



EUROPEAN COMMISSION

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**DRAFT AMENDING BUDGET N° 5
TO THE GENERAL BUDGET 2011**

**STATEMENT OF EXPENDITURE BY SECTION
Section IX - European Data Protection Supervisor
Section X - European External Action Service**

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Having regard to:

- the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,
- the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹, and in particular Article 37 thereof,
- the general budget of the European Union for the financial year 2011 adopted on 15 December 2010²,
- the amending budget No 1/2011 adopted on 6 April 2011,
- the draft amending budget No 2/2011³, adopted on 25 March 2011,
- the draft amending budget No 3/2011⁴, adopted on 15 April 2011,
- the draft amending budget No 4/2011⁵, adopted on 17 June 2011,

The European Commission hereby presents to the budgetary authority the Draft Amending Budget No 5 to the 2011 budget.

CHANGES TO THE STATEMENT OF REVENUE AND EXPENDITURE BY SECTION

The changes to the statement of revenue and expenditure by section are available on EUR-Lex (<http://eur-lex.europa.eu/budget/www/index-en.htm>). An English version of the changes to this statement is attached for information as a budgetary annex.

¹ OJ L 248, 16.9.2002, p. 1.
² OJ L 68, 15.3.2011, p. 1.
³ COM(2011) 154 final.
⁴ COM(2011) 219 final.
⁵ COM(2011) 375 final.

1. Introduction

Draft Amending Budget (DAB) No 5 for the year 2011 covers the following:

- A modification to the establishment plan of the European Data Protection Supervisor (EDPS), without additional budgetary request.
- A modification to the establishment plan of the European External Action Service (EEAS), without additional budgetary request.

2. European Data Protection Supervisor (EDPS)

Following a selection procedure aimed to fill a vacancy for a management post, on 16 March 2011 the EDPS appointed a new Director of the European Data Protection Supervisor Secretariat.

In accordance with Article 5(5) of Annex XIII of the Staff Regulations the new Director should be promoted to the next higher grade, since he was an official in grade A3 on 30 April 2004. For this reason, the appointment of the new Director represents an exceptional circumstance for the EDPS: Article 5(5) of Annex XIII of the Staff Regulations is applicable but the current authorised establishment plan does not permit compliance with this statutory obligation.

In order to be able to comply with the Staff Regulations, this amending budget consists of an upgrade of a permanent post from AD14 to AD15, without additional budgetary request.

The revised establishment plan is included in the budgetary annex.

3. European External Action Service (EEAS)

3.1 Introduction

The EEAS establishment plan currently in force was designed in 2010. A number of parameters which determine the number of occupied posts and therefore of vacant posts at each grade were not known at the time:

- The number of staff actually transferred from the Commission and the Council has been affected by individual choices which led some officials to remain in their institution of origin or to return to it shortly after their transfer. Conversely, a number of officials have volunteered to join the EEAS after its establishment;
- The grades of new recruits could not be forecasted. Posts are offered to candidates from Member States at a set grade and to EU officials at grades ranging from AD 5 to AD 14. As a result, the actual grade of any new recruit is known only when the selection process has been completed.

Such uncertainty is specific to the EEAS: no other institution has seen movements of staff to and from other institutions and Member States to such a high proportion of its establishment plan in such a short period of time.

3.2 *Recruitments from Member States and need for a transformation of posts*

Based on experience gained, some adaptations should be made to the establishment plan of the EEAS. Firstly, in order to facilitate recruitments from Member States, so as to reach the objective set out in the Council Decision⁶ that, when full capacity is reached, staff from Member States (to be engaged to fill temporarily permanent posts in the EEAS, pursuant to Article 2(e) of the Conditions of Employment of other servants of the EU) should represent at least one third of all EEAS staff at AD level, temporary posts should be transformed into permanent posts.

In addition, it has become possible to evaluate again the needs taking into account: posts actually occupied at mid-May 2011; recruitments in their final phase, notably relating to the 80 new posts allocated to delegations in 2011; possible additional recruitments in 2011, notably in the context of the rotation exercise; foreseen departures on retirement in 2011;

3.3 *Promotion*

The Staff Regulations (Article 6) provide that given percentages of posts must be left vacant for promotions. These percentages are set out in the Annex I-B to the Staff Regulations.

In 2011, EEAS staff transferred from the Commission and the Council will be promoted in accordance with the rules and procedures in force in their institution of origin.

Hence, the EEAS must have in its establishment plan a sufficient number of vacant posts to comply with its legal obligations regarding promotions.

3.4 *Conclusion*

The transformation of posts which results from this exercise would have a limited net annual cost of around EUR 1,4 million, taking into account also that the EEAS renounces six AD 15 and three AD 16 posts in order to minimise costs involved. However, as this transformation will have effect only during part of 2011, no additional appropriations are requested for this year. The Draft Budget for 2012 already takes into account an amended establishment plan.

The revised establishment plan is included in the budgetary annex.

⁶ 2010/427/EU