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REPORT

on the Draft Amending Budget No 2/2004 of the European Union for the
financial year 2004
(00000/2004 - C5-0000/2004 - 2004/2010(BUD))

Section VIII (B) – European Data-protection Supervisor

Committee on Budgets

Rapporteur: Neena Gill

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PROCEDURAL PAGE

For the budgetary procedure for the financial year 2004, the Committee on Budgets appointed Neena Gill rapporteur at its meeting of 2 December 2002.

On 3 February 2004, the Commission presented the Preliminary Draft Amending Budget No 2/2004 of the European Union for the financial year 2004 and forwarded it to Parliament (SEC(2004) 104).

Onthe Council established the Draft Amending Budget No 2/2004 of the European Union for the financial year 2004 and forwarded it to Parliament by letter of/2004.

At the sitting of the President announced that he had referred the draft general budget to the Committee on Budgets as the committee responsible and to all the committees concerned for their opinions (C5-0000/2004 – 2004/2010(BUD)).

The Committee on Budget considered the Draft Amending Budget No 2/2004 and the draft report at its meetings of 10 February 2004 and 17 February 2004.

At the last meeting the committee adopted the motion for a resolution unanimously, on the condition that Council adopts the Preliminary Draft Amending Budget No 2/2004 without modification.

The following were present for the vote: Terence Wynn (chairman), Reimer Böge, Anne Elisabet Jensen and Franz Turchi (vice-chairmen), Neena Gill (rapporteur), Ioannis Averoff, Joan Colom i Naval, Den Dover, Göran Färm, Markus Ferber, Salvador Garriga Polledo, Catherine Guy-Quint, María Esther Herranz García, Constanze Angela Krehl, John Joseph McCartin, Juan Andrés Naranjo Escobar, Joaquim Píscarreta, Giovanni Pittella, Per Stenmarck, Ralf Walter and Brigitte Wenzel-Perillo.

The opinion of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs is attached.

The report was tabled on 19 February 2004.

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the Draft Amending Budget No 2/2004 for the financial year 2004, Section VIII (B) – European Data-protection Supervisor (C5-0000/2004 – 2004/2010(BUD))

The European Parliament,

- having regard to Article 272 of the EC Treaty and Article 177 of the Euratom Treaty,
- having regard to the Financial Regulation of 25 June 2002 applicable to the general budget of the European Communities and in particular Articles 37 and 38 thereof¹,
- having regard to the 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 data²,
- having regard to the Decision No 1247/2002/EC of the European Parliament and of the Council and of the Commission on the regulations and general conditions governing the performance of the European Data-protection Supervisor's duties³,
- having regard to Decision of the European Parliament and of the Council of 22 December 2003 appointing the independent supervisory body provided for in Article 286 of the EC Treaty (European Data-protection Supervisor)⁴,
- having regard to the general budget of the European Union for the financial year 2004, as finally adopted on 18 December 2003⁵,
- having regard to the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure⁶,
- having regard to the Preliminary Draft Amending Budget No 2/2004 of the European Union for the financial year 2004, which the Commission presented on 3 February 2004 (SEC(2004) 104),
- having regard to the Draft Amending Budget No 2/2004 of the European Union for the financial year 2004, which the Council established on(00000/2004 – C5-0000/2004),
- having regard to Rule 92 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgets and the opinion of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0073/2004),

¹ OJ L 248, 16.9.2002.

² OJ L 8, 12.1.2001, p. 1.

³ OJ L 183, 12.7.2002, p. 1.

⁴ OJ L 12, 17.1.2004, p. 47.

⁵ P5_TA(2003)0588.

⁶ OJ C 172, 18.6.1999, p. 1.

- A. whereas the Commission may present preliminary draft amending budgets, if there are unavoidable, exceptional and unforeseen circumstances,
 - B. whereas the nomination of the European Data-protection Supervisor and the Assistant Supervisor has already taken place,
 - C. whereas the Amending Budget No 2/2004 will provide the necessary budgetary appropriations for the European Data-protection Supervisor to start its operations,
 - D. whereas the Commission proposal is identical to the budget adopted in 2002 for Section VIII (B) in terms of expenditure and the establishment plan, and the modifications in terms of revenue are technical,
- 1. Considers that the Draft Amending Budget No 2/2004, as established by the Council, provides sufficient appropriations for the European Data-protection Supervisor for the year 2004 to start his duties;
 - 2. Requests the European Data-protection Supervisor to submit a report to the Budgetary Authority before 30 September 2004, in view of Parliament's first reading for the 2005 budget, assessing the state of play as regards the operational needs, the progress made in setting-up the administrative structures and recruitment procedures, the co-operation agreement with the European Parliament, and the financial and budgetary management;
 - 3. Considers that the Draft Amending Budget No 2/2004 is compatible with the ceiling of heading 5 of the financial perspective without restricting other activities;
 - 4. Approves the Draft Amending Budget No 2/2004 unamended;
 - 5. Instructs its President to forward this resolution to the Council, the Commission and the European Data-protection Supervisor.

EXPLANATORY STATEMENT

Following the initial legislative act, the Commission proposed budgetary means for the European Data-protection Supervisor (EDPS), in the 2002 budget, accounting for EUR 1,526 million for 9 months. The appropriations were reduced by the Budgetary Authority to EUR 1,272 million, which was considered adequate to ensure gradual introduction of activities of the EDPS. In 2003 budget, there was a token entry (p.m.). No amount was foreseen in the 2004 Budget for the EDPS. The Budgetary Authority, however, left a sufficient margin in Heading 5 for 2004 to cover the cost of emerging additional needs, such as the EDPS, to be made available through an Amending Budget.

On 17 January 2004, the decision on the appointment of the European Data-protection Supervisor and his deputy was published in the Official Journal and came into force. On 3 February 2004, the Commission adopted a Preliminary Draft Amending Budget No 2/2004 for the inclusion of the Data-Protection Supervisor in the 2004 budget.

The amount foreseen for the EDPS in the Third Report by the Secretaries-General of July 2003 amounted to EUR 2,5 million for the full year of 2004. The Amending Budget 2/2004 reintroduces the same expenditure level as in the 2002 Budget, i.e. for EUR 1 272 000 million. This is in line with the principle of ensuring the graduation introduction of the activities of the EDPS and takes into account the time need for recruiting the staff. The revenues are estimated to amount to EUR 90 000, which is slightly different compared to 2002 to take into account of the impact of the transitional reform measures on revenue.

Remuneration of the Data-protection Supervisor and the Assistant Supervisor

The European Data-protection Supervisor is treated in the same way as a judge of the Court of Justice of the European Communities as regards the determination of remuneration, allowances, retirement pension and any other benefit in lieu of remuneration. The Assistant Supervisor is treated as the Registrar of the Court of Justice of the European Communities in this respect.

Human resources for the secretariat

This proposal is identical to the budget adopted in 2002 in terms of the establishment plan. It assumed that the EDPS will first recruit a core team of 5 persons, and will recruit the rest of the staff later. As in 2002, the establishment plan consists of 15 posts: 1 A3, 3 A5, 3 A6, 1 A7, 1 B3, 2 B4, 1 B5, 1 C4 and 2 C5.

Location

As proposed in the original Commission proposal in 1999, the office of the European Data-protection Supervisor will be located in the EP premises. The European Parliament has on previous occasions and in several resolutions favoured locating the Data-protection Supervisor in the EP in Brussels. Following the example of the Ombudsman, the Parliament will provide a number of support services for the office of the EDPS.

Future expenditure of the EDPS

With new establishments, such as the European Data-protection Supervisor, it is important to carefully assess the real operational needs and guarantee value for money for the European tax payer. Lean administrative structures should be set up to support the substantial work. The location of the office in the EP premises will be practical in this respect.

The attached forecast for spending in mid-term should be used for guidance, when planning the future activities.

	<i>EUR million</i>		
	2004*	2005**	2006**
EDPS	1,272	2,5	2,6

* AB 2/2004

** Third report by the Secretaries-General on the development of Heading V, July 2003

The expenditure and revenue of the European Data-protection Supervisor is expected to be included in the PDB for 2005. The European Data-protection Supervisor is requested report to the Budgetary Authority by end of September 2004 on the progress made as regards setting-up the administrative structures and recruitment procedures, the co-operation agreement with the European Parliament and the financial and budgetary management.

10 February 2004

**OPINION OF THE COMMITTEE ON CITIZENS' FREEDOMS AND RIGHTS,
JUSTICE AND HOME AFFAIRS**

for the Committee on Budgets

on the Draft Amending Budget No 2/2004 of the European Union for the financial year 2004

Draftsman: Ozan Ceyhun

PROCEDURE

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Ozan Ceyhun draftsman at its meeting of 18 February 2003.

It considered the draft opinion at its meeting of 9 February 2004.

At the latter meeting it adopted the following suggestions unanimously.

The following were present for the vote: Jorge Salvador Hernández Mollar, (chairman), Robert J.E. Evans (vice-chairman), Johanna L.A. Boogerd-Quaak (vice-chairwoman), Roberta Angelilli, Christian Ulrik von Boetticher, Carlos Coelho, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Timothy Kirkhope, Ole Krarup, Baroness Ludford, Lucio Manisco (for Ilka Schröder), Bill Newton Dunn, Arie M. Oostlander (for Charlotte Cederschiöld), Marcelino Oreja Arburúa, Elena Ornella Paciotti, Hubert Pirker, Bernd Posselt, José Ribeiro e Castro, Martine Roure, Ole Sørensen (for Francesco Rutelli), Patsy Sørensen, Joke Swiebel, Anna Terrón i Cusí and Maurizio Turco.

SUGGESTIONS

Following the publication of the appointment of the European Data Protection Supervisor and the Assistant Supervisor on 17 January 2004 in the Official Journal (OJ L 12, page 47) the Commission presented on 3 February 2004 the preliminary draft amending budget no. 2 (SEC(2004)104) providing the appropriations for the budget lines in Section VIII Part B of the 2004 budget for the newly appointed authority.

It has to be welcomed that all the necessary steps are taken fast allowing to this new authority to become operational in the shortest possible time. The new European Data Protection Supervisor, Mr Hustinx, and the Assistant Supervisor, Mr Bayo Delgado, started their activity on 2 February 2004 in the premises of the European Parliament in Brussels.

The preliminary draft amending budget

Due to the exceptional circumstances the Commission took the initiative to present this amending budget although in normal circumstances the Supervisor himself would have to evaluate its needs and make the necessary financial requests to the budgetary authority.

The Commission proposes an overall amount of 1,272 Mio. € based on the assumption that this constitutes the amount necessary to start the activity of the authority ("The Supervisor has now been appointed and it is important that his budget be allocated the amount he needs to start his duties." SEC(2004)104, p.5). The Commission continues by clarifying that "[t]he Supervisor himself could present another amending budget in the course of 2004 to fine-tune the budget and/or establishment plan in Section VIII Part B."

In this context it has to be recalled that the Commission had originally proposed in the amending letter No. 1 to the preliminary budget 2002¹ an amount of 1.526.000 € (based on the assumption of a nomination in April 2002). Council had reduced this amount slightly to 1.272.000 taking into account "inter alia of the gradual introduction of the services of the European data protection supervisor." Council continued: "When the European supervisor is appointed, he will be able to assess his needs in the light of the tasks incumbent on him and the workload he will have to deal with" [see doc 12733/01 BUDGET 21].

The draft report on the Draft Amending Budget No 2/2004 of the European Union for the financial year 2004 of the Committee on Budgets (rapporteur Neena Gill)

Mrs Gill in her draft report considers "that the Draft Amending Budget No 2/2004, as established by the Council, provides sufficient appropriations for the European Data-protection Supervisor for the year 2004."

Opinion of the rapporteur

The rapporteur is of the opinion that Parliament should work on the basis of the same

¹ When the setting-up of the authority was first envisaged.

assumptions as the Commission and previously Council have done namely to provide the appropriations necessary for the authority to start working. It is then the responsibility of the Supervisor to evaluate the needs for the budget year 2004. The result of this exercise should not be pre-empted at this stage by stating that the resources are sufficient for the entire year 2004 as suggested in the draft report of Mrs. Gill.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs calls on the Committee on Budgets, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Considers that the Draft Amending Budget No 2/2004, as established by the Council, provides sufficient appropriations for the European Data Protection Supervisor to start his duties;
2. Invites the European Data Protection Supervisor to assess his needs and to make a request to the budgetary authority if the assessment leads to the conclusion that additional resources and / or changes to the establishment plan are necessary; will in such a case evaluate the compatibility of the request with the ceiling of heading 5 of the financial perspective;
3. Approves the Draft Amending Budget No 2/2004 unamended.