



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 June 2013

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COVER NOTE

from:	Mr Janusz LEWANDOWSKI, Member of the European Commission
date of receipt:	24 June 2013
to:	Mr Brian HAYES, President of the Council of the European Union
Subject:	Transfer of appropriations No DEC 14/2013 within Section III - Commission - of the general budget for 2013

Delegations will find attached Commission document DEC 14/2013.

Encl.: DEC 14/2013



EUROPEAN COMMISSION

BRUSSELS, 19/06/2013

GENERAL BUDGET - 2013
SECTION III - COMMISSION TITLE 24

TRANSFER OF APPROPRIATIONS N° **DEC 14/2013**

EUR

FROM

CHAPTER - 40 01 RESERVES FOR ADMINISTRATIVE EXPENDITURE

ARTICLE 40 01 40 - 24 01 06 European Anti-Fraud Office

Non-Diff.

- 3 929 200

TO

CHAPTER - 2401 Administrative expenditure of the "Fight against fraud" policy area

ARTICLE - 24 01 06 European Anti-Fraud Office

Non-Diff.

3 929 200

I. INCREASE

a) Heading

24 01 06 - European Anti-Fraud Office

b) Figures at 05/06/2013

	Non-Diff.
1A. Appropriation in budget (initial budget + AB)	53 727 800
1B. Appropriation in budget (EFTA)	0
2. Transfers	0
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3. Final appropriation for the year (1A+1B+2)	53 727 800
4. Utilisation of final appropriation	48 625 170
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5. Amount not used/available (3-4)	5 102 630
6. Requirements up to year-end	9 031 830
7. Increase proposed	3 929 200
8. Increase as percentage of appropriation in budget (7/1A)	7.31%
9. Increase, as a percentage of the final appropriation for the year, in the sum of transfers referred to in Article 26(1)(b) and (c) of the Financial Regulation, calculated in accordance with Article 14 of the Rules of Application	n/a

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

	Non-Diff.
1. Appropriation available at start of year	14 923
2. Appropriation available on the 05/06/2013	14 923
3. Rate of utilisation [(1-2)/1]	0.00%

d) Detailed grounds for the increase

When establishing the 2013 budget, the Budgetary Authority placed into reserve an amount of EUR 3 929 200 corresponding to line A3 01 01 (Expenditure related to staff in active employment) from budget-line 24 01 06 (European Anti-Fraud Office).

This amount represents more than 10 % of appropriation of budget-line A3 01 01 which is needed to cover expenditure related to staff salaries until the end of the year.

The condition for releasing the reserve is as follows: "EUR 3 929 200 will be released from the reserve as soon as OLAF allows the Members of the European Parliament to inspect, in a secure reading room, how the appropriations co-financed by OLAF via Hercule II programme are used in the Member States. When it does so, OLAF shall disclose what infrastructure has been co-financed, what technical equipment exists and whether it works correctly, and what results have been achieved."

Detailed information on the steps taken to fulfil this condition are provided in the annex, and on this basis the European Commission requests the Budgetary Authority to approve the proposed transfer of appropriations.

II. DECREASE

a) Heading

40 01 40 - RESERVES FOR ADMINISTRATIVE EXPENDITURE - Article 24 01 06 - European Anti-Fraud Office

b) Figures at 07/06/2013

	Non-Diff.
1A. Appropriation in budget (initial budget + AB)	3 929 200
1B. Appropriation in budget (EFTA)	0
2. Transfers	0
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3. Final appropriation for the year (1A+1B+2)	3 929 200
4. Utilisation of final appropriation	0
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5. Amount not used/available (3-4)	3 929 200
6. Requirements up to year-end (*)	0
7. Proposed decrease	3 929 200
8. Decrease as percentage of appropriation in budget (7/1A)	100.00%
9. Decrease, as a percentage of the final appropriation for the year, in the sum of transfers referred to in Article 26(1)(b) and (c) of the Financial Regulation, calculated in accordance with Article 14 of the Rules of Application	n/a
(*) Not relevant for a provisions line or reserve line	

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

	Non-Diff.
1. Appropriation available at start of year	14 923
2. Appropriation available on the 07/06/2013	14 923
3. Rate of utilisation [(1-2)/1]	0,00%

d) Detail grounds for the transfer

Please see the detailed justifications in annex.

DETAILED JUSTIFICATIONSInformation already provided: the Hercule annual overview 2011

- Information was sent first of all by e-mail on 25 October 2012¹. This consisted of tables and statistical information on the results of the Hercule II programme in 2011, such as the number and amounts of grants and contracts awarded in 2011.
- On 11 December 2012, OLAF sent a Commission Staff Working Document (SWD)², containing more detailed information including, examples of the results achieved with technical equipment funded under the programme.
- The overview includes a list of the beneficiaries of the grants and contracts, broken down by sector of activity and Member State. It also includes information on the multi-annual impact of the funded actions for which the results have become available in 2011 and that were funded under budgets of previous years.
- This Commission Staff Working Document was transmitted to the European Parliament and to the Council by means of the normal procedure (e-Grefte) and in parallel sent together with a personal letter³ from Mr Kessler to Mr Klaus Welle, SG of the European Parliament.
- The Commission Staff Working Document provides, in a comprehensive way, detailed information on beneficiaries and contractors that received grants or contracts funded under the Hercule II programme. This document complements the information that is already published and accessible on the Commission's Financial Transparency System⁴ website. The Commission (OLAF) is preparing the 2012 overview on Hercule which will provide additional information on the implementation in 2012 of the Hercule II programme (see hereafter).

Use of money in the Member States under the Hercule Programme in 2011

The EP request for information focuses on the technical equipment co-funded under the Hercule programme through grants. The overview 2011 contains tables on the global figures on the division of Hercule monies among the Member States (page 10 of the overview). The following information gives an overview of technical equipment funded.

- Technical equipment investigation support

The overview 2011 indicates that, under the grant call for proposals procedure in 2011, **14 Member States** received a grant for technical equipment to support investigations to protect the EU financial interests (Table on pages 11, 12 and 13 of the overview).

Technical equipment made available ("infrastructural facilities"):

1. technical support to strengthen inspections of containers and trucks at the EU's external borders, including the fight against cigarette smuggling and counterfeiting.
2. automated container-code recognition systems;
3. automated number-plate recognition systems;
4. technical equipment for electronic surveillance (cameras, computers, listening devices, radio surveillance electronic equipment, etc.);
5. technical equipment for mobile surveillance (tracking and tracing devices, audio and video transmission equipment, etc...);

1 Sent by Ms Arwidi to Ms Grässle on behalf of Mr Kessler.

2 SWD(2012)445 of 11 December 2012.

3 ARES(2012)1541623 of 21 December 2012. This letter was copied to Mr Theurer, Chairman of the CONT, Ms Ivanova, MEP, Rapporteur for the Hercule III proposal and to the CONT Secretariat.

4 See: http://ec.europa.eu/beneficiaries/fts/index_en.htm

6. technical equipment for the acquisition and analysis of digital evidence (computers, specialised software, etc...);
7. technical equipment for encrypted communications (computers, specialised software, etc.);
8. equipment and devices to detect smuggled and counterfeited goods on the basis of the scent characteristics of the smuggled and counterfeited goods (canine units).

Results:

The supported activities led to substantial qualitative improvements in existing technical systems used for investigative and operational activities by national and regional administrations. The grants also covered specific technical training for staff to ensure optimal use, maintenance and management of the equipment. Many of the grants signed in 2011 were not yet finalised with a final report indicating the results achieved with the equipment (this takes usually some years). Nevertheless the following examples provide a good indication of the results obtained and the added value (page 25 of the overview).

Grant awarded to a Polish law enforcement agency under sector 7.1.2. - Technical support for detecting the presence of cigarettes and tobacco. In the 12 months following its acquisition, the technical equipment was efficiently used in 20 tobacco-related investigations with 112 persons and 32 illicit goods seized.

Grant awarded to a Slovak law enforcement agency under sector 7.1.1. – Technical support for national authorities. In the first half of 2012 the equipment purchased was used in many routine customs operations and led to the seizure of illicit goods totalling around EUR 2 million.

- Technical equipment for the detection of illegal cigarettes

The overview 2011 indicates that, under the grant call for proposals procedure in 2011, **5 Member States** received a grant for technical equipment to support investigations on cigarette smuggling and cigarette counterfeiting (Table on page 14 of the overview).

Technical equipment made available ("infrastructural facilities"):

9. X ray scanners
10. Mobile surveillance equipment
11. Laboratory equipment

Results:

The following example provides a good indication of the results obtained and the added value (page 25 of the overview), bearing in mind that the final reports on the results obtained have not yet been prepared by the beneficiaries.

A grant awarded to a Romanian law enforcement agency enabled the purchase of technical equipment that was used in a large number of routine and special operations to fight crime groups specialised in the smuggling of tobacco, cigarettes and other commodities. These groups also bribed custom and police officials. The operations eventually led to the arrest of a large number of criminals and corrupt law enforcement staff as well as the seizure of substantial amounts of smuggled tobacco, cigarettes, liquors and other commodities.

- *IT support*

The Hercule Program, in addition to funding technical equipment, funds the access for Member States to (risk analysis) intelligence information contained in (external) databases in support of their investigations. OLAF procures this access on behalf of the Member States.

The information concerns, for example, specific company information, ship manifests, vessel movements, import and export information on (big) third countries and trade statistics to support customs- and fraud investigations (page 21 of the overview).

OLAF has furthermore concluded a framework contract with SOI (Scottish Ocean Institute), which provides Member States a chemical analysis of seized tobacco and cigarettes with a view to identify the origin. In 2011 SOI analysed 100 samples of cigarette packs.

Information Report 2012

The overview of 2012 is in preparation and will be presented to the EP and Council as an annex to the Article 325 Report for 2012 of the Commission. The adoption of the Article 325 report is scheduled for July 2013. For 2012 **20 Member States** received a grant for technical support and **11 Member States** have received a grant for technical support to fight cigarette smuggling. Some examples of the equipment financed and the results obtained can be found in the attached annex.

Evaluation Hercule II 2014

By 31 December 2014, the Commission (OLAF) shall present the EP and to the Council a (formal) report on the achievement of the objectives of the programme.

Case studies 2012

The grant was awarded to a **Lithuanian law enforcement agency** for the purchase of technical equipment (upgraded software and hardware for computer forensic investigation and forensic duplicator). The procured tools were used in several operations to investigate illicit activities by legal entities, fraudulent management of accounts, documents forgeries and illicit or irregular use of financial EU support provided under the Common Agricultural Policy (CAP), Cohesion policy, Trans-European Networks (TEN) funds. The equipment is used in almost all on-going pre-trial investigations and undercover operations in Lithuania. The software and hardware for digital forensic examinations was successfully used investigations, which led to the identification of 38 suspects, and a financial impact estimated at EUR 19.6 million.

A grant awarded to a **Spanish law enforcement agency** enabled this agency the purchase special devices to track, monitor and detect vehicles and individuals suspected of involvement in cigarette smuggling (cameras and transmission devices). The equipment was used in operations dedicated to the fight of smuggling of cigarettes via containers delivered in Spain and Portugal. In addition the equipment was used in a case regarding imports of hydrocarbons and petrol in the EU that saw the arrest of 31 people, and an estimated financial impact of EUR 60 million. Surveillance equipment was used in a case concerning fraud to obtain refunds of VAT via a virtual trade of olive oil for which 14 people were arrested and the financial impact is estimated to be EUR 5 million. The equipment was also successfully used in an operation concerning counterfeiting of euro notes and coins by a transnational criminal organisation that led to the arrest of 9 people. Its financial impact is estimated at EUR 240 050.

Estonia, Latvia and Lithuania were able to complete the interfacing project of their respective vehicle tracking systems also thanks to the financial support (EUR 100 030) provided by the Hercule II Programme. The linking of the systems allows mutual visibility for transport registered in the three countries. In addition, alert messages would be transferred from one system to another and therefore be accessible at all the borders of the three Baltic States. The objective of this project was enhancement of the customs control efficiency. Improvement of the fight against illicit trafficking of goods, in particular tobacco products, and strengthening of cooperation in collection of excise duties. As it is an on-going project, tangible results will be available in the future. A further benefit is that the linked system might be extended it to other Member States, thereby creating a wide network of exchange of information and active collaboration in the fight against counterfeiting and smuggling of cigarettes and tobacco.

The grant awarded for the purchase of technical equipment for investigators within a **Finnish law enforcement agency** proved very efficient and useful for its end users. The aggregated financial impact of one of the operations investigating corruption and bribery in a big municipality, amounts to almost EUR 200 000 and will bring to court up to 10 suspects. The equipment was also used in collaboration with the Finnish national custom authority, which was then able to make a major case against cigarettes smugglers. The equipment allowed the authorities to seize at least 4 million cigarettes, with a financial impact of approximately EUR 900 000. As clearly mentioned by the beneficiary, these investigations could not have taken place in the same successful way without the support from Hercule that enabled the purchase of the technical equipment.

A **Romanian law enforcement agency** received a grant for the purchase of technical equipment for investigators. The aggregated financial impact of the operations, in which Hercule-funded equipment was used, amounts to almost EUR 300 000. One operation related to an investigation involving 14 members of the staff of a public authority who were suspected of falsifying documents in order to obtain European Funds. The value of the suspected fraud amounts to EUR 3 million. The second operation related to the abuse of an amount of EUR 5 million of EU funds given to build the first section of a motorway. The investigations could not have taken place in the same successful way without the support of Hercule in the purchasing of the technical equipment.

The **Danish law enforcement agency** was awarded a grant used to purchase 6 scanners used in operations dedicated mostly to the fight of smuggling of cigarettes and other illicit activities, at airports and harbours. The equipment was put to use in December 2011 and for the following six months carried out in total almost 30 000 scans and controls and made 370 hits. As a result of those hits, the law enforcement agency was able to retrieve 87 220 cigarettes and almost 24 kg of smoking tobacco. In addition, thanks to the scanners, the authority was able to seize drugs (30 000 tabs of ecstasy, 8 kg of marihuana and 91 kg of qat) and medicines (almost 10 000 items).