then changed its position drastically. Between 1999 and 2005 the GENERALE DE BANQUE and the intermediate banks were contacted on a number of occasions. However, it appeared that the two PROMDEI banks had entered liquidation. In the case of PROMDEI BANKA ZAGREB, it was confirmed that there were no longer any liquid assets and that there were not enough other assets to repay even the first-rank creditors.

The Commission's Accounting Officer then asked the Legal Service to launch the procedure for effecting recovery by any means offered by the law against FORTIS and the Commission's lawyer sent another letter of formal notice in 2006. In June 2007 FORTIS proposed payment of a balance of EUR 689 675 as a settlement. The Commission did not accept this proposal and in October 2007 applied to the Court of First Instance in Brussels for an enforcement order against FORTIS. In its judgment of 7 November 2008 the Court rejected the Commission's demand. In view of the grounds set out in the judgment, the Commission's lawyer and the Legal Service considered that an appeal would not be appropriate.

As a result of these opinions, a negative Recovery Order of EUR 3 056 107.09 was issued in December 2008 to cancel the claim on FORTIS for "error in law". This transfer will allow for the accounting adjustment of the amount charged to the non-budget account. This expenditure is in accordance with line 27 01 12 02 for which the budgetary remark provides for coverage of "*budgetary adjustments (...) in situations where a claim is cancelled in full or in part after it has been booked to the accounts as revenue (in particular in the event of offsetting against a debt)*".

#### **Adjustments of amounts on suspense accounts in delegations (EUR 1.4 million)**

In the framework of the combined actions related to the ongoing accounting quality action plan and working group for the setting up of the European External Action Service (EEAS), the delegations have been asked to regularise all the old entries in the suspense accounts. This action allowed for the regularisation of a large number of open items.

There remain nevertheless a number of old open items for which regularisation in a short period seems to be problematic. This has several possible reasons: cases where the recovery has taken place in the past but without a proper accounting regularisation, cases where problems to resolve disputes with local authorities (especially for VAT) do not allow for a rapid solution and accounting regularisation, and cases where the recovery is now doubtful, even if not excluded.

For these cases it will be difficult to have an accounting regularisation. It should be clearly noted that in most cases, even if the outstanding amount is charged to the budget line 27 01 12 02 in 2010, the delegations will not relinquish their entitlement to recover the monies in the future as revenue in the budget.

Based on this review certain amounts have been identified as being irrecoverable. The transfer of EUR 1.4 million is intended to cover budgetary adjustments for these amounts. The explanation of the different circumstances is given below.

- Deposits and guarantees previously paid, primarily in the context of the renting of buildings but also other non-rental deposits (EUR 0.3 million):

*Deposits:* The review has identified about 210 very old expenditure items where due to the age of the items, it is now very difficult to identify the documentation relating to these deposits and/or the relevant amounts are considered immaterial. Many relate to deposits linked to contracts for the supply of telephone lines, electricity, or water in delegations that have finished some time ago.

*Rental guarantees:* The review has highlighted approximately 40 amounts relating to guarantees that had already been reimbursed via deduction of the rent payable at the end of the contract. This has meant that the necessary accounting entries were not made at this time and so the accounting entry still remains open even though the contract and guarantee no longer exist. It should be noted that the budget was not charged for the rent in question which had been compensated by the guarantee.

- Cases where VAT has not been recovered by the delegations (EUR 0.7 million):

These cases relate to 1,600 VAT open items paid by delegations on various expenditures where the monies have not yet been recovered. In accordance with Article 20(2) of the Financial Regulation VAT must not be charged to the Budget and following Article 15 of the Implementing Rules it must instead be accounted for on a suspense account (such as this one) until the monies are finally refunded from the relevant authorities. The delegations concerned are following-up or negotiating with the competent authorities concerning the reimbursement, but given the age of the amounts, the recovery appears doubtful.

- Other expenditure that remains un-regularised (EUR 0.4 million):

This covers about 2,000 open items on six suspense accounts where administrative expenditure has been incurred but has not been regularised. The items included here date back as far as the year 2000 and represent only 0.3% of the total expenditure input on these accounts during that period. Due to the age of the items, it is very difficult to identify the documentation relating to these items and define which budget lines should be charged with the required budgetary regularisations.

Examples of the types of administrative expenditure included are:

- Advances for expenses in delegations linked to missions of Brussels based personnel
- Expenses related to bank charges, postal costs, electricity, telecom costs, fuel supplies, wrongly posted on suspense accounts
- Expenses linked to advances for purchase of travel services, medical assistance, media services, or generated by former delegations.

The accounting departments of the Commission and the EEAS are implementing detailed checks and regular clearing of suspense accounts in order to limit the risk of late regularisation.

## II. DECREASE

### II.A

#### a) Heading

**30 01 14 01 - Allowances for staff assigned non-active status, retired in the interests of the service or dismissed**

#### b) Figures at 15/10/2010

	<b>Non-Diff.</b>
1A. Appropriation in budget (initial budget + AB)	11 230 000
1B. Appropriation in budget (EFTA)	0
2. Transfers	0
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3. Final appropriation for the year (1A+1B+2)	11 230 000
4. Utilisation of final appropriation	7 230 000
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<b>5. Amount not used/available (3-4)</b>	<b>4 000 000</b>
<b>6. Requirements up to year-end</b>	<b>1 543 892</b>
<b>7. Proposed decrease</b>	<b>2 456 108</b>
8. Decrease as percentage of appropriation in budget (7/1A)	21.87%
9. Decrease, as a percentage of the final appropriation for the year, in the sum of transfers referred to in Article 23(1)(b) and (c) of the Financial Regulation, calculated in accordance with Article 17a of the implementing rules	n/a

#### c) Receipts arising from recovery (carried over) (C5)

	<b>Non-Diff.</b>
1. Appropriation available at start of year	0
2. Appropriation available on the 15/10/2010	0
3. Rate of utilisation [(1-2)/1]	n/a

#### d) Detailed grounds for the transfer

EUR 2.456 million is available on this line since:

- The budget forecasts for expenditure relating to application of Council Regulation (EC, Euratom) No 1746/2002 of 2 September 2002 introducing, in the context of the reform of the Commission, special measures to terminate the service of officials of the European Communities appointed to an established post in the Commission are based on the maximum age for passing from this situation to retirement. However, the persons concerned can opt for retirement at any time, thus releasing appropriations.
- The number of persons terminating their employment in the interests of the service (Articles 41 and 50 of the Staff Regulations) is lower than expected in the budget for 2010.

## II.B

### a) Heading

#### 30 01 15 03 - Weightings and adjustments to pensions and allowances

### b) Figures at 15/10/2010

	<b>Non-Diff.</b>
1A. Appropriation in budget (initial budget + AB)	44 897 000
1B. Appropriation in budget (EFTA)	0
2. Transfers	0
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3. Final appropriation for the year (1A+1B+2)	44 897 000
4. Utilisation of final appropriation	41 697 000
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<b>5. Amount not used/available (3-4)</b>	<b>3 200 000</b>
<b>6. Requirements up to year-end</b>	<b>1 200 000</b>
<b>7. Proposed decrease</b>	<b>2 000 000</b>
8. Decrease as percentage of appropriation in budget (7/1A)	4.45%
9. Decrease, as a percentage of the final appropriation for the year, in the sum of transfers referred to in Article 23(1)(b) and (c) of the Financial Regulation, calculated in accordance with Article 17a of the implementing rules	n/a

### c) Receipts arising from recovery (carried over) (C5)

	<b>Non-Diff.</b>
1. Appropriation available at start of year	0
2. Appropriation available on the 15/10/2010	0
3. Rate of utilisation [(1-2)/1]	n/a

### d) Detailed grounds for the transfer

The appropriations in the PDB for 2010 to cover the impact of the weightings for pensions were estimated on the basis of the weightings in force at the beginning of 2009 (in line with the adjustment adopted at the end of 2008). Because of the financial crisis and the trend in certain exchange rates, in particular that for sterling, the adjustment to weightings adopted at the end of 2009 was lower than provided for in the calculation of appropriations for 2010. EUR 2.0 million is thus available in this budget line.