



2015

Annual Activity Report

Legal Service



Foreword

In 2015, the Legal Service continued to support the Commission, DG's and Services in their work on regulatory measures and on court cases. In particular, the Service was closely involved in the work of the Juncker Commission and significant attention was needed in the area of the refugee crisis and the ongoing work on the banking crisis.

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INTRODUCTION

The DG in brief

The mission of the Legal Service is to ensure that the provisions of the Treaties are correctly interpreted and applied and that Commission acts and proposals are in accordance with the law. For this purpose, it gives legal advice, defends the interests of the Commission and of the Union before the courts and strives to assure the highest quality, coherence and development of Union legislation.

In other words, the Legal Service is the legal adviser and the judicial counsel of the Commission.

Unlike most Commission services, the Legal Service is not in charge of a particular political area, but contributes to the development and implementation of all initiatives of the Commission in its double role as legal adviser and representative in Courts.

Given that there are no policies and no programs for which the Legal Service is responsible, its annual spending of over 4 million Euros is mainly used to pay for external legal expertise and costs for legal fees.

The Legal Service is organized in thirteen teams, each in charge of defined policy areas, and one team in charge of the quality of legislation. Furthermore, there is a unit in charge of HR, IT and Finance and one unit which deals with Contracts and Recoveries.

The year in brief

In 2015, the Legal Service received 14.167 inter-service consultations, a figure that may be qualified as stable in comparison with past years. The greatest number of consultations was handled by the team in charge of the internal market, energy, enterprise and the environment, followed by the teams dealing with budget, customs and taxation and with agriculture and fisheries, respectively. The team in charge of "Quality of legislation" reviewed 1902 texts from a perspective of legislative drafting and carried out 146 legal-linguistic revisions. The Legal Service also dealt with over 15.000 parliamentary questions, an increase of 44 % from 2014, and examined 957 replies to petitions and 113 requests from the European Ombudsman. Furthermore, in the light of the need for the Commission to act urgently in numerous situations throughout the year, the Legal Service was also called to make a contribution to a great number of informal requests and consultations.

As regards litigation, the absolute figures regarding cases in which the Commission has participated before the Union courts have also remained relatively stable. It is worth noting that the number of cases before the Court of Justice has increased, in particular the number of appeals, whereas the number of cases before the General Court has decreased. Like in 2014, the State aid and anti-dumping team of the Legal Service was in charge of the highest number of new cases, with over 150 cases, but this time more closely followed by the budget team and the civil service law team, with over 120 cases each.

Important cases on substantive law in which the Commission participated include Case C-105/14, *Taricco and Others*, where the Court held that, by preventing, in cases of serious fraud in relation to VAT, the imposition of effective and dissuasive penalties because the overall limitation period is too brief, Italian law was liable to affect the financial interests of the European Union and had to be left unapplied. In Case C-67/14, *Alimanovic*, the Court took the view that a Member State was entitled to exclude jobseekers from other Member States from certain non-contributory social security

benefits, even if as jobseekers they had a right of residence of six months in the host Member State. In Case C-62/14, *Gauweiler and Others*, the Court concluded, in line with the Commission's position, that the ECB's programme for the purchase of government bonds on secondary markets (OMT) did not exceed the powers of the ECB in relation to monetary policy and did not contravene the prohibition of monetary financing of Member States. Case C-21/14 P, *Commission v Rusal Armenal*, brought an important clarification of the question when a provision of WTO law could be invoked to challenge the validity of Union rules. The judgment in Case C-333/14, *Scotch Whisky Association*, on a minimum price for alcoholic beverages in Scotland, strikes a balance between the right of Member States to pursue national health objectives on the one hand and the needs of the internal market and the common agricultural policy in the sector of alcoholic beverages on the other. The Court also considered that, in respect of obstacles to the freedom of establishment prohibited by the Services Directive, Member States are no longer entitled to rely on justifications foreseen in the Treaty or otherwise accepted by the case-law (Case C-593/13, *Rina Services*). In Cases C-401/12 P to C-403/12 P and C-404/12 P to C-405/12 P, the Court held that Article 9(3) of the Aarhus Convention was not directly applicable for the purpose of assessing the validity of Article 10 of the Aarhus Regulation, thereby confirming the Commission's position and dismissing a number of cases before the General Court.

National litigation is essentially managed and coordinated by the Contracts and Recoveries unit. In 2015 the unit faced 135 new cases before national courts of which 87 cases concerned recovery of debts. Furthermore, in the context of forced recovery, the Legal Service is tasked with recovering the sums owed to the Commission by all legal means. In 2015, the Contracts and Recoveries unit received 153 new recovery orders for a total of 32.135.000 €. During 2015, 109 recovery orders were closed and a total amount of 59.549.642 € was recovered.

EXECUTIVE SUMMARY

The Annual Activity Report is a management report of the Director-General of the Legal Service to the College of Commissioners. It is the main instrument of management accountability within the Commission and constitutes the basis on which the Commission takes its responsibility for the management of resources by reference to the objectives set in the management plan and the efficiency and effectiveness of internal control systems, including an overall assessment of the costs and benefits of controls.

a) Policy highlights of the year

As regards its advisory activity, the Legal Service accompanied the Commission's activity in an important number of very sensitive and legally very complex files.

Until early August 2015, threats to the Euro area stemming from the situation in Greece dominated much of the Commission's political agenda, with an important involvement of the Legal Service, and which led to new financial assistance to Greece including an urgent bridging loan. Further key files handled earlier in 2015 in this area were the Commission's communication on flexibility in the Stability and Growth Pact and the "Juncker Investment Plan" (the "EFSI regulation" and accompanying instruments). At the end of the year the Legal Service was closely associated in the negotiation related to a "new settlement" with the UK.

Throughout 2015 and especially from August on, the Legal Service gave multiple, often extremely urgent advice to DG HOME, the SG and the President's Cabinet in the context of the refugee crisis, and helped shape far-reaching proposals on relocation, resettlement, safe countries of origin and a European Border and Coast Guard. It also worked on key legislative files advanced in response to the threats of terrorism, such as EU-PNR, Schengen Border Code amendments and the firearms directive.

The Legal Service also conducted intense work together with DG TRADE to propose a workable proposal on reformed Investor-State-Dispute Settlement system in TTIP, through a permanent Investment Tribunal, and on the consequences of the upcoming expiry of WTO rules on China's treatment as a "non-market economy".

In the last quarter of 2015, the Legal Service engaged in in-depth reflection and informal negotiations about elements to be proposed for a "new settlement for the UK in the EU" in view of the 2016 in/out referendum.

In November, the Commission adopted an important proposal on a European Deposit Insurance Scheme (EDIS) as a further step to a fully-fledged Banking Union.

Finally, amongst the rare files handled by the Legal Service as lead service, 2015 saw the completion of the reform of the General Court, consisting in a gradual doubling of the number of judges combined with a re-integration of the Civil Service Court into the General Court. This reform, finally decided after years of discussion, will make a decisive contribution to ensuring that the EU's judiciary can cope with its case load and ensure effective judicial protection in a timely manner.

As far as litigation is concerned, the Court of Justice upheld the Commission's position in several major inter-institutional cases, one to confirm that while the Commission remains subject to the general duty of sincere cooperation (i.e. a duty to consult), it is fully competent to submit observations to an international court, without requiring approval by the Council (Case C-73/14, *Council v Commission*), one upholding the view that for long term fisheries management or recovery plans the ordinary legislative procedure (co-decision) must be applied (Cases C-124/13 and C-125/13, *Parliament and Commission v Council*), another confirming the Commission's right to withdraw a proposal and circumscribing that right (Case C-409/13, *Council v Commission*), and yet another case on hybrid acts, adopted at the same time by the Council and the Representatives of the

Governments of the Member States of the European Union, meeting within the Council on the signing on behalf of the EU and provisional application by the EU and its Member States of two international agreements in the field of air transport (Case C-28/12, *Commission v Council*). The Court also rejected an action for annulment against a regulation implementing enhanced cooperation, thus opening the way for the entry into force of a European patent with unitary effect (Case C-146/13, *Spain/Parliament and Council*).

b) Key Performance Indicators (5 KPI)

KPI 1 - Provide qualitative and timely advice to ensure that the highest standards of quality are met in legal drafts proposed by the Commission DGs and Services.

The work of the Quality of Legislation team is of major significance for legal drafting in the Commission. The team revises all draft legislative proposals and a large selection of other draft legal acts, with a view to ensuring that they comply with the rules of legislative drafting and that they are clearly structured and correctly formulated. It provides advice on legislative drafting at an early stage, before and during inter-service consultation.

Well drafted legal texts ensure legal certainty, coherence and equal treatment for citizens of the Union. They are the basis for an effective application of EU law. In addition, well drafted texts contribute to efficiency gains throughout the Commission: in the preparation of draft legal acts and proposals by Directorates General, as regards their translation by DG Translation and in the legislative procedure before the Council and the Parliament.

There is a continuous flow of draft legal acts from the other Directorates General and Services of the Commission, with some variations. Hence, the output of the team is consistent with that of previous years.

The table below presents the number of legal texts treated by the Quality of Legislation team during the last six years.

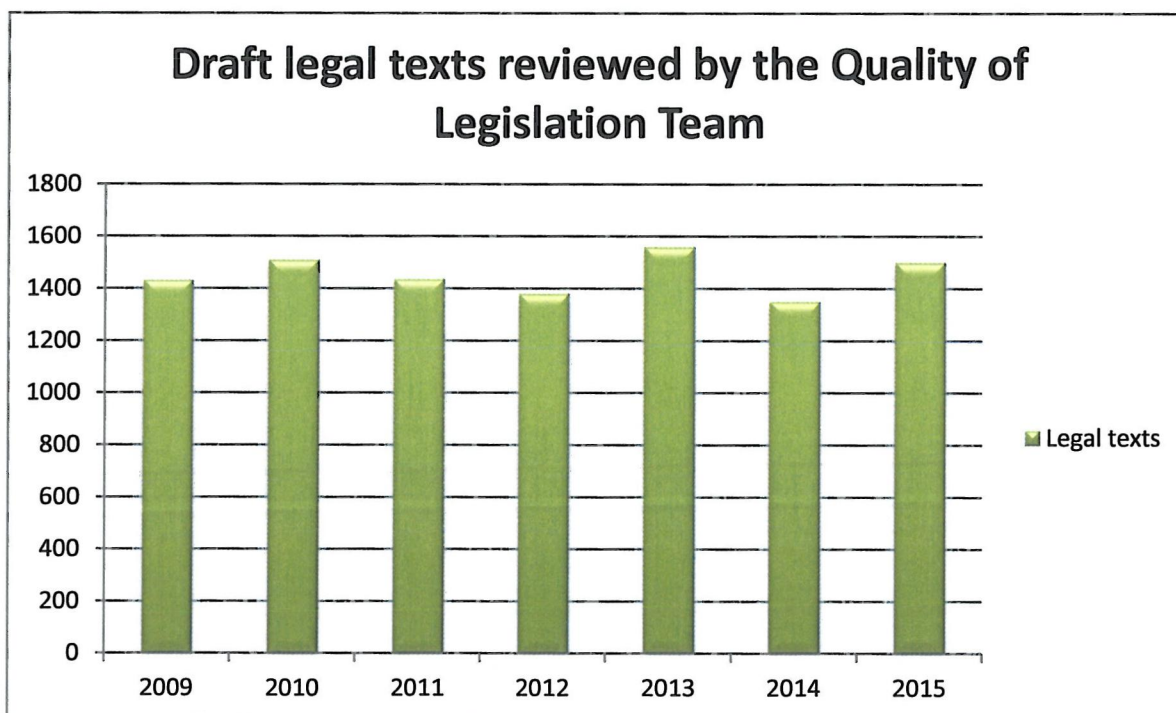


Table: Number of draft legal texts reviewed by the Quality of Legislation Team per year (Source: Jurrev)

KPI 2 - Provide qualitative and timely legal advice to the Commission DGs and Services.

The Directorates General and other Commission Services seek legal expertise from the Legal Service in the preparation of legal drafts. Legal advice is given throughout the preparatory phase (also called the exploratory phase) of a legal proposal and until it is formally sent for Inter Service Consultation. Timely as well as qualitative contribution to the process is of high importance to ensure efficiency gains throughout the process of drawing up new legislation.

In 2015, the Legal Service replied to 95% of all Inter Service Consultations within the set deadline.

In the table below, the volume of consultations per team and year is presented.

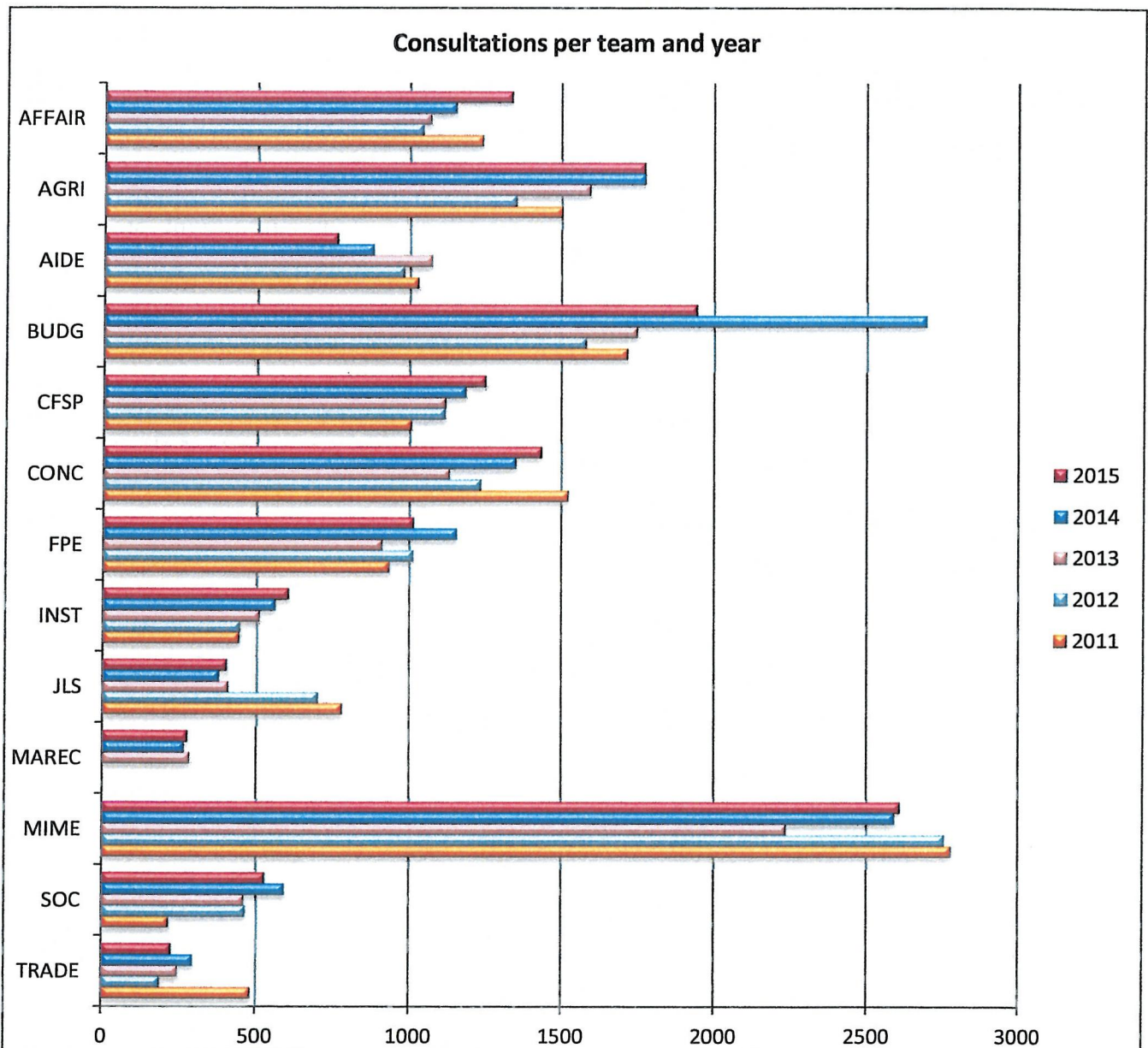


Table: Total registered consultations per team and year (Source: Ares)

KPI 3 - Provide qualitative and timely legal representation in order to defend the interest of the Commission before the courts and tribunals.

The Legal Service represents the Commission before the Court: the three instances within the Court of Justice of the European Union – namely the Court of Justice, the General Court and the Civil Service Tribunal (TFP); then the Dispute settlement bodies within the WTO in Geneva; and finally, the national courts, both in the Member States and in third countries, in cases where the European Union or the Commission are parties (e.g. forced recovery of debts represents 45% of national cases).

In 2015, out of the 953 decisions by the Courts of the Union, the Legal Service won 62% and lost 8%. The remaining 30% are cases that either were partly won or where the win/lose categorisation is not applicable, in particular because the proceedings were discontinued and the case removed from the Court's register for various reasons.

The table below presents the 2015 court decision outcome for the Courts of the Union.

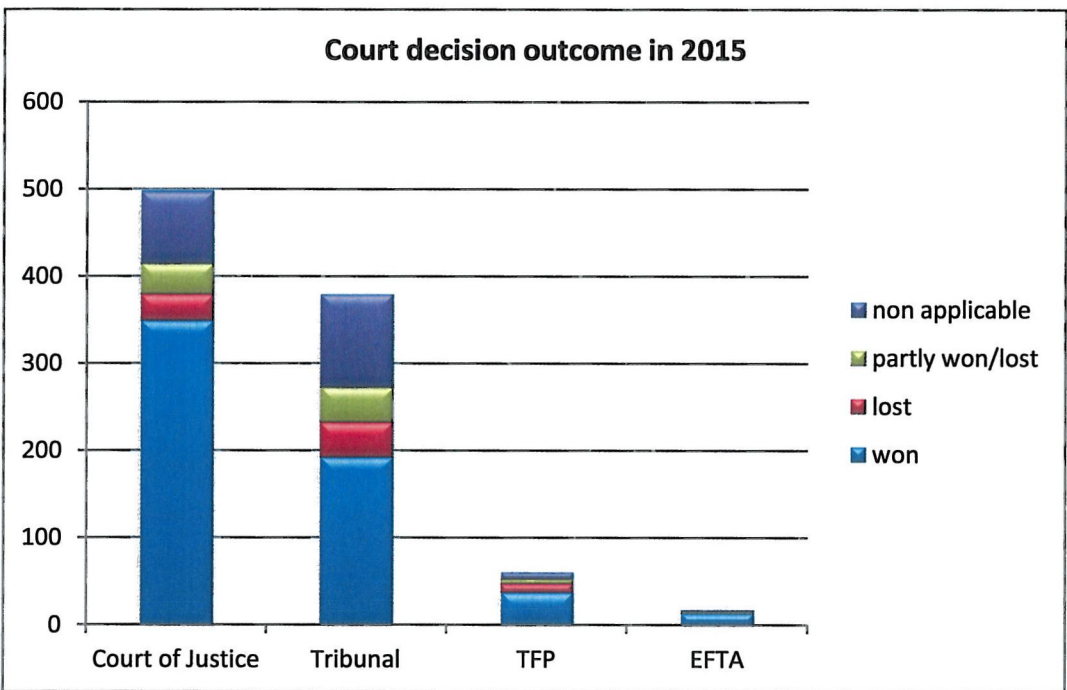


Table: Outcome of Court decisions in 2015 (Source: Base Contentieux)

Regarding preliminary rulings, the challenge is not necessarily to win the case, but rather to assist the Court in interpreting the law of the Union. Over the last few years, there has been an increase of preliminary rulings. In order to try to advance or confirm the legal interpretation of the Treaties or of other pieces of Union law, the Commission sometimes decides to bring "test cases". In such cases a more refined analysis of the result is warranted.

For judgments in sensitive cases, a briefing note is addressed to the President's Cabinet and to the spokesperson service. The Legal Service regularly reports to the Commission on important court cases and the most significant judgments are mentioned in the annual report of the Commission.

KPI 4 - Ensure full benefits of rules to the citizens of the European Union by ensuring that the Member States have fully transposed Union Legislation and apply Union Law correctly.

The Commission acts as the "Guardian of the Treaties" in its mission to ensure that Member States have fully transposed Union Legislation and apply Union Law correctly. In order to ensure that Member States implement and apply the *acquis communautaire* correctly, the Legal Service assists the Commission and its services in their contacts with Member States with a view to achieving compliance with EU law.

The Legal Service provides its advice at every stage in the formal infringement procedure and if needed, defends the interests of the EU, by representing the Commission before the Court of Justice; these procedures will ultimately benefit the citizens of the EU.

There were 1561 ongoing infringement procedures in 2015 with 742 new procedures, 825 closed procedures and 39 cases submitted to the court.

The evolution of the number of Infringement cases treated by the Legal Service since 2009 is presented in the table below.

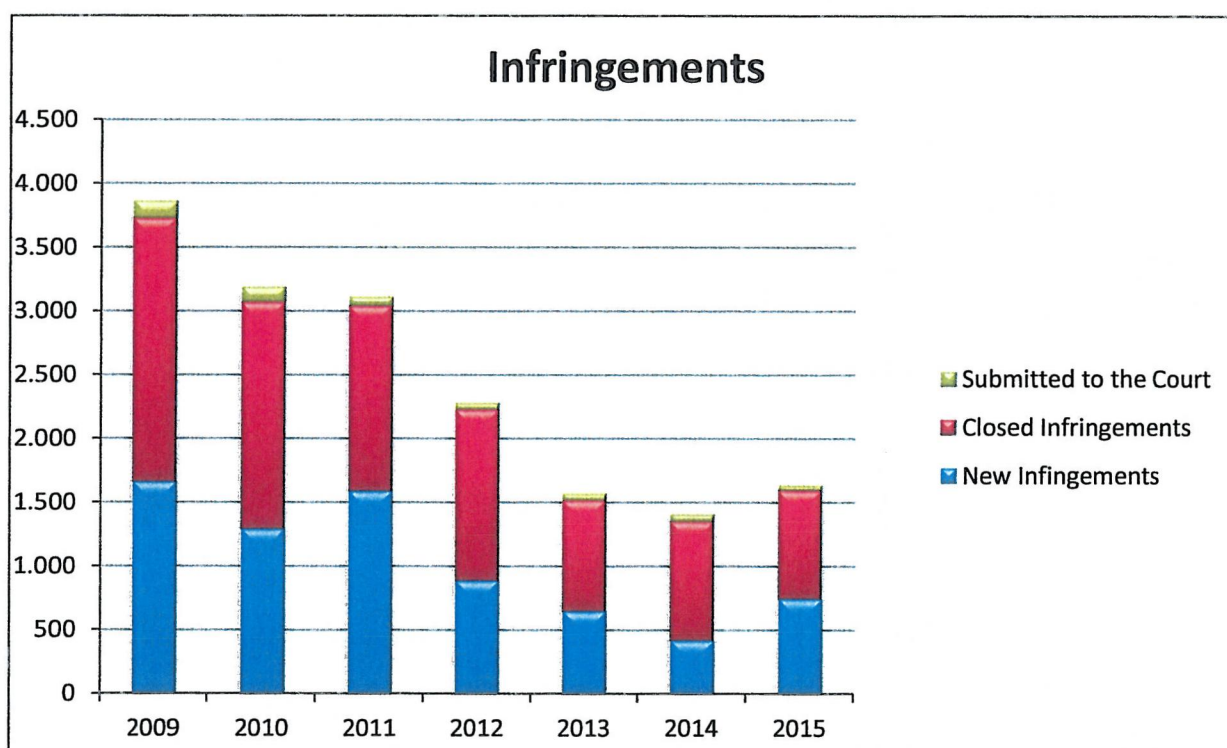


Table 2: Development of Infringements procedures (Source: NIF)

KPI 5 - Staff allocation and mobility

80% of AD staff recruited to the Legal Service in 2015 were women, which is well above the target set at 55%.

Staff rotation is initiated based on several criteria including seniority, legal portfolio, language profile and an assessment of future staff needs in the legal teams. Approximately 10% of AD staff in the legal teams rotated in 2015 which represents the average yearly rotation rate.

c) Key conclusions on Management and Internal control (executive summary of section 2)

In accordance with the governance statement of the European Commission, the staff of the Legal Service conducts its operations in compliance with the applicable laws and regulations, working in an open and transparent manner and meeting the expected high level of professional and ethical standards.

The Commission has adopted a set of internal control standards, based on international good practice, aimed to ensure the achievement of policy and operational objectives. The financial regulation requires that the organisational structure and the internal control systems used for the implementation of the budget are set up in accordance with these standards. The Legal Service has assessed the internal control systems during the reporting year and has concluded that the internal control principles are implemented and function as intended. For further details, please consult section 2.3.

In addition, the Legal Service has systematically examined the available control results and indicators, including those aimed to supervise entities to which it has entrusted budget implementation tasks, as well as the observations and recommendations issued by internal auditors and the European Court of Auditors. These elements have been assessed to determine their impact on the management's assurance as regards the achievement of control objectives. See Part 2 for further details

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

d) Information to the Commissioner(s)

The main elements of this report and assurance declaration have been brought to the attention of the President of the Commission, Jean-Claude JUNCKER.

1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE LEGAL SERVICE

The expertise of the Legal Service indirectly contributes to all initiatives of the Commission. The Legal Service acts as the guardian of the treaties. Without a well written legal framework for the European Union, respected by all - organisations as well as physical persons – the successful integration of Europe would not be where it currently is. It is at this level the contributions of the Legal Service should be seen.

The Legal Service has, since its establishment, been responsible for providing legal advice and for defending the interests of the Commission. The lead words for the Legal Service are quality and time. Legal advice must reach the highest quality and arrive in due time, the same counts for legal representation.

Changes in legislation, new political initiatives and priorities, changes in the world economy as well as other unexpected events with significant influences have all had an impact on which kind of legal expertise was required by the Legal Service. The most significant impact on the total work load over time has proven to be the effects of the enlargements of the Union.

Over the last few years, the Legal Service has experienced an increase in the number of preliminary reference cases. These are cases in which the Member States requests the Court of Justice for their interpretation of the Community legislation. The Legal Service is present at all these cases and provides its expertise and which is much appreciated by the Court of Justice.

In order to enable meeting all requests for legal advice and for legal representation, to proactively contribute to the legislative drafting procedure and to ensure that legal acts have been transposed correctly in all member states, the Legal Service has set up a flat organisational structure which allows information to quickly be dissimulated and absorbed in the organisation and which allows for fast responses whenever required.

Depending on the political priorities, the Legal Service always needs to be prepared to adopt its organisation to fit new and changing demands.

Delivered by the Legal Service in 2015:

- ✓ Advice on linguistic quality to some 1.900 legal texts dealt with by the Quality of Legislation team.
- ✓ Legal advice given to 14.000 requests, of which almost 8000 were inter service consultations, and dealt with the replies to 15.000 parliamentary questions.
- ✓ Defending the Commission in some 1.800 ongoing litigations and almost 1600 ongoing infringement cases.

In the chart below, the evolution in the workload of the Legal Service is presented for a 20 year period.

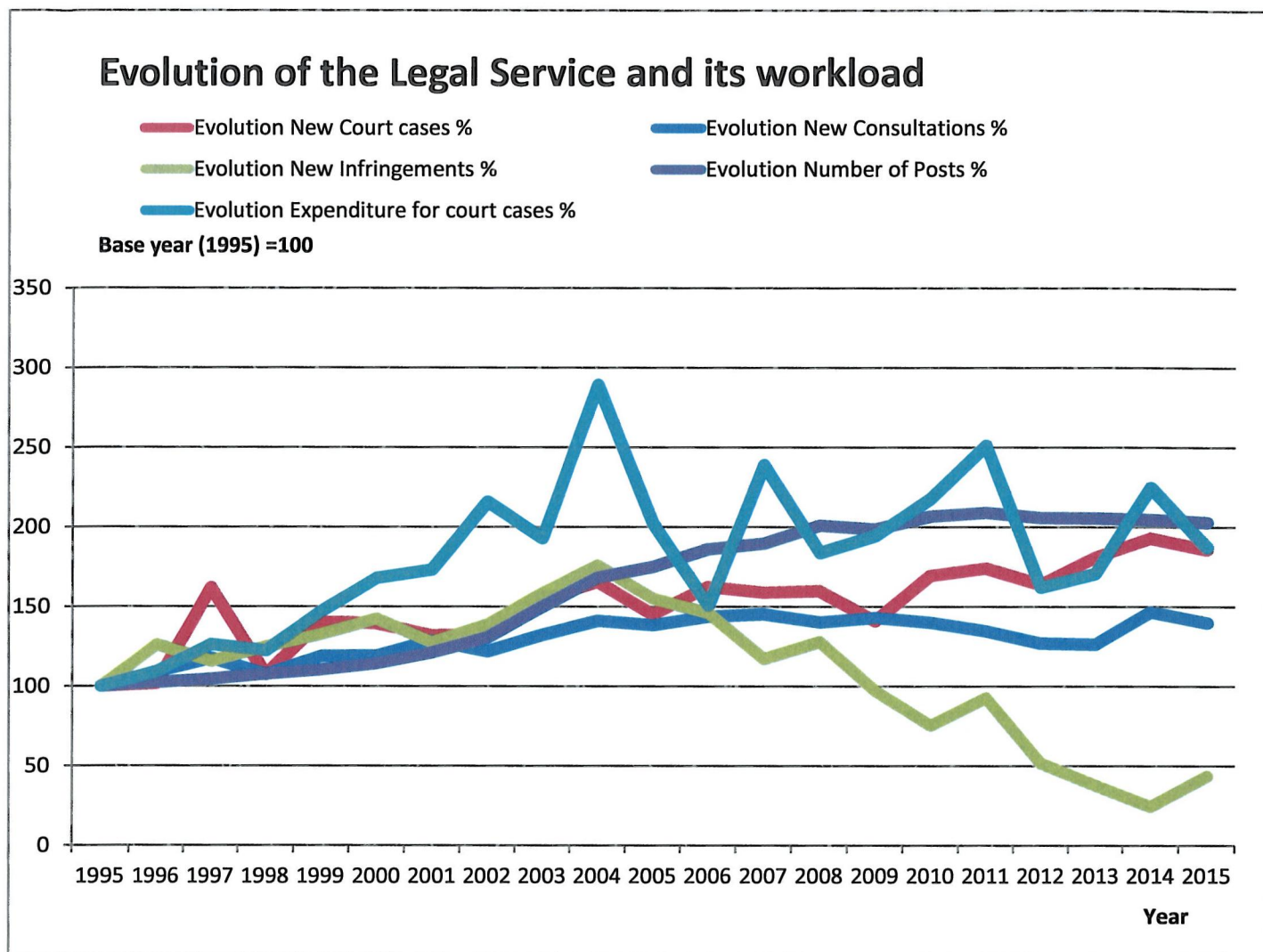


Table 1: Workload and staff evolution in the Legal Service

General Objective 1: Provide qualitative and timely advice to ensure that the highest standards of quality are met in legal drafts proposed by the Commission DGs and Services

The "Quality of Legislation" activity includes the following three sub-activities:

- Review of draft legislation;
- Codification of legislation in force;
- Other aspects of legislative simplification.

Activities relating to the quality of legislation are grouped into a single team (Directorate SJ.DDG.K) employing 19% of the resources of the Service.

A – Revision of legal drafts

Revision of draft legislation is carried out during two separate stages of the legislative procedure:

First, the Quality of Legislation team intervenes during the inter service consultation, in which the text is only available in one language (English or French). At this stage the text is presented for the first time by the Directorate General of origin to other relevant services. The text can still be changed and reformulated completely, not only in respect of substance but also and especially in respect of form and structure through the application of the rules of legislative drafting. The intervention of the Quality of Legislation team concentrates on the latter aspect, in close cooperation with the authors and the thematic teams of the Legal Service. Its contribution is crucial for ensuring that the structure and wording of legal acts are based on the principle of legal certainty. It also enables DG Translation to receive a clear and unambiguous text, giving it the best chance of producing a high-quality version in the other official languages.

Thereafter, just before adoption or approval by the Commission, when the text has been translated into 23 languages (or 24 when the Irish version is needed too) it may be selected by the Quality of Legislation team for multilingual revision with a twofold purpose: to verify the consistency of the linguistic versions from a legal point of view and to check that the text corresponds to the advice on legislative drafting given by the team during the inter-service consultation.

In 2015, some 1500 texts were reviewed by the Quality of Legislation team from the point of view of legislative drafting and 85 legal-linguistic revisions (verifying the legal and linguistic consistency of legislation, decisions and other preparatory documents). The number of requests for corrigenda examined by the team in one or more languages was approximately 320.

These figures only partially reflect the reality in that they only include formal requests. Formal requests are very often preceded by "exploratory" consultations which allow the Quality of Legislation team to intervene, together with the thematic teams, further upstream in the preparation of legislation or texts by the DGs and to cooperate closely with them.

The desired impact of legal revision is to enhance the quality of legal texts of the Union by improving the quality of texts prepared by the Commission, in particular by ensuring legal and linguistic consistency and thus increasing legal security.

B - Codification

Codification consists of the adoption of a new legal act bringing together one or more existing acts and their successive amendments as published in the Official Journal of the European Union, without making any substantive changes. The new acts are adopted under an accelerated legislative procedure and replace and repeal the acts codified.

After the accomplishment of a programme of codification of the whole *acquis* in the previous years, codification continues to be carried out by the Quality of Legislation Team on the basis of a list of acts established with the responsible DGs and mentioned in the annual work program of the Commission.

In 2015, the Legal Service completed the elaboration of eight codified acts in all official languages. Seven of those codifications, including a "horizontal" codification of six different company law directives with their amendments, were sent as proposals to the legislator and the codified version of a Commission act was formally adopted and published in the Official Journal.

Moreover, the Legal Service actively participated in the legislative procedures on the proposals submitted to the legislator in the previous year. This eventually led in 2015 to the adoption and publication in the Official Journal of 20 new codified legislative acts and to the legal-linguistic finalisation of three other codified texts.

C - Other aspects of legislative simplification

The Quality of Legislation team continues to maintain a list of the active *acquis*, identifying those acts of Union law in force which are still applicable.

As evidenced above, the activity by the Legal Service has met its objective and has achieved the annual performance indicators and outputs in the reporting year.

In 2015 the Quality of Legislation team continued providing targeted training to DGs and agencies on legislative drafting.

General Objective 2: Timely and qualitative Legal Advice

Legal advice is included in the ABB activity of Consultation, litigation and Infringements.

This activity is managed by the thematic teams of the Legal Service, accounting for 73% of Service personnel with 330 persons / year. The workload is divided equally between consultation and litigation (including infringements).

The Legal Service is consulted and gives advice in all areas of the Commission's activities and its services has a preventative effect on litigation; hence it contributes to efficiency gains throughout the Commission in its activities. Quality legal advice also contributes to the efficiency of the Commission.

In 2015, the Legal Service gave its advice on a total of 14.167 requests. 7.705 of these were Inter Service Consultation and 92 so called Fast-Track consultations. More than 95% of the consultations were replied to within deadline.

As well as the registered consultations, there are "exploratory" discussions between the Legal Service and the DGs. The Legal Service intervenes throughout the process in the preparation of legal drafts. This kind of consultation also includes consultations in infringement cases (see section on General objective 4 below).

The majority of advice was given in the area of the internal market and environment (18.4% - team MIME), taxes and budget (13.7% - Team BUDG), agriculture and fisheries (12.5% - team AGRI) and Competition (10.1% - team CONC).

100% of all court deadlines and court hearing presences are respected.

In 2015, the Legal Service defended the Commission in a total of 1768 Court cases in the Courts of the European, a total of 772 cases before national courts and in a total of 62 Cases at the WTO in Geneva.

National litigation is essentially managed and coordinated by the Contracts and Recoveries unit. In 2015 the unit faced 135 new cases before national courts of which 87 cases concern forced recovery orders. Out of the 772 pending cases at year end, 349 concerned recoveries of debts, i.e. 45% of all national litigation. In the context of forced recovery orders, the Legal Service is tasked with recovering the sums owed to the Commission by all legal means.

In 2015, the Contracts and Recovery Unit received 153 new recovery orders for a total of 32.1 million € of which 2.9 million € was recovered in 2015. **During 2015, 109 recovery orders for a total amount of 59.5 million € were recovered.** At year end, 840 recovery orders for a total amount of 164.1 million € were still open.

In 2015, the Legal Service paid € 3.3 million for the cost of litigation and to cover the costs and expenses charged to the institution by the Courts in lost cases and other attorneys' fees and legal experts assisting in national courts or on technical, linguistic or particular areas of legal expertise.

The table below presents the evolution of court cases managed by the Legal Service since 2009.

Number of cases managed by the Legal Service per year and per jurisdiction								
Jurisdiction	Cases	2009	2010	2011	2012	2013	2014	2015
Courts of the Union	On-going cases (indicative)	1860	2158	2187	1999	1877	1798	1768
	New Cases	945	1136	1168	1099	1213	1294	1246
	Closed Cases	914	882	938	930	1156	1171	1036
National Courts	On-going cases (indicative)	750	850	800	800	710	709	772
	New Cases	176	183	144	129	139	137	135
WTO	On-going cases (indicative)	46	51	57	70	69	63	62
	New Cases	15	17	9	28	24	15	13

Table: Evolution of number of court cases in the Courts of the Union (Source: Base Contentieux)

The Legal Service represents the Commission before the Court: the three instances within the Court of Justice of the European Union – namely the Court of Justice, the General Court and the Civil Service Tribunal (TFP).

In 2015, out of the 953 decisions by the Courts of the Union, the Legal Service won 62% and lost 8%. The remaining 30% are cases that either were partly won or where the win/lose categorisation is not applicable, in particular because the proceedings were discontinued and the case removed from the Court's register for various reasons.

The 2015 judgements of the Courts of the Union are presented in the table below.

Court decisions per jurisdiction and out-come for 2015					
Jurisdiction	Won	Lost	Partly	non applicable	Total Court Decisions
Court of Justice	349	30	35	83	497
Tribunal	192	40	40	107	379
TFP	37	10	5	8	60
EFTA	13	0	2	2	17
total	591	80	82	200	953

Out-come per jurisdiction in percentage of total cases for 2015					
Jurisdiction	Won	Lost	Partly	non applicable	Total Court Decisions
Court of Justice	70%	6%	7%	17%	52%
Tribunal	51%	11%	11%	28%	40%
TFP	62%	17%	8%	13%	6%
EFTA	76%	0%	12%	12%	2%
average	62%	8%	9%	21%	100%

Table: Results of the proceedings before the courts of the Union (in value and in %) (Source: Base Contentieux)

Over the last 7 years, there is an increasing trend in the number of court cases. From one year to another, there is always a fluctuation in the number of cases treated. Compared to last year, there is a significant increase in the Aide team and there is a decreased number of cases particularly in the AGRI, INST and JLS teams.

The table below presents the number of new court cases per team since 2009.

New Cases								
Subject/Team	2009	2010	2011	2012	2013	2014	2015	%
AFFAIR	96	133	98	130	106	122	115	9.2
AGRI	50	91	63	50	78	40	65	5.2
AIDE	116	103	101	104	130	265	155	12.4
BUDG	114	146	163	105	138	135	128	10.3
CONC	82	107	119	78	73	69	65	5.2
INST	28	46	44	57	61	51	73	5.9
JLS	87	53	104	94	81	57	78	6.3
MAREC	3	5	5	7	22	29	43	3.5
MIME	119	135	81	79	122	130	115	9.2
FPE	141	169	175	203	201	186	190	15.2
SOC	75	91	96	91	111	94	98	7.9
TRADE +CSFP	31	47	102	87	67	125	96	7.7
others	6	15	22	21	45	20	25	2.0
total	948	1141	1173	1106	1235	1323	1246	100

Table: Distribution of litigation cases, proceedings before the courts of the Union (Source: Base Contentieux).

General Objective 4: Full benefits of rules to the European citizens

Infringements are included in the ABB activity of Consultation, litigation and Infringements.

This activity is managed by the thematic teams of the Legal Service, accounting for 73% of Service personnel with 330 persons / year. The workload is divided equally between consultation and litigation (including infringements).

Infringements are an important part of the mission of the Commission as the "guardian of the treaties" with the purpose of ensuring that Union law can develop all its effects which will ultimately benefit citizens.

Situations of non-communication of national transposition measures in a timely manner, of non-compliance of national legislation with EU law or of poor application of EU law which is in violation of EU obligations are assessed by the Directorate Generals and decisions are adopted by the Commission where appropriate.

The Legal Service is consulted in each individual decision at every stage of the procedure and on each proposal of the Directorates General.

The sound management of infringement procedures is assessed twice a year by the Legal Service and the Secretariat General with all Directorate Generals. These meetings aim at ensuring coherence in treatment of the files and addressing legal issues of a horizontal nature.

Conclusions from biannual meetings with all Directorates Generals are drafted by the Legal service with support of the Secretariat General and are presented to the Commission. This allows the Legal Service with the Secretariat General to maintain an overview of the pending infringement cases, and to ensure consistency.

1561 decisions were adopted in 2015 during the ten successive monthly decision-taking cycles and therefore were the subject of prior consultation with the Legal Service and 39 cases were brought before the Court.

In some areas the number of infringement cases is very important, especially in environment, internal market, and taxation.

The table below presents the evolution of the number of infringements treated in the Legal Service.

Infringement cases	2009	2010	2011	2012	2013	2014	2015 ¹
On-going cases (average)²	2.892	2092	2061	1835	1633	1612	1561
New cases	1.659	1289	1586	882	645	416	742
Closed cases	2.067	1779	1453	1344	869	932	825
Requests submitted to the Court	136	120	70	54	54	58	39

Table: Evolution of the treated infringement cases (Source: NIF)

¹ Figures for 2015 are provisional, final figures will be presented in the annual report of Secretariat General.

² As from 2011 and the new presentation of the annual report from Sec Gen presents average infringement cases.

The table below presents the number of infringements per thematic area.

Infringement files per subject	2009	2010	2011	2012	2013	2014	Infringement files per subject – per new policy areas *	2015 ³
Energy and Transport	355	309	448	318	306	326	<i>Transport and mobility</i>	260
							<i>Energy</i>	80
Environment	525	444	342	305	375	335	<i>Environment</i>	286
Agriculture, Fishery	22	11	41	35	40	15		
Enterprise	158	90	133	70	73	66		
Internal Market	399	326	299	204	188	172	<i>Internal Market, Industry, Entrepreneurship and SMEs</i>	156
							<i>Migration and Home Affairs</i>	115
							<i>Financial Services & capital markets union</i>	176
Taxes and Customs	524	324	254	244	70	177	<i>Taxes and Customs</i>	148
Health and consumers	166	123	75	101	240	99	<i>Justice and consumers</i>	125
Others	743	465	478	330	368	422	<i>Others</i>	215
total	3.163	2.492	2.081	1.839	1.634	1612		1561

Table: Infringement case per thematic area (Source: NIF)

* The reorganisation of the Commission DGs and services has initiated another structure of various policy areas. As from 2015, the infringement cases are distributed as follows.

As evidenced above, the activity by the Legal Service has met its objective and has achieved the annual performance indicators and outputs in the reporting year.

Administrative objectives

Staff allocation and Mobility

In 2015, ongoing rotation of AD staff in the legal teams continued. The purpose of this rotation is to promote continuous staff development, ensuring legal competences in the legal teams as well as mitigating risks, in particular in the field of fraud.

Female recruitment at AD level rose to 80%, which was well over the target set at 55%.

The appointment of a new deputy Director General of the Legal Service has resulted in a 50% female representation at the top managerial level. Also at Head of Unit level, the

³ Figures for 2015 are provisional, final figures will be presented in the annual report of Secretariat General.

Legal Service has a 50% female representation.

Staff in the Legal Service undertake an average of 5 training days per year which is in line with the Commission objectives as well as internal objectives.

Informatics

All objectives set for 2015 were reached except for the migration to MyIntracom which is still ongoing and expected to be finalised in the second quarter of 2016 and additional development of FinSJ which is also expected to be finalised in the second quarter of 2016.

Information document management

All objectives were reached except for the migration to MyIntracom as described under Informatics above.

2. MANAGEMENT AND INTERNAL CONTROL

Assurance is an objective examination of evidence for the purpose of providing an assessment of the effectiveness of risk management, control and governance processes.

This examination is carried out by management, who monitors the functioning of the internal control systems on a continuous basis, and by internal and external auditors. Its results are explicitly documented and reported to the Director-General. The reports produced are:

the reports by AOSDs;

the reports from Authorising Officers in DIGIT managing budget appropriations in cross-delegation;

the contribution of the Internal Control Coordinator, including the results of internal control monitoring at the DG level;

the observations and the recommendations reported by the Internal Audit Service (IAS);

the observations and the recommendations reported by the European Court of Auditors (ECA).

This section reports the control results and other relevant elements that support managements' assurance on the achievement of the internal control objectives. It is structured in three separate sections:

- 1) The DG's assessment of its own activities for the management of its resources;
- 2) The assessment of the activities carried out by other entities to which the Legal Service has entrusted budget implementation tasks; and
- 3) The assessment of the results of internal and external audits, including the implementation of audit recommendations.

2.1 Control results

This section reports and assesses the elements identified by management that support the assurance on the achievement of the internal control objectives⁴. The DG's assurance building and materiality criteria are outlined in the AAR Annex 4. Annex 5 outlines the main risks together with the control processes aimed to mitigate them and the indicators used to measure the performance of the control systems.

The Legal Service is not the lead service for any policy or programs; hence all expenditures of the Legal Service are administrative. In 2015, the Legal Service paid a total amount of 3.3 million € for external legal fees and for costs to successful parties for their legal fees (see below for the split).

There are a few situations in which the Legal Service needs to contract an external law firm or legal specialist. The most common situations are court cases in a national court and hence, a nationally recognised lawyer or law firm has to be contracted. There are also situations where expert knowledge has to be acquired or, in a few cases, there is a need for a particular language skill. For the contracting of external lawyers and experts, the Legal Service applies the low value procurement procedure. The total amount for external legal fees in 2015 was 2.3 million €.

For the cases lost in 2015, the Legal Service has been obliged by decisions of the courts to pay legal fees of the successful parties for a total of 1.0 million €.

The Legal Service paid 0.6 million € on mission expenses in 2015. The major part of the missions undertaken by Legal Service staff is for court presentations at the Court of Justice in Luxembourg.

In the table below, the committed and paid amounts in 2015 are presented:

Activity	Commitments in 2015	Payments in 2015
Quality of Legislation	0.2 million €	0.1 million €
Legal advice, litigation and infringements	4.0 million €	
External lawyers and experts		2.3 million €
Cases lost – fees		1.0 million €
Administrative costs		
Missions	0.5 million €	0.4 million €
Other administrative expenses	0.4 million €	0.5 million €
TOTAL	5.1 million €	4.3 million €

Table: Committed and paid amounts per activity in 2015

⁴ Effectiveness, efficiency and economy of operations; reliability of reporting; safeguarding of assets and information; prevention, detection, correction and follow-up of fraud and irregularities; and adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programs as well as the nature of the payments (FR Art 32).

Coverage of the Internal Control Objectives and their related main indicators

- **Control effectiveness as regards legality and regularity**

The Legal Service has set up internal control processes aimed to ensure the adequate management of the risks relating to the legality and regularity of underlying transactions, taking into account the nature of the payments concerned. The control objective is to ensure that the measured error rate does not exceed 2% annually.

In order to reach this conclusion, the Legal Service reviews the reporting of exceptions and non-compliance events, defined as control overrides or deviations from policies and procedures, and the results of the ex post controls and supervisor activities.

In the context of the protection of the EU budget, at the Commission's corporate level, the Legal Service' estimated overall amounts at risk and their estimated future corrections are consolidated.

For the Legal Service, the estimated overall amount at risk⁵ for the 2015 payments made is than 46.000 €. This is the AOD's best, conservative estimation of the amount of expenditure⁶ authorised during the year (4.3 M €) not in conformity with the applicable contractual and regulatory provisions at the time the payment is made.

This expenditure will be subsequently subject to ex-post controls and a sizeable proportion of the underlying error will be detected and corrected in successive years. The conservatively estimated future corrections⁷ for those 2015 payments made are 9.000 €. This is the amount of errors that the DG conservatively estimates to identify and correct from controls that it will implement in successive years.

Legal Service	Scope: payments made (FY; €)	Error Rate (%)	Amount at risk (FY; €)	Estimated future corrections (FY; €)
ABB or other activity-level	as per AAR annex 3, table 2	Detected error rate, or equivalent estimate/proxy	= (2) x (3)	Avg % since 2009 [e.g. 2.0%], applied to FY payments made
Legal Fees	2.3 M €	1.08 %	25.000 €	0.23%, or 5.000 €
Cost for lost cases	1.0 M €	n/a	-	-
Codification	0.1 M €	0.0	-	-
Administrative	0.9 M €	n/a	-	-
Overall	4.3 M €	1.08 %	46.000 €	9.000 €

⁵ In order to calculate the weighted average error rate (AER) for the total annual expenditure in the reporting year, detected, estimated or proxy error rates have been used (not the RER).

⁶ For executive agencies, the weighted average error rate is based only on the operational expenditure without the subsidy from the parent DGs.

⁷ This estimate is based on past performance, namely on the average recoveries and financial corrections (ARC) implemented since 2009 and applied to the payments of the year. The DG has adjusted this in view of the specificities of the DG's control system, [reason/argument: e.g. data includes ex-ante control elements, data includes exceptional corrections, past years data less relevant for current MMF, etc], with a view to maintaining the conservative character of the estimation.

- ***Efficiency and Cost-effectiveness***

Based on an assessment of the most relevant key indicators and control results, the Legal Service has assessed the cost-effectiveness and the efficiency of the control system and reached a positive conclusion.

The Legal Service quantifies the costs of the resources and inputs required for carrying out the controls described in annex 5 and estimates, is so far as possible, their benefits in terms of the number of errors and irregularities prevented, detected and corrected by these controls.

The Legal Service with its flat organisational structure has chosen a centralised financial circuit. The number of staff involved in the financial circuit is limited and all commitments and payments follow the same procedures. The circuit complies with the baseline requirements of the Financial Regulation. It has been estimated that 10% of the human resources in the Financial Cellule are attributed to controls in the Procurement procedure and the financial circuit in addition to base line controls as required by the Financial Regulation such as the four-eye principle.

The Internal Control Coordinator undertakes a review of reported exceptions to ICS 8 and performs an ex-post analysis of the expenditure accounts once the accounts are closed and submitted for reporting for the AAR as well as supervisory measures, if deemed justified. It has been estimated to be equivalent to 10% of a full time staff.

In total, the costs for controls represent 30% of a full time post, e.g. approximately 40.000 €, or ~1% of total expenditure.

Given the total payments of 4.3 million € in 2015 of which 3.3 million € was paid for contracted legal expertise and the error rate in the accounts of 1.2% and, furthermore, the fact that there were an amount of 3.000 € for recovery orders issued for unduly paid amounts by the Legal Service, management considers that the measures taken, and which are described above, comply with baseline criteria and that this gives sufficient assurance of sound financial management, hence additional controls are considered neither to be efficient nor to be effective.

Based on the organisational structure and the level of the Legal Service expenditure, it has chosen the most appropriate financial circuit and performs controls in line with the base line requirements. Management of the Legal Service concludes that the measures put in place have been sufficient to keep the error rates at a low level.

- ***Fraud prevention and detection***

The Legal Service has developed its anti-fraud strategy as foreseen in the Commission's overall anti-fraud strategy and which was approved by the Director General on January 7, 2014 and communicated to all staff shortly thereafter. In 2015, several notes, guidance and manuals were issued on topics with close relationship to fraud.

In the Legal Service, with its limited budget spending, management attention to fraud exposure is within the fields of the sensitive information it comes in contact with during daily operations and the risk of staff not acting in accordance with professional codes of conduct. These aspects are covered in the professional training of the staff of the Legal Service, through regular awareness raising activities on all levels.

The Legal Service follows closely its main operational spending where legal fees are paid to external legal experts and its mission expenditure covering staff presenting court cases to the Courts of the Union.

There were no discovered or reported incidents of fraud for further investigation to OLAF in 2015.

The anti-fraud strategy is scheduled for update by end of 2016. Its implementation is being monitored and reported to management. The anti-fraud strategy is an effective tool and fraud awareness has increased for all staff in the Legal Service.

Management of the Legal Service concludes that the anti-fraud controls are effective.

- ***Other control objectives: safeguarding of assets and information, reliability of reporting***

The 2014 initiative by the Legal Service management to improve guidance ethics and handling of sensitive information continued in 2015. Several notes, manuals and guidelines were issued and all teams were requested to make sure all staff were aware of these documents and that they were discussed among all staff. Management consider the actions taken to have been effective and efficient and that they have contributed to an enhanced awareness of ethical aspects and how to handle sensitive information in daily work by all staff in the Legal Service.

In 2015, a Manual to all Legal Service staff on Ethics was adopted.

Management of the Legal Service assesses all incidents of potential leaks of sensitive information and potential breaches of the ethics guidelines. In 2015, there were no reported breaches of the ethical guidelines by Legal Service staff.

2.2 Audit observations and recommendations

The Legal Service is audited by both internal and external independent auditors, by the Commission internal audit service (IAS) and the European Court of Auditors (ECA).

The remaining five recommendations from the IAS **audit on the Handling of sensitive information** were implemented before end of 2015.

In 2015, the **audit report on Management of Court Cases** was issued. The recommendations were accepted by management and are scheduled to be implemented before the end of 2016. Hence, at year end 2015 there are three very important recommendations outstanding namely:

- Recommendation 1 'Rules and Procedures'.

Identified risks: The audit revealed that certain notes on litigation rules and procedures are outdated, not kept up to date or obsolete. The risks related to outdated instructions may lead to deficient handling of court cases by the agents. Absence of clear requirements for the mentoring of newcomers may negatively affect the quality of the on the job tuition.

Recommendation: The existing instruction notes of the SJ should be reviewed and updated as appropriate. Their updated content should be consolidated (codified) in a single repository (e.g. 'vademecum') available online, maybe in the context of the upcoming migration to MyIntracomm), where also future instructions should be systematically integrated. All staff dealing with Union court cases should be made aware of the location and features of this repository.

The objectives of the mentoring scheme in the SJ should be clearly defined, its application should be formalised and guidance should be made available to the mentors.

The rule on minimum, seniority within assigned teams should be subject to specific instructions adequately disseminated to all staff (e.g. included in the 'welcome pack' for

newcomers and a would-be 'vademeccum'). The assistant should record instances where this minimum, seniority rule cannot be complied with, cf. the exception reporting procedure.

Action plan: The Legal Service has reviewed the existing notes and instructions on litigation, updated them and started to consolidate them in a single document which will, after further internal discussion and finalisation, be made available to all staff at an easily visible place on the intranet and updated as needed. It will also be made available to newcomers at their welcome session in the Legal Service.

- Recommendation 2 'Case review'.

Identified risks: The audit revealed that court submissions are not systematically reviewed before they are lodged. Documents not carefully reviewed are more prone to contain errors or omissions that may eventually affect the outcome of a case and the reputation of the SJ and, as a consequence, that of the Commission

Recommendation: The already widespread practice that documents to the courts are reviewed by at least one peer or superior before their submission, should be generalised, if needs be allowing for exceptions along with a procedure to permit and record this; this would also help implement the instructions in *Relevé des points de la reunion des chefs de file*, 27/10/2014.

As already done in many teams, the practice of systematically discussing all new cases in the weekly team meetings should also be generalised and recorded in the minutes.

Action plan: The guide on litigation which is currently being finalised will contain rules aimed at ensuring a high quality of all submissions produced by requiring new cases to be presented and discussed at team meetings and by entrusting heads of teams to take appropriate measures to have submissions reviewed in important cases.

- Recommendation 3 Monitoring of deadlines'.

Identified risks: The audit indicated that only a minority of actual deadlines are recorded in the Legal Service data bases by the lawyers. Consequently, widespread other means to follow up on deadlines are used in SJ.

Recommendation: *Base Contentieux* should be used as intended by management and actual deadlines should be entered, hence making BC a reliable source of information on case developments. It should be considered whether additional reporting facilities should be added to BC (e.g. customisable exports based on the *ad hoc* tables actually used in the teams) to encourage SJ members to use the system.

If management considers the rule about submission one day before the deadline to be important, specific fields ought to be added for that purpose (in the *étape* of the *déroulement* section).

SJ management should organise a closer monitoring by the teams of their infringements internal deadlines.

Action plan: The Legal Service has scheduled to launch several actions in 2016 to increase awareness of the functionalities in the data bases and to follow its implementation by various controls.

In the **yearly discharge of the ECA**, one transaction in the Legal Service was selected for analysis. The final report was received in February 2016. Two minor findings of the ECA have been addressed by the Legal Service.

The internal auditor of the Commission has concluded that the internal control systems audited are overall working satisfactorily although a number of very important findings remain to be addressed in line with the agreed action plans (see above: audit report on Management of Court cases).

Management of the Legal Service concludes that there are no identified weaknesses which may have a significant impact on the assurance, neither with a likely impact in quantitative nor in qualitative terms.

2.3 Assessment of the effectiveness of the internal control systems

The Commission has adopted a set of internal control standards, based on international good practice, aimed to ensure the achievement of policy and operational objectives. In addition, as regards financial management, compliance with these standards is a compulsory requirement.

The Legal Service has put in place the organisational structure and the internal control systems suited to the achievement of the policy and control objectives, in accordance with the standards and having due regard to the risks associated with the environment in which it operates.

The Legal Service annually assesses the effectiveness of its key internal control systems, including the processes carried out by implementing bodies in accordance with the applicable Commission guidance. A questionnaire is prepared and customised for each Directorate. The questionnaire is discussed individually with each Director. This method has proven to be very efficient for ensuring coherence and understanding. During the discussions with the Directors, aspects are identified which need to be passed on to all staff in the Directorates. The outcome is summarised and reported to the Director General, the conclusions serve as input for further improvements.

There were no new elements identified for the Risk Register of the Legal Service. Given the limited budget allocation to the Legal Service, the main inherent risk is reputational. Management pay special attention to the most important aspect which is to ensure that all legal advice and legal representations are provided within the set deadlines. The high level of court cases won and the low number of consultations which were reissued with a changed opinion confirms a high standard and quality of the work performed by the staff in the Legal Service.

Two working groups dealing with ethical aspects and the handling of sensitive information presented in 2014 and 2015 several manuals, guidelines and other instructions to the staff of the Legal Service. At the end of the year, management were reminded of these documents and were instructed to initiate information campaigns in all teams. The closing of all outstanding recommendations from the IAS audit and consultation followed.

A register is kept of all exceptions in line with the ICS 8 by Internal Control Coordinator (ICC). The ICC reviews this register during the year in order to determine if there are any systemic issues which need to be brought to management's attention. In 2015, 23 financial and five non-financial exceptions were identified. Analysis of these exceptions showed that they had no material financial or reputational impact. Measures have been taken to improve the internal control systems to avoid repetition of such exceptions.

In conclusion, the internal control standards are effectively implemented and functioning.

2.4 Conclusions as regards assurance

The main objective of the Legal Service is to provide timely and good quality legal services, management focus is on its organisational structure and internal procedures including the important elements of supervision and monitoring. Throughout the years, management has invested in various awareness raising actions with the purpose to improve compliance with good administrative behaviour and with the procedures related to court proceedings.

Internal rules have been established to ensure that deadlines for consultations as well as for court cases are respected.

To ensure the quality aspects, management has set up a flat organisation ensuring a regular flow of information bottom-up as well as top-down. Each court case and each consultation is distributed to the staff member competent to deal with it and supervised by more senior staff, if needed. Directors ensure in the weekly team meetings that there is knowledge-sharing within the team and central training is organised regularly to share knowledge throughout the Legal Service.

Independently, there is a horizontal function with the purpose of ensuring coherence and quality. Certain consultations and court cases are selected for bilateral coaching and advice.

The aspects as mentioned above are those prioritised in the Legal Service and receive full management attention.

Management also ensures that it complies with all financial aspects and internal controls for its budget consumption, which has been outlined in section 2 and 3.

The information reported in Sections 2.1, 2.2 and 2.3 stems from the results of management and auditor monitoring contained in the reports listed. These reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director-General of the Legal Service.

The expenditure of the Legal Service is mainly for external lawyers for court cases or when national law expertise is needed and was in total EUR 4.3 million in 2015. Contracts are signed for all external legal services, the error rate in payments is less than 1.08% and the average payment delay is 11 days, which compared very favourably to the Commission average payment delay of 18 days.

In view of the control results and all other relevant information available, the AOD's best estimate of the risks relating to the legality and regularity for the expenditure authorised during the reporting year is between 0% and 2%, which implies an amount at risk of below EUR 86 000.

The internal control strategy foresees the implementation of further controls during subsequent years aimed to detect and correct these errors. It is not possible to identify the specific errors and amounts which will be effectively corrected in the coming years, yet the implementation of these corrective controls since 2009 have resulted on average in recoveries and financial corrections representing a yearly average of 608 €, or 0.01%. This provides the best available indication of the corrective capacity of the ex-post controls systems implemented by the DG.

Taking into account the conclusions of the review of the elements supporting assurance and the expected corrective capacity of the controls to be implemented in subsequent years, it is possible to conclude that the internal control systems implemented by the Legal Service provide sufficient assurance to adequately manage the risks relating to the

legality and regularity of the underlying transactions. Furthermore, it is also possible to conclude that the internal control systems provide sufficient assurance with regards to the achievement of the other internal control objectives.

Statement on the comprehensiveness, completeness (as regards the coverage of the budget delegated to the AOD, i.e. that information has been reported for all significant budget areas) and the reliability of the information reported in Section 2.

Overall Conclusion

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and are working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

3. Declaration of Assurance

DECLARATION OF ASSURANCE

I, the undersigned,

Director-General of the Legal Service

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view⁸.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls and the opinion of the Internal Auditor on the state of control.

Confirm that I am not aware of anything not reported here which could harm the interests of the institution.

Brussels at March 22, 2016



Luis ROMERO REQUENA

⁸ True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG/Executive Agency.

ANNEXES

ANNEX 1: Statement of the Resources Director

I declare that in accordance with the Commission's communication on clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission⁹, I have reported my advice and recommendations to the Director-General on the overall state of internal control in the Legal Service.

I hereby certify that the information provided in Section 2 of the present AAR and in its annexes is, to the best of my knowledge, accurate and exhaustive."

Brussels at March 20, 2016


William O'LEARY

⁹ Communication to the Commission: Clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission; SEC(2003)59 of 21.01.2003.

ANNEX 2: Human and financial resources

Human Resources by ABB activity				
Code ABB Activity	ABB Activity	Establishment Plan posts	External Personnel	Total
250107	Quality of Legislation	83		83
250108	Legal advice, litigation and infringements	298	32	330
AWBL - 10	Policy strategy and coordination for the Legal Service	8		8
AWBL - 11	Administrative support for the Legal Service	31		31
Total		420	32	452

General remark: the above data rely on the snapshot of Commission personnel actually employed in each DG/service as of 31 December of the reporting year. These data do not necessarily constitute full-time-equivalents throughout the year.

Implementation of decentralised administrative authorised operations

Budget line	Credits	Commitments	Payments	% EXECUTION
25.010211.00.01.10	445.825	445.825	370.537	
25.010211.00.01.30	400	400	100	
25.010211.00.02.20	3.000	3.000	1.583	
25.010211.00.02.40	17.800	17.800	16.723	
25.010211.00.03				
25.010211.00.04				
25.010211.00.05	329.425	329.208	113.582	
25.010211.00.06	132.879	132.879	99.343	
Total	929.329	929.112	601.868	99,98%

Main risks It may happen (again) that...	Mitigating controls	How to determine coverage, frequency and depth	How to estimate the costs and benefits of controls	Control indicators
B - NEED ASSESSMENT & DEFINITION OF NEEDS: Not Applicable	n/a			
<p>C - SELECTION OF THE OFFER & EVALUATION: Not Applicable</p> <p>For Quality of Legislation: LS rely on the Framework contract procedure managed by OPOCE.</p> <p>For Legal Advice, Litigation and Infringements: The LS uses negotiated procedures without publication of a contract notice in the Official Journal according to the Article 134 RAP.</p>	<p>Framework contract:</p> <ol style="list-style-type: none"> 1. LS is formally requested to approve commitments by the DGs/Services before making use of the framework contract. 2. Monthly review in the LS of the total commitments of the framework contract. <p>Quality of Legislation:</p> <ol style="list-style-type: none"> 1. Call for tender is managed by another DG (OPOCE) which has the knowledge and capacity to undertake the procedure. 2. The contract is signed by the Legal Service after controls by the Financial Cellule and the Internal Control Coordinator. 3. Controls of the invoices received by the operational directorate. <p>Legal Advice, litigation, infringements:</p> <ol style="list-style-type: none"> 1. Approval by the legal coordinator and the Director General for all contracts for legal assistance (total of 5 to 6 persons). 2. Quarterly management review of the contractors and the contracted amounts. 3. Yearly completeness check by all Authorising Officers. 	<p>There is one framework contract, i.e. 100% is controlled.</p> <p>Monthly review of 100% of consumed part of the framework contract.</p> <p>There is one framework contract, i.e. 100% in controlled.</p> <p>All invoices are controlled ('conforme aux faits' and 'bon à payer').</p> <p>100 % of the contracts are controlled before signature.</p> <p>All invoices are controlled ('conforme aux faits' and 'bon a payer').</p> <p>A certain percentage of the contracts are controlled.</p>	<p>Given the limited budget in general and that there is only one framework contract; the Legal Service has made a global estimate of the costs of controls performed by the Financial Cellule, the Internal Control Coordinator and Management.</p> <p>The total costs for controls have been estimated to take up the equivalent of 30% of a full time staff.</p> <p>The benefits are: A non-existence of litigation on Legal Service contracts. No recovery orders for erroneous contracting or payments.</p>	<p>Monthly review of consumption of the framework contract</p> <p>Number of litigation in contracts</p> <p>Number of Recovery Orders on contracted and paid legal assistance.</p> <p>Number of errors detected by ICC, SIAC and IAS.</p> <p>Number of litigation in contracts</p> <p>Number of Recovery Orders on contracted and paid legal assistance.</p> <p>Quarterly review of the contracting of legal assistance</p> <p>Number of errors detected by ICC, SIAC and IAS.</p>

Stage 2: Financial Transactions

Main control objectives: Ensuring that the implementation of the contract is in compliance with the signed contracts.

Main risks It may happen (again) that...	Mitigating controls	How to determine coverage, frequency and depth	How to estimate the costs and benefits of controls	Control indicators
The services foreseen are not, totally or partially, provided in accordance with the requirements foreseen in the contract and/or the amounts paid exceed that due in accordance with the applicable contractual and regulatory provisions.	Operation authorisation by the AO.	100% of the contracts are controlled, including only value adding checks.	Controls performed comply with the base line requirements of the Financial Regulation.	Number of reported ICS n°8 compared to the total number of signed contracts in a year.

Stage 3: Supervisory measures

Main control objectives: Ensuring that any weakness in the procedures (financial transactions) is detected and corrected.

Main risks It may happen (again) that...	Mitigating controls	How to determine coverage, frequency and depth	How to estimate the costs and benefits of controls	Control indicators
An error or non-compliance with regulatory and contractual provisions, including technical specifications, or a fraud is not prevented, detected or corrected by ex-ante control, prior to payment.	Supervisory desk review of procurement and financial transactions. Review of ex post results Review of exceptions reported	100% of all contracts 100% at least once a year Depth: look for any systemic problem in the procurement procedure in the financial transaction procedure and any weakness in the selection process of the ex post control. 100% at least once a year Depth: look for any weakness in the procedures (procurement and financial transactions).	Costs: estimation of cost of staff involved. Benefits: Amounts detected associated with fraud & error. Deterrents & systematic weakness corrected.	Effectiveness: Amounts associated with errors detected (related to fraud, irregularities and error). In % over total checked. N° system improvements made. Efficiency: Costs of the ex post controls and supervisory measures with respect to the 'benefits'. Average cost of an ex-post Control.

Annex 3 Financial Reports - DG SJ - Financial Year 2015**Table 1 : Commitments****Table 2 : Payments****Table 3 : Commitments to be settled****Table 4 : Balance Sheet****Table 5 : Statement of Financial Performance****Table 6 : Average Payment Times****Table 7 : Income****Table 8 : Recovery of undue Payments****Table 9 : Ageing Balance of Recovery Orders****Table 10 : Waivers of Recovery Orders****Table 11 : Negotiated Procedures (excluding Building Contracts)****Table 12 : Summary of Procedures (excluding Building Contracts)****Table 13 : Building Contracts****Table 14 : Contracts declared Secret**

Additional comments

TABLE 1: OUTTURN ON COMMITMENT APPROPRIATIONS IN 2015 (in Mio €)					
			Commitment appropriations authorised	Commitments made	%
			1	2	3=2/1
Title 25 Commission's policy coordination and legal advice					
25	25 01	Administrative expenditure of the 'Commission's policy coordination and legal advice' policy area	5.71	5.06	88.48 %
Total Title 25			5.71	5.06	88.48%
Total DG SJ			5.71	5.06	88.48 %

* Commitment appropriations authorised include, in addition to the budget voted by the legislative authority, appropriations carried over from the previous exercise, budget amendments as well as miscellaneous commitment appropriations for the period (e.g. internal and external assigned revenue).

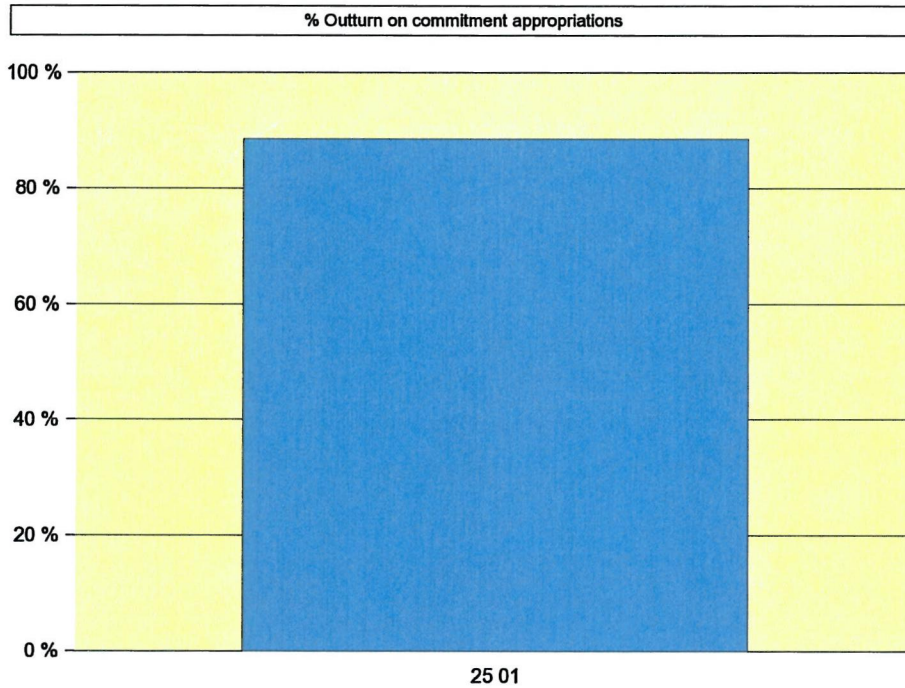


TABLE 2: OUTTURN ON PAYMENT APPROPRIATIONS IN 2015 (in Mio €)					
Chapter			Payment appropriations authorised *	Payments made	%
			1	2	3=2/1
Title 25 Commission's policy coordination and legal advice					
25	25 01	Administrative expenditure of the 'Commission's policy coordination and legal advice' policy area	7.75	4.3	55.46 %
Total Title 25			7.75	4.3	55.46%
Total DG SJ			7.75	4.3	55.46 %

* Payment appropriations authorised include, in addition to the budget voted by the legislative authority, appropriations carried over from the previous exercise, budget amendments as well as miscellaneous payment appropriations for the period (e.g. internal and external assigned revenue).

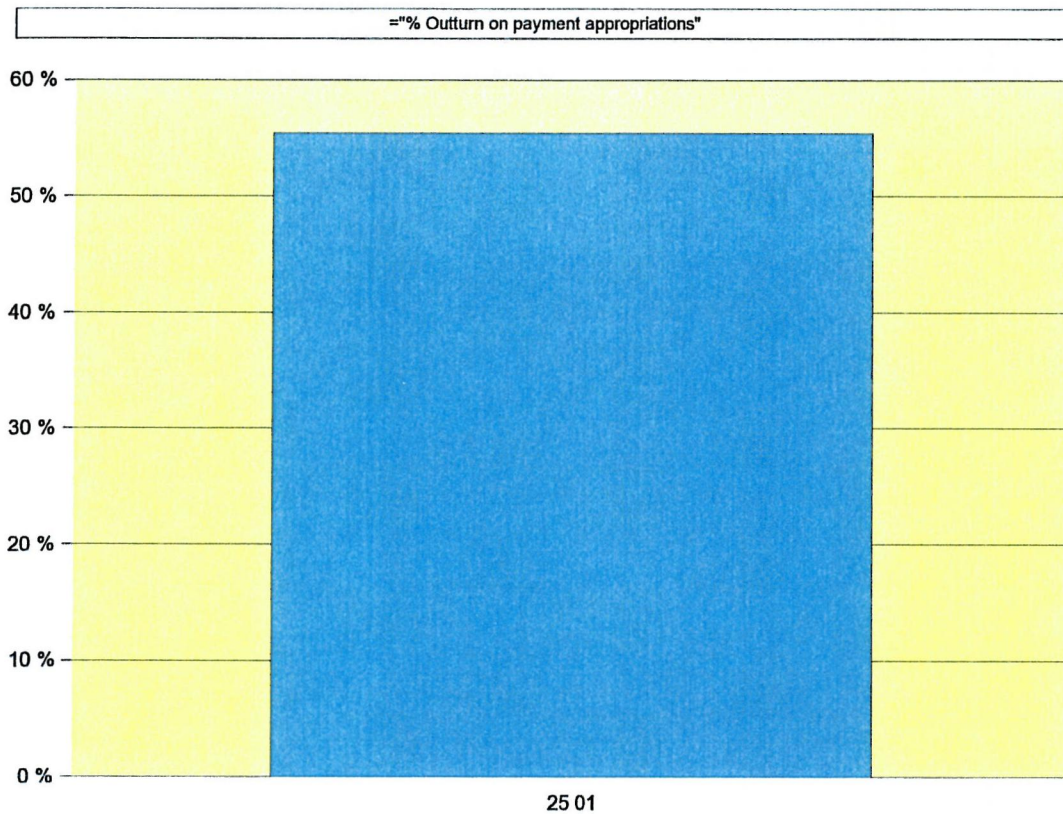
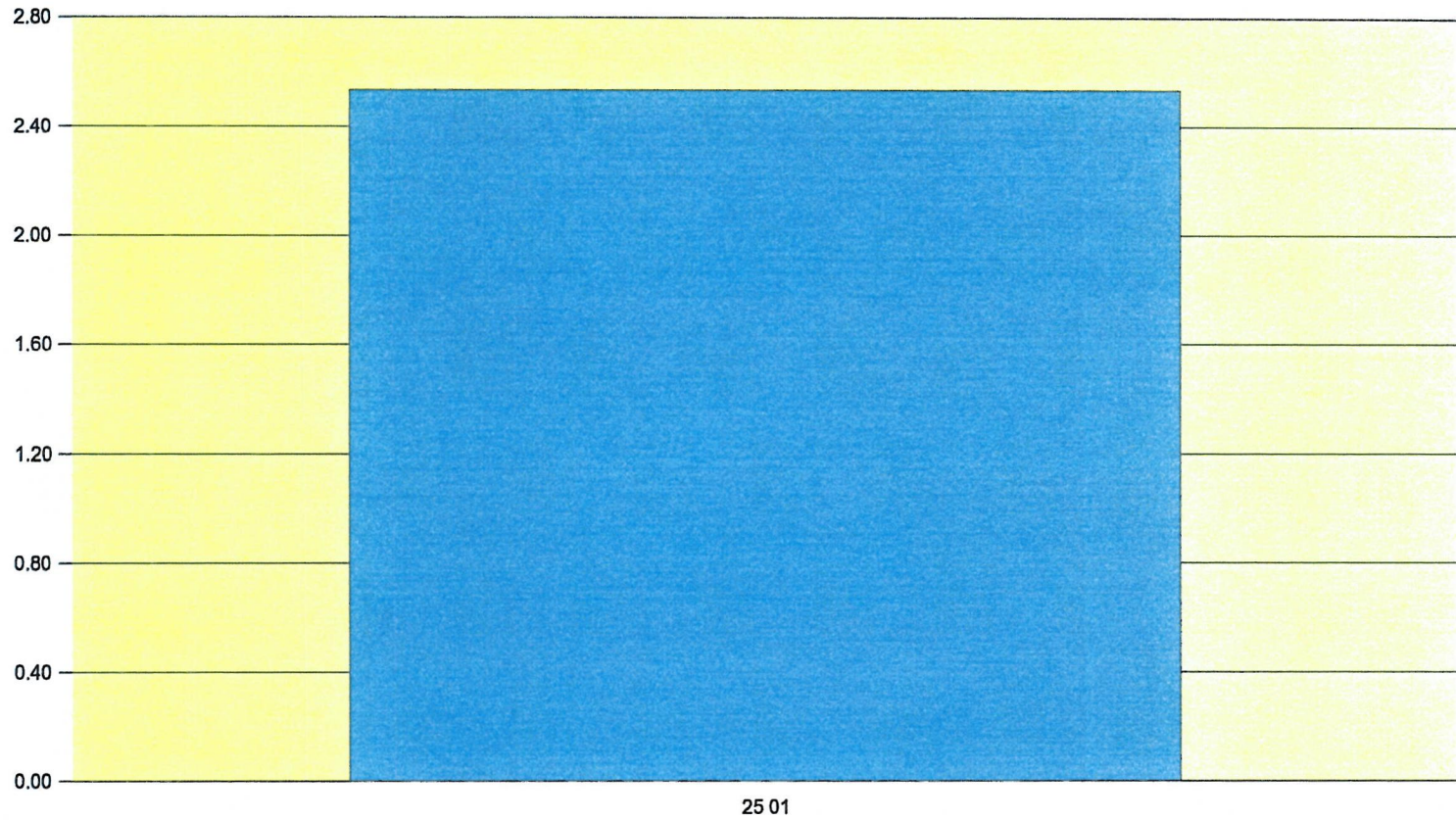


TABLE 3 : BREAKDOWN OF COMMITMENTS TO BE SETTLED AT 31/12/2015 (in Mio €)									
Chapter			2015 Commitments to be settled				Commitments to be settled from financial years previous to 2015	Total of commitments to be settled at end of financial year 2015 (incl corrections)	Total of commitments to be settled at end of financial year 2014 (incl. corrections)
			Commitments 2015	Payments 2015	RAL 2015	% to be settled			
			1	2	3=1-2	4=1-2/1	5	6=3+5	7
Title 25 : Commission's policy coordination and legal advice									
25	25 01	Administrative expenditure of the 'Commission's policy coordination and legal advice' policy area	5.06	2.52	2.53	50.12 %	0.00	2.53	2.04
Total Title 25			5.06	2.52	2.53	50.12%	0	2.53	2.04
Total DG SJ			5.06	2.52	2.53	50.12 %	0	2.53	2.04

Note : The figures are those related to the provisional accounts and not yet audited by the Court of Auditors

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= "Breakdown of Commitments remaining to be settled (in Mio EUR)"



Note : The figures are those related to the provisional accounts and not yet audited by the Court of Auditors

TABLE 4 : BALANCE SHEET

BALANCE SHEET	2015	2014
A.II. CURRENT ASSETS	570,513.68	487,148.45
A.II.4. Exchange Receivables	570,383.68	487,148.45
A.II.5. Non-Exchange Receivables	130.00	0.00
ASSETS	570,513.68	487,148.45
P.III. CURRENT LIABILITIES	-3,325,656.38	-3,328,706.65
P.III.2. Short-term provisions	-2,813,871.89	-2,813,871.89
P.III.4. Accounts Payable	-120,306.94	-123,357.21
P.III.5. Accrued charges and deferred incom	-391,477.55	-391,477.55
LIABILITIES	-3,325,656.38	-3,328,706.65
NET ASSETS (ASSETS less LIABILITIES)	-2,755,142.7	-2,841,558.20

P.I.2. Accumulated Surplus / Deficit	6,538,483.39	3,434,826.61
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Non-allocated central (surplus)/deficit*	-3,783,340.69	-593,268.41
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TOTAL	0.00	0.00
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It should be noted that the balance sheet and statement of financial performance presented in Annex 3 to this Annual Activity Report, represent only the assets, liabilities, expenses and revenues that are under the control of this Directorate General. Significant amounts such as own resource revenues and cash held in Commission bank accounts are not included in this Directorate General's accounts since they are managed centrally by DG Budget, on whose balance sheet and statement of financial performance they appear. Furthermore, since the accumulated result of the Commission is not split amongst the various Directorates General, it can be seen that the balance sheet presented here is not in equilibrium.

Additionally, the figures included in tables 4 and 5 are provisional since they are, at this date, still subject to audit by the Court of Auditors. It is thus possible that amounts included in these tables may have to be adjusted following this audit.

TABLE 5 : STATEMENT OF FINANCIAL PERFORMANCE

STATEMENT OF FINANCIAL PERFORMANCE	2015	2014
II.1 REVENUES	-775,317.9	-1,568,964.2
II.1.1. NON-EXCHANGE REVENUES		-855,726.12
II.1.1.6. OTHER NON-EXCHANGE REVEN		-855,726.12
II.1.2. EXCHANGE REVENUES	-775,317.9	-713,238.08
II.1.2.2. OTHER EXCHANGE REVENUE	-775,317.90	-713,238.08
II.2. EXPENSES	3,945,463.81	4,672,620.98
II.2. EXPENSES	3,945,463.81	4,672,620.98
II.2.10. OTHER EXPENSES	3,944,945.89	4,672,620.98
II.2.8. FINANCE COSTS	517.92	
STATEMENT OF FINANCIAL PERFORMANCE	3,170,145.91	3,103,656.78

Explanatory Notes (facultative):

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It should be noted that the balance sheet and statement of financial performance presented in Annex 3 to this Annual Activity Report, represent only the assets, liabilities, expenses and revenues that are under the control of this Directorate General. Significant amounts such as own resource revenues and cash held in Commission bank accounts are not included in this Directorate General's accounts since they are managed centrally by DG Budget, on whose balance sheet and statement of financial performance they appear. Furthermore, since the accumulated result of the Commission is not split amongst the various Directorates General, it can be seen that the balance sheet presented here is not in equilibrium.

Additionally, the figures included in tables 4 and 5 are provisional since they are, at this date, still subject to audit by the Court of Auditors. It is thus possible that amounts included in these tables may have to be adjusted following this audit.

TABLE 6: AVERAGE PAYMENT TIMES FOR 2015 - DG SJ

Legal Times							
Maximum Payment Time (Days)	Total Number of Payments	Nbr of Payments within Time Limit	Percentage	Average Payment Times (Days)	Nbr of Late Payments	Percentage	Average Payment Times (Days)
30	706	684	96.88 %	10.29	22	3.12 %	44.45

Total Number of Payments	706	684	96.88 %		22	3.12 %	
Average Payment Time	11.36			10.29			44.45

Target Times							
Target Payment Time (Days)	Total Number of Payments	Nbr of Payments within Target Time	Percentage	Average Payment Times (Days)	Nbr of Late Payments	Percentage	Average Payment Times (Days)
30	115	104	90.43 %	10.95	11	9.57 %	44.91

Total Number of Payments	115	104	90.43 %		11	9.57 %	
Average Payment Time	14.2			10.95			44.91

Suspensions							
Average Report Approval Suspension Days	Average Payment Suspension Days	Number of Suspended Payments	% of Total Number	Total Number of Payments	Amount of Suspended Payments	% of Total Amount	Total Paid Amount
0	71	87	12.32 %	706	689,556.98	7.82 %	8,813,461.66

Late Interest paid in 2015			
DG	GL Account	Description	Amount (Eur)
SJ	65010000	Interest expense on late payment of charges	517.92
			517.92

Note : The figures are those related to the provisional accounts and not yet audited by the Court of Auditors

TABLE 7 : SITUATION ON REVENUE AND INCOME IN 2015

Chapter		Revenue and income recognized			Revenue and income cashed from			Outstanding balance
		Current year RO	Carried over RO	Total	Current Year RO	Carried over RO	Total	
		1	2	3=1+2	4	5	6=4+5	
57	OTHER CONTRIBUTIONS AND REFUNDS IN CONNECTION WITH THE ADMINISTRATIVE OPERATION OF THE INSTITUTION	749,528.8	466,152.13	1,215,680.93	477,726.4	178,837.17	656,563.57	559,117.36
90	MISCELLANEOUS REVENUE	0	22,496.32	22,496.32	0	9,600	9,600	12,896.32
Total DG SJ		749,528.8	488,648.45	1,238,177.25	477,726.4	188,437.17	666,163.57	572,013.68

Note : The figures are those related to the provisional accounts and not yet audited by the Court of Auditors

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TABLE 8 : RECOVERY OF PAYMENTS
 (Number of Recovery Contexts and corresponding Transaction Amount)

INCOME BUDGET RECOVERY ORDERS ISSUED IN 2015 Year of Origin (commitment)	Error		Total undue payments recovered		Total transactions in recovery context (incl. non-qualified)		% Qualified/Total RC	
	Nbr	RO Amount	Nbr	RO Amount	Nbr	RO Amount	Nbr	RO Amount
No Link	1	3,000	1	3,000.00	120	786,987.54	0.83%	0.38%
Sub-Total	1	3,000	1	3,000.00	120	786,987.54	0.83%	0.38%

EXPENSES BUDGET	Error		Irregularity		OLAF Notified		Total undue payments recovered		Total transactions in recovery context (incl. non-qualified)		% Qualified/Total RC	
	Nbr	Amount	Nbr	Amount	Nbr	Amount	Nbr	Amount	Nbr	Amount	Nbr	Amount
INCOME LINES IN INVOICES												
NON ELIGIBLE IN COST CLAIMS												
CREDIT NOTES	13	43,266.54					13	43,266.54	25	81,672.24	52.00%	52.98%
Sub-Total	13	43,266.54					13	43,266.54	25	81,672.24	52.00%	52.98%
GRAND TOTAL	14	46,266.54					14	46,266.54	145	868,659.78	9.66%	4.98%

Note : The figures are those related to the provisional accounts and not yet audited by the Court of Auditors. The provisional closure will be based on the recovery context situation at 31/01/2016.

TABLE 9: AGEING BALANCE OF RECOVERY ORDERS AT 31/12/2015 FOR SJ

	Number at 01/01/2015	Number at 31/12/2015	Evolution	Open Amount (Eur) at 01/01/2015	Open Amount (Eur) at 31/12/2015	Evolution
1997	1	1	0.00 %	22,496.32	12,896.32	-42.67 %
2001	3	2	-33.33 %	19,521.61	14,873.61	-23.81 %
2005	1	1	0.00 %	5,788.91	5,788.91	0.00 %
2007	1	1	0.00 %	13,520.00	13,520.00	0.00 %
2011	3		-100.00 %	1,248.71		-100.00 %
2012	4	2	-50.00 %	11,539.76	2,526.71	-78.10 %
2013	21	14	-33.33 %	249,937.06	200,741.87	-19.68 %
2014	24	9	-62.50 %	164,596.08	49,863.86	-69.71 %
2015		20			271,802.40	
	58	50	-13.79 %	488,648.45	572,013.68	17.06 %

TABLE 10 : RECOVERY ORDER WAIVERS IN 2015 >= EUR 100.000

	Waiver Central Key	Linked RO Central Key	RO Accepted Amount (Eur)	LE Account Group	Commission Decision	Comments

Total DG	
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Number of RO waivers	
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Justifications:

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TABLE 11 : CENSUS OF NEGOTIATED PROCEDURES - DG SJ - 2015

Negotiated Procedure Legal base	Number of Procedures	Amount (€)
Total		

No data to be reported

TABLE 12 : SUMMARY OF PROCEDURES OF DG SJ EXCLUDING BUILDING CONTRACTS

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Additional comments

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No data to be reported

TABLE 13 : BUILDING CONTRACTS

Total number of contracts :	
Total amount :	

Legal base	Contract Number	Contractor Name	Description	Amount (€)

No data to be reported

TABLE 14 : CONTRACTS DECLARED SECRET

Total Number of Contracts :	
Total amount :	

Legal base	Contract Number	Contractor Name	Type of contract	Description	Amount (€)

No data to be reported

ANNEX 4: Materiality criteria

The materiality criteria only apply to the financial management of the Legal Service. It is difficult to determine a materiality level for its court actions and consultations although the impact of these actions can be extremely important for the Institution, both financially and in terms of image.

In this sense, the Legal Service has selected as the materiality threshold 2% of annual appropriations. For 2015 it is set at € 86 000.

However, it still uses a second threshold in its daily management. Any transaction exceeding € 30 000 must be brought to the attention of the Director-General or his deputy and signed by them.

Controls implemented by the Legal Service in its circuits and procedures are designed to detect and correct any errors which may occur.

Corrective measures taken are known by the sub-delegated authorising officers and, as stated above.

No errors which occurred in 2015 were by their nature or frequency considered to be of significant importance.

The Legal Service considers that it has an appropriate level of management and control systems in place. On-going improvements concern mainly tools and the simplification of certain procedures or the rationalisation of certain sub-activities such as centralised monitoring of forced recoveries.



ANNEX 5: Internal Control Template(s) for budget implementation (ICTs)

- Quality of Legislation – procurement direct management
- Legal Advice, Litigation and Infringements – procurement direct management

Stage 1: Procurement

Main control objectives: Effectiveness, efficiency and economy. Compliance (legality and regularity)

Main risks It may happen (again) that...	Mitigating controls	How to determine coverage, frequency and depth	How to estimate the costs and benefits of controls	Control indicators
<p>A - PLANNING: Not Applicable The Legal Service is a horizontal service and has no program or policy spending. For Quality of Legislation: The agenda planning of the Commission sets out the acts to be Codified/undergo Recast. For Legal Advice, Litigation and Infringement: The services rendered are demand driven. There is no proactivity in the area by the Legal Service.</p>	n/a			



ANNEX 6: Implementation through national or international public-sector bodies and bodies governed by private law with a public sector mission (if applicable)

Not applicable to the Legal Service.

ANNEX 7: EAMR of the Union Delegations (if applicable)

Not applicable to the Legal Service.

ANNEX 8: Decentralised agencies (if applicable)

Not applicable to the Legal Service.

ANNEX 9: Evaluations and other studies finalised or cancelled in 2015

Not applicable to the Legal Service.

ANNEX 10: Specific annexes related to "Management of Resources"

Not applicable to the Legal Service.

ANNEX 11: Specific annexes related to "Assessment of the effectiveness of the internal control systems"

Not applicable to the Legal Service.

ANNEX 12: Performance tables

Not applicable to the Legal Service.

