



2019

Annual Activity Report

Annexes

Legal Service

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ANNEX 1: Statement of the Head of Unit in charge of Risk Management and Internal Control

I declare that in accordance with the Commission's communication on the internal control framework¹, I have reported my advice and recommendations on the overall state of internal control in the DG to the Director-General.

I hereby certify that the information provided in the present Annual Activity Report and in its annexes is, to the best of my knowledge, accurate and complete.

Brussels at March 27, 2020,

signed

William O'LEARY
Head of Unit HR BC IF and RMIC

¹ C(2017)2373 of 19.04.2017.

ANNEX 2: Reporting – Human Resources, Better Regulation, Information Management and External Communication

This is the annex of section 2.2 "Other organisational management dimensions".

Human Resources

Objective on HR: The DG deploys effectively its resources in support of the delivery of the Commission priorities and core business, has a competent and engaged workforce, which is driven by an effective and gender-balanced management and which can deploy its full potential within supportive and healthy working conditions.			
Result/Impact indicator	Baseline (2018)	Target	Latest known results as per Annual Activity Report (2019)
Percentage of female representation in middle management	50%	40% ²	60%
First appointment of female managers	(new)	>50%	No published middle management posts in the Legal Service 2019
Percentage of staff who feel that the Commission cares about their well-being (baseline 2014 staff survey)	39,8%	Increase by 2020	46% (2018 Staff Survey)
Staff engagement index (baseline 2014 staff survey)	72%	Increase by 2020	73% (2018 Staff Survey)
<u>Other result indicators</u>			
Organisation of a cycle of specific management training for female lawyers	1 cycle	1 cycle	2 trainings offered, one in French and one in English
Lunch time conferences	19	>10	17
Training in the external contracting procedure	2 trainings held	maintain	4 new staff members trained in 2019 and 5 staff members have been trained in MIPS
Contribution to an increased staff appreciation and well-being by organising various events	12	>10	8
Information of staff survey actions	new action	>2	1, only one could be held due to reorganisation of HR management

Sources: Staff Surveys, DG HR reports, Sysper, MY SJ

Better Regulation

Refer to section 2.2.2 in the Annual Activity Report

External Communication

Refer to section 2.2.4 in the Annual Activity Report

² European Commission target

Information management

The Legal Service has reached its objectives as to document management and made the local intranet, MY SJ accessible to all DGs of the Commission

Objective on Information and knowledge in your DG is shared and reusable by other DGs. Important documents are registered, filed and retrievable.			
Result/Impact indicator	Baseline (2016)	Target	Latest known results as per Annual Activity Report (2019)
Ensuring retrieval of documents	99.96%	99.96%	99.96%
HAN files readable/accessible by all units in the DG	63.75%	>55%	59.54%
HAN files shared with other DGs	0.01%	0%	0.02%
Revamping the overall electronic management activity by making all LS colleagues aware of the huge importance of document management in and for the Legal Service	new action	"Charter" ⁴ of document management in place 4 training sessions	Publication of the LS document management quality standards ⁵ 3 training sessions
Sharing the Legal Service tool Ref2Link with other DGs, services and institutions	new action	Used by several other DGs, Institutions or Member states	Since 2018, Ref2Link is available to the rest of the Commission and to other EU institutions and Member States. Three systems from other DGs or services are using Ref2Link as a building block (Leos for DIGIT, DPMS for SG, XENAT for EP). LinkPad is proposed with the new UI based on Angular to be used outside of the Legal Service. Significant integration projects involving member states and EU services have been initiated (Publication Office, Spanish administration, etc.).
Development of templates for Court procedural documents in all official languages³	new action	15 templates	11 templates available in all official languages
Transfer of infringements cases (paper files) to the Historical Archives. To be fully completed by 2019.	new action	90% of LS infringement files transferred	Target achieved. Transfer completed for the 2004 to 2010 infringement files in which the Commission has initiated the proceedings.
Further implementing e-Domec policy: use of e-signataire	1.80%	50% of documents registered via e-signataire	4.5% an increase from 2.1% in 2018. Management decision taken to maintain physical signatures on documents.

³ ULM Template project aims to ensure that the documents produced by the LS comply with a set of standards regarding the presentation, layout and legal wording, to allow a better communication with the Courts and to provide significant productivity gains.

⁴ "Legal Service document management quality standards"

⁵ The LS document management quality standards have been published on My SJ and disseminated to the
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Data Protection Coordination

The following steps were taken to ensure continued compliance with Regulation (EU) 2018/1725 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies:

- Awareness-raising among Legal Service staff:
 - Communication campaign on My SJ^[4] and distribution of the brochure on “Document Management and Access to Documents” of July 2019 was distributed to all lawyers in the Legal Service (hereafter LS);
 - Data Protection Coordinator training: in addition to existing legal academic background, continuous exchanges with the Commission’s DPO;
 - Data breaches: the business processes, operational procedures and data breach reporting mechanisms are in place. No data breaches have been reported.
- Establishment of a complete inventory of all data processing operations:
 - New records of LS processing operations were produced according to the new model record template.
 - Processing operations requiring transfers of personal data to international organisations: a mapping exercise was completed in the first half of 2019.
- Assessment of compliance with general principles (Art. 4 Reg. 2018/1725), in particular as regards lawfulness, data minimisation and storage limitation:
 - *Lawfulness*: The LS processing operations are carried out in the public interest in accordance with article 5. a) of Regulation (EU) 2018/1725 and the processing is necessary for compliance with legal obligations to which the LS is subject, in accordance with article 5. b) of the same regulation: the LS shall represent the Commission in all litigation and gives legal advice to the Commission in its functions of drafting legislation, conducting international negotiations, acting as guardian of the Treaties and exercising the implementing powers conferred on it by the Union legislator or by the Treaties.
 - *Data minimisation and storage limitation*: The LS ensures the anonymization of pleadings lodged with the Court of Justice and other jurisdictions in the event that the personal data in question is unnecessary for the purposes of the litigation. The Legal Service processing operations related to litigation and legal advice are transferred to the Historical Archives Service of the Commission for permanent preservation. The personal data included in these files are kept for archiving purposes in the public interest. Appropriate technical and organisational measures are in place in order to safeguard the rights and freedoms of the data subjects:
- the access to these data is restricted to the LS Staff;
 - in case of access to document request, the personal data are not disclosed as they are within the scope of the exception regarding the protection of personal data pursuant to Art. 4(1)(b) of Regulation (EU) 1049/2001 (for a period of 30 years after the closure of the file) and by Regulation (CEE, Euratom) 354/83 (after the expiry of the 30 years period). All responses to public access requests are examined by the DPC to ensure compliance with the applicable provision in Regulation 1049/2001.
- Appropriate information provided to the data subjects concerned through concise and intelligible privacy statements: for all the processing operations already covered by the former notifications, concise and intelligible privacy statements are available. The LS external web site, although entirely static, was amended to include the requisite personal data and cookie warnings.
- Establishment, where necessary, of internal rules governing the restrictions of data subjects rights: such restrictions were not considered necessary during a review in Q1 2019 but the situation will be reconsidered in Q3 2020.

Legal Service staff. It is based on the evaluation, finalised in Q2 2018, of existing procedures and practices by the document management working group of the LS.

^[4] Several news items have been published on the LS Intranet site and the page dedicated to data protection was redrafted. (cf. <https://myintracomm.ec.europa.eu/dg/SJ/HowWeDoIt/Pages/dataprotection.aspx>).
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ANNEX 3: Draft annual accounts and financial reports

AAR 2019 Version 1

Annex 3 Financial Reports - DG SJ - Financial Year 2019

Table 1 : Commitments

Table 2 : Payments

Table 3 : Commitments to be settled

Table 4 : Balance Sheet

Table 5 : Statement of Financial Performance

Table 5 Bis: Off Balance Sheet

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

Table 12 : Summary of Procedures

Table 13 : Building Contracts

Table 14 : Contracts declared Secret

Table 15 : FPA duration exceeds 4 years

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

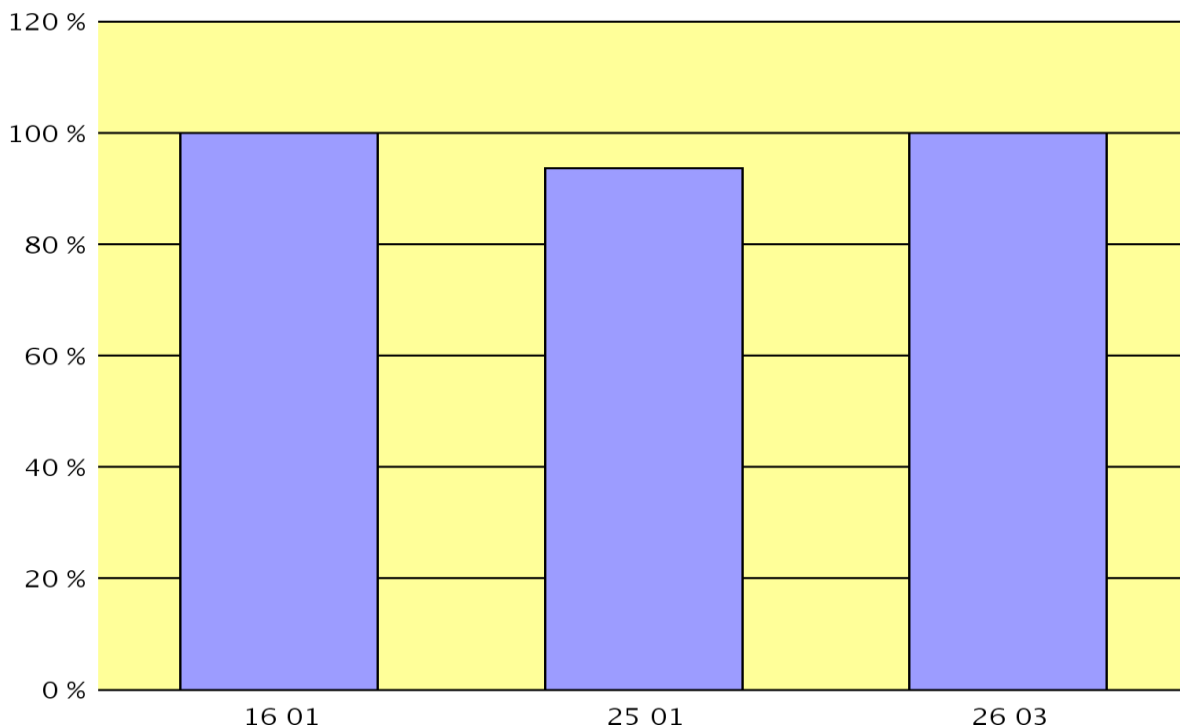
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TABLE 1: OUTTURN ON COMMITMENT APPROPRIATIONS IN 2019 (in Mio €) for DG SJ

			Commitment appropriations authorised	Commitments made	%
			1	2	3=2/1
Title 16 Communication					
16	16 01	Administrative expenditure of the 'Communication' policy area	0.07	0.07	100.00 %
Total Title 16			0.07	0.07	100.00 %
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	4.34	4.07	93.62 %
Total Title 25			4.34	4.07	93.62 %
Title 26 Commission's administration					
26	26 03	Services to public administrations, businesses and citizens	0.09	0.09	100.00 %
Total Title 26			0.09	0.09	100.00 %
Total DG SJ			4.5	4.23	93.85 %

* 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).

% Outturn on Commitment Appropriations in 2019 for DG SJ

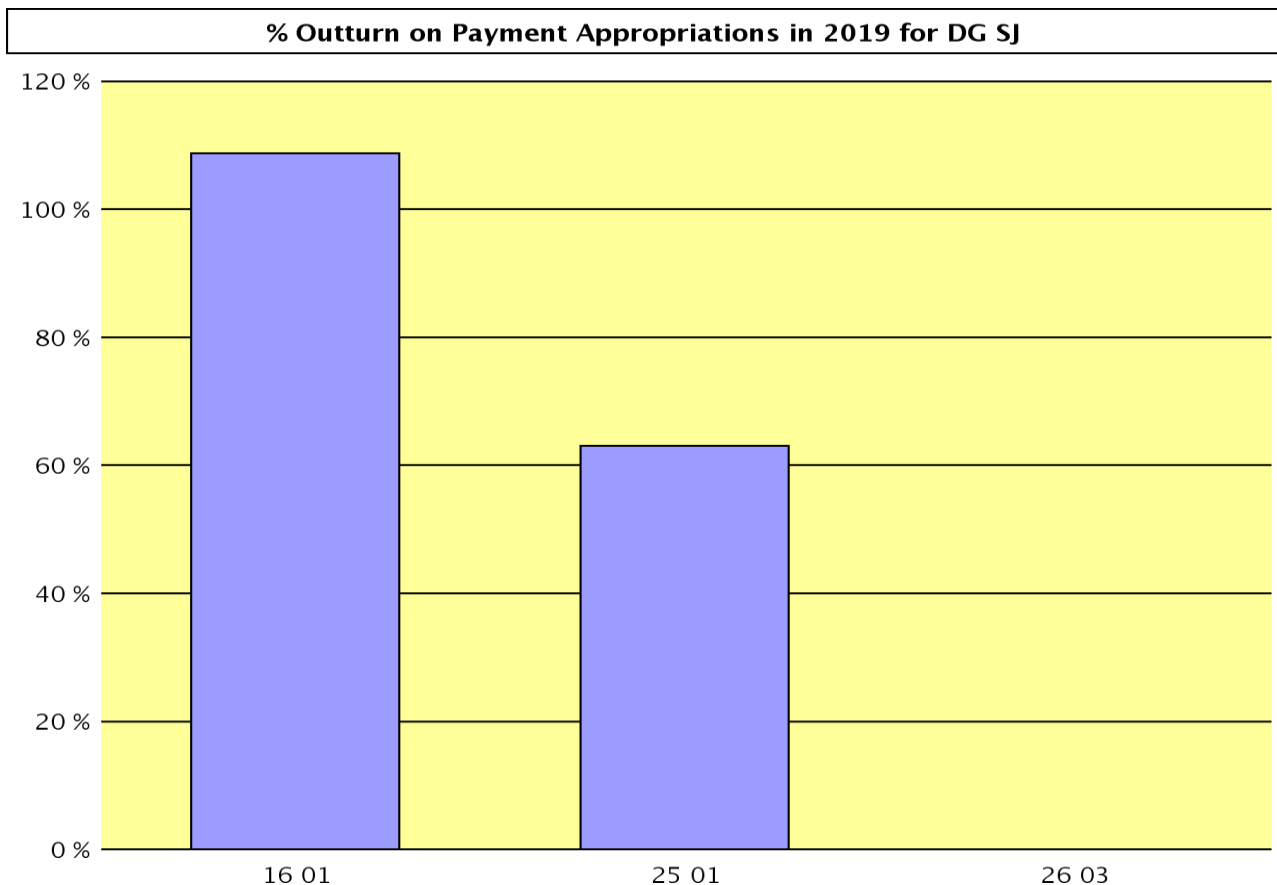


Note : The figures are those related to the provisional accounts and not yet audited by the Court of Auditors

Refresh date : 19/03/2020

TABLE 2: OUTTURN ON PAYMENT APPROPRIATIONS in 2019 (in Mio €) for DG SJ					
			Payment appropriations authorised *	Payments made	%
			1	2	3=2/1
Title 16 Communication					
16	16 01	Administrative expenditure of the 'Communication' policy area	0.07	0.08	108.73 %
Total Title 16			0.07	0.08	108.73%
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	6.1	3.84	63.05 %
Total Title 25			6.1	3.84	63.05%
Title 26 Commission's administration					
26	26 03	Services to public administrations, businesses and citizens	0	0.07	#DIV/0
Total Title 26			0	0.07	#DIV/0
Total DG SJ			6.17	4	64.79 %

* 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)



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

Refresh date : 19/03/2020

TABLE 3 : BREAKDOWN OF COMMITMENTS TO BE SETTLED AT 31/12/2019 (in Mio €) for DG SJ									
			Commitments to be settled				Commitments to be settled from financial years previous to 2018	Total of commitments to be settled at end of financial year 2019	Total of commitments to be settled at end of financial year 2018
Chapter			Commitments	Payments	RAL	% to be settled			
			1	2	3=1-2	4=1-2/1	5	6=3+5	7
16	16 01	Administrative expenditure of the 'Communication' policy area	0.07	0.05	0.02	23.98%	0.00	0.02	0.03
Total Title 16			0.07	0.05	0.02	23.98%	0.00	0.02	0.03

TABLE 3 : BREAKDOWN OF COMMITMENTS TO BE SETTLED AT 31/12/2019 (in Mio €) for DG SJ									
			Commitments to be settled				Commitments to be settled from financial years previous to 2018	Total of commitments to be settled at end of financial year 2019	Total of commitments to be settled at end of financial year 2018
Chapter			Commitments	Payments	RAL	% to be settled			
			1	2	3=1-2	4=1-2/1	5	6=3+5	7
25	25 01	Administrative expenditure of the 'Commission's policy coordination and legal advice' policy area	4.07	2.23	1.84	45.18%	0.00	1.84	1.62
Total Title 25			4.07	2.23	1.84	45.18%	0.00	1.84	1.62

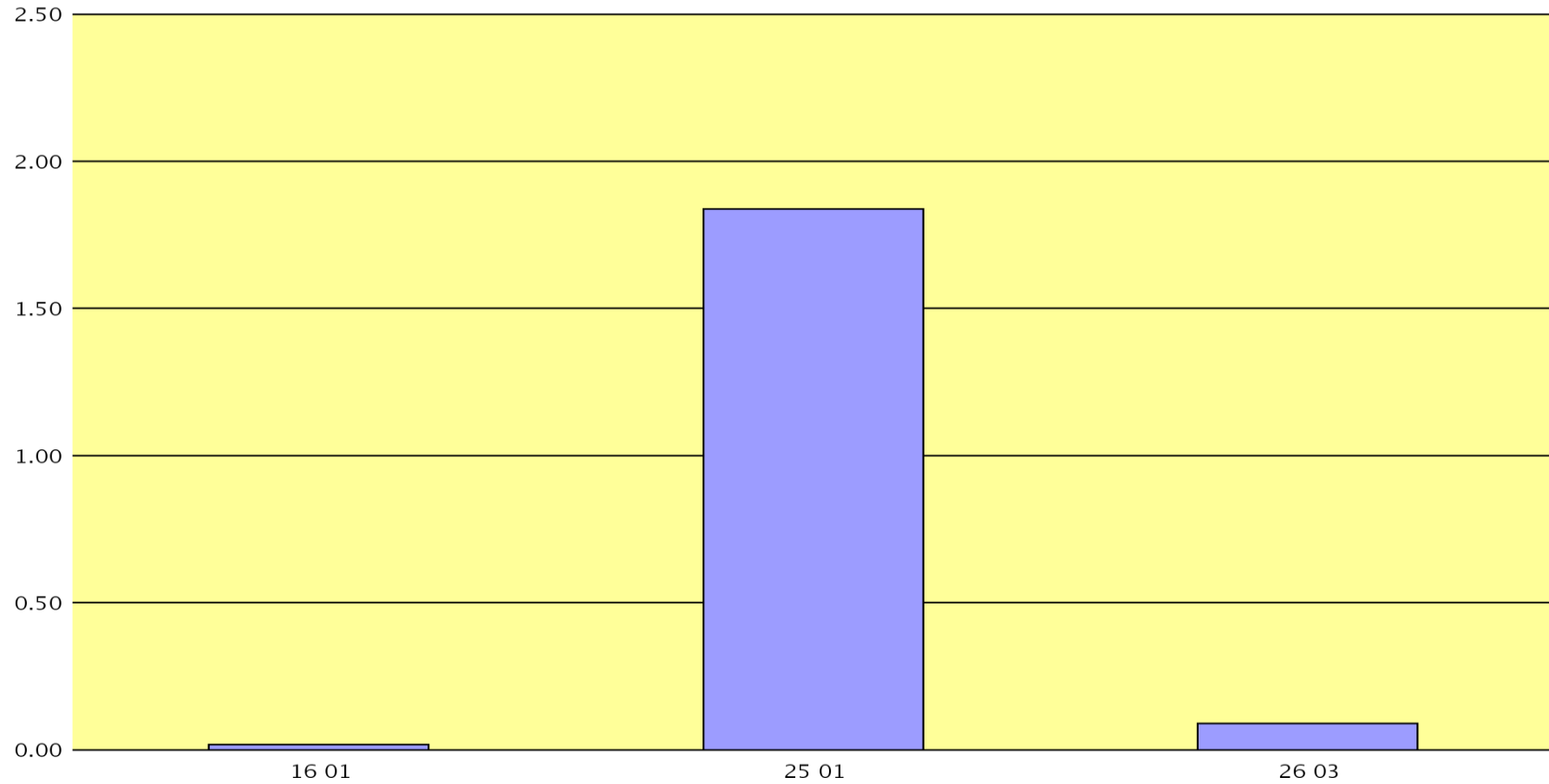
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Chapter			Commitments	Payments	RAL	% to be settled			
			1	2	3=1-2	4=1-2/1	5	6=3+5	7
26	26 03	Services to public administrations, businesses and citizens	0.09	0.00	0.09	100.00%	0.00	0.09	0.07
Total Title 26			0.09	0.00	0.09	100.00%	0.00	0.09	0.07

Total for DG SJ			4.23	2.28	1.94	45.99 %	0	1.94	1.72
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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) at 31/12/2019 for DG SJ



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

Refresh date : 19/03/2020

TABLE 4: BALANCE SHEET for DG SJ

BALANCE SHEET	2019	2018
A.II. CURRENT ASSETS	575,807.39	672,816.02
A.II.3. Curr Exch Receiv & Non-Ex Recoverables	575,807.39	672,816.02
ASSETS	575,807.39	672,816.02
P.II. CURRENT LIABILITIES	-4,488,024.99	-3,972,583.48
P.II.2. Current Provisions	-4,487,075.00	-3,970,263.00
P.II.4. Current Payables	-949.99	-2,320.48
P.II.5. Current Accrued Charges & Defrd Income	0.00	0.00
LIABILITIES	-4,488,024.99	-3,972,583.48
NET ASSETS (ASSETS less LIABILITIES)	-3,912,217.6	-3,299,767.46
P.III.2. Accumulated Surplus/Deficit	18,772,564.40	15,961,288.97
Non-allocated central (surplus)/deficit*	-14,860,346.80	-12,661,521.51
TOTAL DG SJ	0.00	0.00

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.

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

Refresh date : 19/03/2020

TABLE 5: STATEMENT OF FINANCIAL PERFORMANCE for DG SJ

STATEMENT OF FINANCIAL PERFORMANCE	2019	2018
II.1 REVENUES	-288,285.13	-592,259.79
II.1.1. NON-EXCHANGE REVENUES		-17,781.15
II.1.1.6. OTHER NON-EXCHANGE REVENUES		-17,781.15
II.1.2. EXCHANGE REVENUES	-288,285.13	-574,478.64
II.1.2.2. OTHER EXCHANGE REVENUE	-288,285.13	-574,478.64
II.2. EXPENSES	4,618,877.48	3,403,535.22
II.2. EXPENSES	4,618,877.48	3,403,535.22
II.2.10. OTHER EXPENSES	4,618,877.48	3,402,120.70
II.2.8. FINANCE COSTS		1,414.52
STATEMENT OF FINANCIAL PERFORMANCE	4,330,592.35	2,811,275.43

TABLE 5bis: OFF BALANCE SHEET for DG SJ

OFF BALANCE	2019	2018
OB.2. Contingent Liabilities	-6,730,612	-5,955,394.5
OB.2.7. CL Legal cases OTHER	-6,730,612.00	-5,955,394.50
OB.4. Balancing Accounts	6,730,612	5,955,394.5
OB.4. Balancing Accounts	6,730,612.00	5,955,394.50
OFF BALANCE	0.00	0.00

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.

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

Refresh date : 19/03/2020

TABLE 6: AVERAGE PAYMENT TIMES in 2019 for 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	476	466	97.90 %	11.75	10	2.10 %	47.8

Total Number of Payments	476	466	97.90 %		10	2.10 %	
Average Net Payment Time	12.51			11.75			47.8
Average Gross Payment Time	17			16.18			54.9

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	30	6.30 %	476	383,408.37	9.60 %	3,995,854.20

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

Refresh date : 19/03/2020

TABLE 7 : SITUATION ON REVENUE AND INCOME in 2019 for DG SJ

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	7=3-6
57	OTHER CONTRIBUTIONS AND REFUNDS IN CONNECTION WITH THE ADMINISTRATIVE OPERATION OF THE INSTITUTION	179,753.34	672,816.02	852,569.36	106,799.33	169,962.64	276,761.97	575,807.39
Total DG SJ		179,753.34	672,816.02	852,569.36	106,799.33	169,962.64	276,761.97	575,807.39

TABLE 8: RECOVERY OF PAYMENTS in 2019 for DG SJ

Year of Origin (commitment)	Total undue payments recovered		Total transactions in recovery context (incl. non-qualified)		% Qualified/Total RC	
	Nbr	RO Amount	Nbr	RO Amount	Nbr	RO Amount
No Link			84	275,514.22		
Sub-Total			84	275,514.22		

EXPENSES BUDGET	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
INCOME LINES IN INVOICES										
NON ELIGIBLE IN COST CLAIMS										
CREDIT NOTES							10	43,729.13		
Sub-Total							10	43,729.13		
GRAND TOTAL							94	319,243.35		

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

Refresh date : 19/03/2020

TABLE 9: AGEING BALANCE OF RECOVERY ORDERS AT 01/01/2019 for DG SJ

	Number at 31/12/2019	Number at 01/01/2019	Evolution	Open Amount (Eur) at 31/12/2019	Open Amount (Eur) at 01/01/2019	Evolution
2001	2	2	0.00 %	14,873.61	14,873.61	0.00 %
2007		1			13,520.00	
2013	8	8	0.00 %	80,615.68	91,742.08	13.80 %
2014	6	6	0.00 %	44,177.50	44,177.50	0.00 %
2015	6	7	16.67 %	76,663.68	94,843.62	23.71 %
2016	13	13	0.00 %	117,887.31	117,887.31	0.00 %
2017	20	20	0.00 %	52,900.20	52,900.20	0.00 %
2018	10	20	100.00 %	115,735.40	242,871.70	109.85 %
2019	17		-100.00 %	72,954.01		-100.00 %
	82	77	-6.10 %	575,807.39	672,816.02	16.85 %

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

Refresh date : 19/03/2020

TABLE 10: Recovery Order Waivers >= 60 000 € in 2019 for DG SJ

Total DG SJ	
--------------------	--

Number of RO Waivers	
-----------------------------	--

There are 10 waivers below 60 000 € at a total amount of 109,455.79 €.

TABLE 11: Negotiated Procedures in 2019 for DG SJ

n/a

TABLE 12: Summary of Procedures in 2019 for DG SJ

Internal Procedures > € 60,000

Procedure Legal base	Number of Procedures	Amount (€)
Negotiated procedure without prior publication (Annex 1 - 11.1)	1	3,796,846.86
Total	1	3,796,846.86

TABLE 13: BUILDING CONTRACTS in 2019 for DG SJ

n/a

TABLE 14: CONTRACTS DECLARED SECRET in 2019 for DG SJ

n/a

TABLE 15: FPA duration exceeds 4 years - DG SJ

n/a

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

Refresh date : 19/03/2020

ANNEX 4: Materiality criteria

This annex provides a detailed explanation on how the AOD defined the materiality threshold as a basis for determining whether significant weaknesses should be subject to a formal reservation to his/her declaration.

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.

As from 2019⁶, a '*de minimis*' threshold for financial reservations is introduced. Quantified AAR reservations related to residual error rates above the 2% materiality threshold, are deemed not substantial for segments representing less than 5% of a DG's total payments and with a financial impact below EUR 5 million. In such cases, quantified reservations are no longer needed.

In this sense, the Legal Service has selected as the materiality threshold 2% of annual appropriations including the budget for mission expenditure. For 2019 it is set at 92 000 EUR.

However, it still uses a second threshold in its daily management. Any transaction exceeding 30 000 EUR 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.

Each year, the Legal Service estimates the financial exposure linked to lost court cases and other situations in which the Legal Service must pay the legal fees of the opposing party. The same procedure for identifying and determining the amount to be provided for has been applied over the past few years. Every year, the actual figures are compared with the estimates in order to improve the accuracy of the provision. The general approach is to be conservative in the assessment of the provision for lost court cases. The total exposure is split into a provision of the amount most likely to be paid (40%) with the remaining part being recorded as a contingent liability (60%).

No errors which occurred in 2019 were by their nature or frequency considered to be of significant or material importance.

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

⁶ Agreement of the Corporate Management Board of 30/4/2019.

ANNEX 5: Relevant Control System(s) for budget implementation (RCSs)

The Legal Service only has administrative expenditure.

90% of its administrative budget is for:

- ***Procurement of legal services (52%)***
- ***Cost paid to opposing parties for their legal fees (38%)***

1. Procurement of legal advice and expertise

The Legal Service is a horizontal service and has no program or policy spending.

Due to the fact that legal services are provided upon request they are consequently reactive and not proactive. The Legal Service uses negotiated procedures without publication of a contract notice in the Official Journal according to the Article 134 RAP.

Contracts for external legal services can only be negotiated once there is a court case or a forced recovery order. It covers a limited part of the Legal Service's work that is performed by external providers.

The need for an external lawyer or law firm is decided on the basis of an analysis of a court case or a forced recovery order. Thereafter, potential external providers are identified and a negotiated procedure is initiated.

Stage 1: Planning, needs assessment and selection (ex-ante)

Stage 2: Financial transactions (ex-ante)

Stage 3: Supervisory measures (ex-post)

Main internal control objectives:

- ***Effectiveness, efficiency and economy.***
- ***Compliance (legality and regularity).***
- ***Fraud prevention and detection***

Main risks It may happen (again) that...	Mitigating controls	Coverage, frequency and depth of controls	Cost-Effectiveness indicators (three E's)
<p>Stage 1:</p> <p>Risk of not obtaining value for money due to – sometimes - limited time available for the negotiation procedure.</p> <p>Risk of non-compliance with legality and regularity and criticism of choice of contract partner due to limited time available for the negotiation procedure.</p>	<p>One of the reasons for the established authorisation chain is to ensure that proposed contracts with external providers will ensure value for money.</p> <p>Assessment of legal expertise of the external provider</p> <p>The Financial Cellule provides management with quarterly information about the contracts with external providers allowing for hierarchical control of awarded contracts.</p>	<p>100% of the specifications are verified at Director level.</p> <p>100% of the contracts above a financial threshold (20.000 € for Head of Unit and 30.000 € for Director) are reviewed at DDG/DG level based on risk and sensitivity.</p>	<p>Effectiveness N° of contracts discontinued due to poor quality of service</p> <p>Efficiency Average cost per contract.</p> <p>Economy Estimation of cost of staff involved and the related contract values (if external expertise is used).</p>
<p>Due to time constraints, there may not be enough time to identify the most competent external provider</p> <p>The most economically advantageous offer is not selected due to the limitations in the negotiated procedure</p> <p>Damage to the Legal Service's reputation if conflict of interest is discovered.</p>	<p>Review of all contracts by the Financial Cellule, by the legal coordinator and approval by the Director and for contracts of more than EUR 30.000, the Director-General</p> <p>Declaration of non-conflict of interests requested for all tenders >15.000 €.</p>	<p>100 % of contracts are controlled by the Financial Cellule before signature by the Director-General.</p> <p>Contracts below 20.000 € are signed by Head of Unit and below 30.000 € are signed by the Directors.</p> <p>Contracts above 30.000 € signed by the Director-General</p>	<p>Effectiveness N° of received complaints</p> <p>Efficiency Average cost of a contracting procedure.</p> <p>Economy Estimation of costs involved.</p>
<p>Stage 2:</p> <p>Poor or non-execution by the external provider due to lack of competence in the legal area</p> <p>The services provided for are not, totally or partially, provided in accordance with the requirements in the contract and/or the amounts paid exceed those due in accordance with the applicable contract</p>	<p>Close monitoring of the work executed by the staff in the teams</p> <p>The Financial Cellule keeps records on total consumption of each contract.</p> <p>Operations authorisation by the AO</p>	<p>100% of contracts and invoices are controlled by the teams by monitoring of the work executed by the external provider</p> <p>100% of received invoices are controlled by the Financial Cellule</p> <p>The depth depends on the risk criteria.</p>	<p>Effectiveness % error rate relating to contract management and payments.</p> <p>Efficiency Time-to-pay Late interest payments</p> <p>Economy Estimation of cost of staff involved.</p>

Main internal control objectives:

- **Ensuring that any weakness in the procedures (tender and financial transactions) is detected and corrected.**

Main risks It may happen (again) that...	Mitigating controls	Coverage, frequency and depth of controls	Cost-Effectiveness indicators (three E's)
<p>Stage 3: An error or non-compliance with regulatory and contractual provisions, including technical specifications, or fraud is not prevented, detected or corrected by ex-ante control, prior to payment.</p>	<p>Supervisory desk review of procurement and financial transactions</p> <p>Ex-post publication of contracts awarded (and subsequent publication in the EU Financial Transparency System)</p> <p>Review of ex-post results</p> <p>Review of exceptions or non-compliance events reported</p> <p>Quarterly review of the summary data of awarded contracts</p>	<p>Sample test at least once a year to determine any errors or systemic problems or weaknesses in the procedures (procurement and financial transactions).</p> <p>100% of all contracts approved by a superior function</p> <p>100% of all contracts of more than EUR 30.000 are approved by the Director-General</p> <p>Quarterly report on contracts with external providers are reviewed by management</p> <p>100% of all invoices reviewed by the Financial Cellule</p> <p>Review and assessment of potential exceptions and non-compliance events during the year (100% covered)</p>	<p>Effectiveness Amounts associated with errors detected (related to fraud, irregularities and error).</p> <p>Efficiency: Costs of the ex post controls and supervisory measures with respect to the 'benefits'.</p> <p>Average cost of an ex-post control</p> <p>Economy (costs): estimation of cost of staff involved</p>

2. Compensation to opposing parties for their legal costs

The court may decide that the legal costs incurred by the opposing party should be compensated, fully or partly, by the Legal Service. By its nature, there is no procurement procedure. The obligation arises as a result of the court decision. Upon receipt of the cost claim from the opposing party, the Legal Service assesses the amount claimed. The claim is then either accepted or re-negotiated or the court is asked to determine the amount to be paid.

In the budget planning, the Legal Service assesses the future amount expected to be paid as compensation to the opposing party for their legal fees. It is based on court decisions, estimates and follow up/comparisons with historical data.

Stage 1: Needs assessment (ex-ante)

Stage 2: Financial transactions (ex-ante)

Stage 3: Supervisory measures (ex-post)

Main internal control objectives:

- **Effectiveness, efficiency and economy.**
- **Compliance (legality and regularity).**
- **Fraud prevention and detection**

Main risks It may happen (again) that...	Mitigating controls	Coverage, frequency and depth of controls	Cost-Effectiveness indicators (three E's)
<p>Stage 1: (individual claims/payments) Risk that the budget request will be sufficient to cover future payments to opposing parties for their legal fees</p> <p>Risk that the year-end closing provision will not be sufficiently conservative to cover future expenditure for compensation claims by opposing parties.</p>	<p>The database for litigation requires all closed court cases to be assessed to have a financial consequence. Based on this information, a yearly provision of expenditure to opposing parties is calculated (for the year end closure).</p> <p>Actual payments are compared with the estimates. The ratio is used for future budget requests.</p>	<p>100% of closed cases identified with a financial consequence are covered.</p> <p>Yearly assessment based on best estimate is compared with actual outcome.</p> <p>This procedure has, over the years, proved to provide estimates of good precision.</p>	<p>Effectiveness Assessment of precision by comparison of estimated with actual figures.</p> <p>Efficiency Estimated average cost per payment.</p> <p>Economy Estimation of cost of staff involved</p>
<p>Stage 2: (individual claims/payments) Acceptance of too high cost claims from opposing parties resulting in unnecessarily high expenditure for the Legal Service.</p>	<p>Analysis and assessment, followed by discussion with hierarchy in order to determine the reasonable amount for the opposing party's legal costs</p> <p>Claims above EUR 30.000, informed of (in an explicatory note if proposed to be negotiated) for</p>	<p>100% of claims are approved by the hierarchy, only thereafter is the invoice recorded and the payment procedure initiated.</p> <p>100% of invoices are controlled by the Financial Cellule</p>	<p>Effectiveness N° of control failures</p> <p>Efficiency Average cost per payment.</p> <p>Late interest payments</p> <p>Economy Estimation of cost of staff involved</p>

Main risks It may happen (again) that...	Mitigating controls	Coverage, frequency and depth of controls	Cost-Effectiveness indicators (three E's)
	approval by the Director-General		
Stage 2: Year-end closure: Risk that claims for payments to the opposing party are not identified for the year-end closure.	The data base for litigation requires the lawyer in charge to provide information about financial consequences and regular analysis is made to ensure that the information is up to date and disclosed according to the instructions	Yearly assessment at year-end closure.	Effectiveness Comparison of claimed amounts with actual paid amounts. Efficiency Average cost per payment. Late interest payments Economy Estimation of cost of staff involved

Main internal control objectives:

- ***Ensuring that any weakness in the procedures (financial transactions) is detected and corrected.***

Main risks It may happen (again) that...	Mitigating controls	Coverage, frequency and depth of controls	Cost-Effectiveness indicators (three E's)
Stage 3: A claim is not identified and discussed with the hierarchy	Yearly review of all payments to opposing parties distributed to all Directors for review and approval.	100% of all payments for opposing parties' legal costs are reviewed by the hierarchy 100% of all payments for opposing parties' legal costs of more than EUR 30.000 are approved by the Director-General 100% of all payments are reviewed by the Financial Cellule	Effectiveness Amounts associated with errors detected (related to fraud, irregularities and error) and in % over total checked. Efficiency Costs of the ex post controls and supervisory measures with respect to the 'benefits'. Economy Estimation of cost of staff involved

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 during the year

Not applicable to the Legal Service

ANNEX 10: Specific annexes related to "Financial Management"

Table 11 Overview of the estimated cost of controls at Commission (EC) level:

Procurement of legal services							
Ex ante controls			Ex post controls			Total**	
EC total costs (in EUR)	funds managed (in EUR)*	Ratio (%)*: Total ex ante control cost in EUR ÷ funds managed in EUR	EC total costs (in EUR)	total value verified and/or audited (in EUR)	Ratio (%): Total ex post control cost in EUR ÷ total value verified and/or audited in EUR	EC total estimated cost of controls (in EUR)	Ratio (%)*: Total cost of controls ÷ funds managed
202.503€	2.119.292 €	9.6%		2.119.292 €		203.775 €	9.6 %
Cost compensation to opposing parties for their legal costs							
Ex ante controls			Ex post controls			Total**	
EC total costs (in EUR)	funds managed (in EUR)*	Ratio (%)*: Total ex ante control cost in EUR ÷ funds managed in EUR	EC total costs (in EUR)	total value verified and/or audited (in EUR)	Ratio (%): Total ex post control cost in EUR ÷ total value verified and/or audited in EUR	EC total estimated cost of controls (in EUR)	Ratio (%)*: Total cost of controls ÷ funds managed
82.050 €	1.449.908	5.6%		1.449.908€		81.375 €	5.7 %

General costs for internal control officer							
Ex ante controls			Ex post controls			Total**	
EC total costs (in EUR)	funds managed (in EUR)*	Ratio (%)*: Total ex ante control cost in EUR ÷ funds managed in EUR	EC total costs (in EUR)	total value verified and/or audited (in EUR)	Ratio (%): Total ex post control cost in EUR ÷ total value verified and/or audited in EUR	EC total estimated cost of controls (in EUR)	Ratio (%)*: Total cost of controls ÷ funds managed
17.090 €	3.569.200 €	0.5%		3.569.200 €		16.790 €	0.5 %

OVERALL estimated cost of control at EC level							
Ex ante controls			Ex post controls			Total**	
EC total cost (in EUR)	funds managed (in EUR)*	Ratio (%)*: Total ex ante control cost in EUR ÷ funds managed in EUR	EC total costs (in EUR)	total value verified and/or audited (in EUR)	Ratio (%): Total ex post control cost in EUR ÷ total value verified and/or audited in EUR	EC total estimated cost of controls (in EUR)	Ratio (%)*: Total cost of controls ÷ funds managed
301.642 €	3.569.200 €	8.5 %		3.569.200 €		301.940 €	8.5 %

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

Annex 11 to be provided only if needed (optional & free content), for more details on AAR Section 2.1.3. See the Guidance for examples of such information.

ANNEX 12: Performance tables

1.1 Quality of Legislation

Complementary information to Linguistic Revision.

Relevant horizontal/general objective 1: To help the overall political objectives, the Commission will effectively and efficiently manage and safeguard assets and resources, and attract and develop the best talents.

Result/Impact indicator LINGUISTIC REVISION	Baseline (2016)	Target	Latest known results as per Annual Activity Report (2019)
KPI 1 Percentage of draft legal acts selected to undergo legal revision to ensure the quality of texts proposed for adoption.	100%	100%	100%
PI 1 Number of legal text selected for linguistic revision	1455	maintain	1914
PI 2 Number of legal text revised in two or more languages	130	80	150
PI 3 Number of legal text to undergo corrigenda	390	340	394
PI 4 Number of reviewed pages	(2017) 32000	increase	38000

Complementary information to Codification and Recast

Relevant horizontal/general objective 1: To help the overall political objectives, the Commission will effectively and efficiently manage and safeguard assets and resources, and attract and develop the best talents.

Result/Impact indicator CODIFICATION AND RECAST	Baseline (2016)	Target	Latest known results as per Annual Activity Report (2019)
KPI 1 Percentage of codified legal acts noted in the <i>Decide Planning</i>	100%	100%	100%
PI 1 Number of codified legal acts (source for 2019 – <i>Decide Planning</i>)	5	4	3
PI 2 Number of recasts finalised	16	maintain	2019 was a transition year

1.2 Legal Consultation

Complementary information to the number of consultations replied to within deadline.

Relevant horizontal/general objective 1: To help the overall political objectives, the Commission will effectively and efficiently manage and safeguard assets and resources, and attract and develop the best talents.

Type of consultation	Reply rate	Comments
Decide (8 002 interservice consultations) Delay for the final legal opinion as registered in Decide	87 %	Before the final legal opinion is recorded in Decide, the Legal Service provides advice to the clients in order to contribute to the achievement of a positive legal opinion.
Fast track (152 requests)	100 %	Deadlines for fast-track consultations can be as short as 48 hours.
Parliamentary questions (4400 requests) Information from Sec Gen.	99 %	48 hour delay, average reply from the Legal Service within 26 hours
Petition (729 requests) Information from Sec Gen.	95 %	Reply rate provided by the Secretariat General
Ombudsman (65 requests) Information from Sec Gen.	70 %	Reply rate provided by the Secretariat General
Access to documents – initial requests (275 requests) Internal Legal Service report/statistics	100 %	The fixed standard delay is 30 days, in cases where the request is for a large number of documents or to documents containing sensitive information, the possibility to request extension of the deadline is often applied.
Reply rate for all consultations	91 %	
Target for 2019	92 %	

Table 12 presents Complementary information to the number of consultations for each thematic team.

Number of Consultation per thematic teams and year						
Team	2015	2016	2017	2018	2019	%
Affair	1 337	1 265	1 261	1 250	999	7,40%
Agriculture & Fisheries	1 773	1 456	1 441	1 500	1517	11,23%
State Aide	763	708	637	599	629	4,66%
Budget, customs & taxation	1 945	1 732	1 368	1 171	913	6,76%
CFSP, External Relations	1 249	1 222	1 268	1 444	1302	9,64%
Competition	1 434	1 386	1 456	1 541	1386	10,26%
EEI	-	-	668	1 036	1094	8,10%
European Civil Servant Law	1 014	893	805	948	920	6,81%
Institution	605	685	606	678	606	4,49%
Justice, Freedom & Security	403	452	484	511	405	3,00%
Procurement & Recoveries	280	308	337	311	310	2,30%
Internal Market	2 609	2 871	2765	2 945	2777	20,57%
Social & Employment	528	528	448	481	351	2,60%
Trade & WTO	227	264	267	240	294	2,18%
Total	14 167	13 770	13 812	14 655	13.503	100,00%

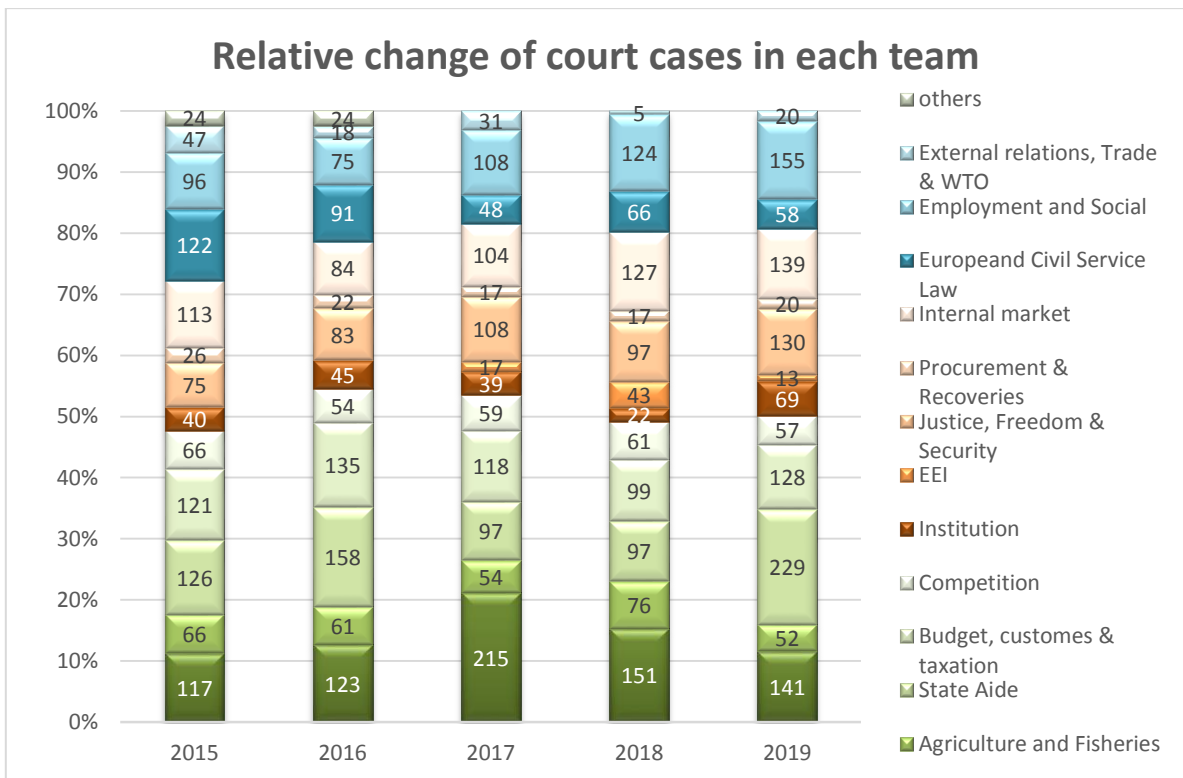
Table 12: Evolution of consultations per year and thematic team (Source: Ares)

1.3 Legal Representation

Table 13 presents complementary information to the number of new court cases (Union Courts) for each thematic team.

New Cases						
Team	2015	2016	2017	2018	2019	%
Affair	117	123	215	151	141	11,6%
Agriculture & Fisheries	66	61	54	76	52	4,3%
State Aide	126	158	97	97	229	18,9%
Budget, customs & taxation	121	135	118	99	128	10,6%
Competition	66	54	59	61	57	4,7%
EEI	-	-	17	22	69	5,7%
Institution	40	45	39	43	13	1,1%
Justice, Freedom & Security	75	83	108	97	130	10,7%
Procurement & Recoveries	26	22	17	17	20	1,7%
Internal Market	113	84	104	127	139	11,5%
European Civil Servant	122	91	48	66	58	4,8%
Social & Employment	96	75	108	124	155	12,8%
External Relations, Trade & WTO	47	18	31	5	20	1,7%
others	24	24	-			
total	1246	973	1015	985	1211	100,0%

Table 13: Distribution of litigation proceedings before the Union Courts (Source: Base Contentieux).



Relative change of new court cases in the Union courts: Source: Base Contentieux).

Mission (0.4 M€)

As from 2018, mission and training costs are committed in the Legal Service but paid by PMO and DG HR. In 2019, 0.5 M€ was committed for missions and 0.4 M€ was paid,

The majority of missions undertaken by Legal Service staff are for representation at the Court of Justice in Luxembourg, followed by missions for other legal matters. The costs for missions to Luxembourg, for other legal matters and to the WTO represent 95 % of all missions.

The average cost for a mission to Luxembourg is 335 €, average costs for missions for other legal matters is 530 € and for WTO missions the average is 900 €.

Chart 5 presents the costs per mission type undertaken by staff Legal Service in 2019.

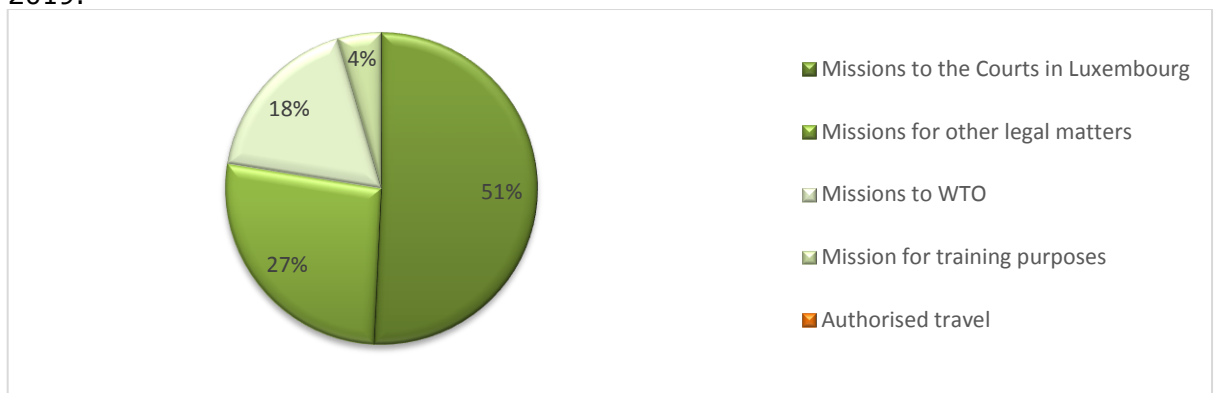


Chart 5: Costs for the different kind of missions undertaken in 2019. Source: MIPS

8% of all missions (96 missions), are staff giving external speeches, presentations and participation in conferences etc. The organisers of the events cover the mission costs. These missions contribute to increased knowledge of European Law.

Chart 6 presents the number of mission per category undertaken by staff in 2019.

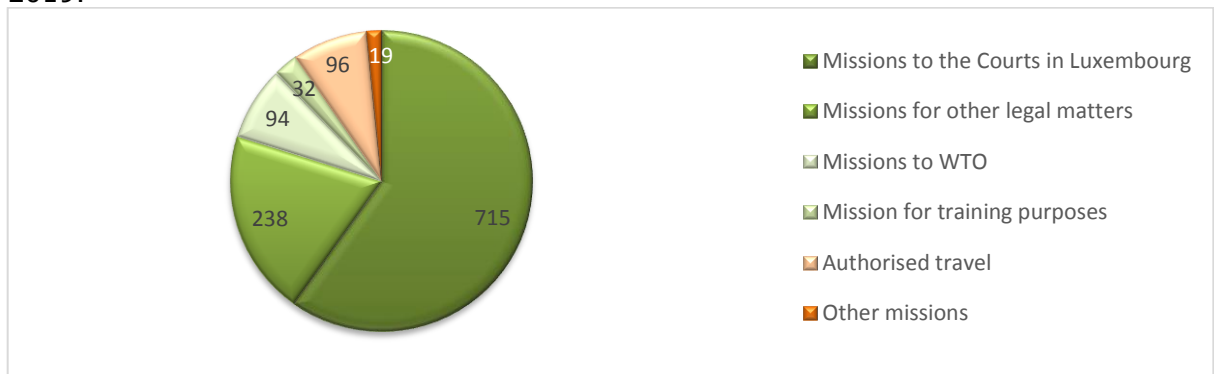


Chart 6: Number of mission per category undertaken in 2019. Source MIPS.

1.4 Infringement

Table 14 presents complementary information to the number of infringement per thematic area. The figures for 2019 are provisional.

Infringement files per subject	2015	2016	2017	2018	2019	%
<i>Transport and mobility</i>	260	265	277	244	203	13,0%
<i>Energy</i>	80	71	59	93	109	7,0%
<i>Environment</i>	286	284	325	298	327	20,9%
<i>Internal Market, Industry, Entrepreneurship and SMEs</i>	156	311	195	172	241	15,4%
<i>Migration and Home Affairs</i>	115	145	134	145	139	8,9%
<i>Financial Services & capital markets union</i>	176	256	257	144	116	7,4%
<i>Taxes and Customs</i>	148	168	141	110	106	6,8%
<i>Justice and consumers</i>	125	140	172	160	164	10,5%
<i>Others</i>	215	326	271	215	159	10,2%
Total	1561	1966	1831	1581	1564	100,0%

Table 14: Infringement case per thematic area (Source: NIF). Figures for 2019 are provisional

2.1 Financial management and internal control

Complementary information to committed and paid amounts in 2019 in section 2.1.1.

Payments administrated by the Legal Service	Commitments in 2019	Payments in 2019 (RAL 2018 included)
Legal advice, litigation and infringements	3.8 M€	
External lawyers and experts, fees and costs		2.1 M€
Payments of opposing parties legal costs		1.5 M€
Administrative costs		
IT and internal meetings	0.2 M€	0.2 M€
Chapter 16 for Communication – co-delegation type II to DG Communication	0.1 M€	0.1 M€
Chapter 26 for IT – co-delegation type II to DIGIT	0.1 M€	0.1 M€
TOTAL for the Legal Service	4.2 M€	4.0 M€

Committed and paid amounts per activity in 2019, Annex 3, table 1 and 2 (Source: ABAC)

2.2 Cost of controls

Estimated cost of controls and effectiveness indicators, complementary information to Section 2.1.1.

Overall cost-effectiveness indicator	<u>Ex-ante</u>	<u>Ex-post</u>	<u>Total</u>
Cost of controls for external legal fees (171 contracts and amendments in 2019 –(A)) (423 payments in 2019 –(B))			
<i>Step 1: Costs of controls for Planning, needs assessment and contracting (A)</i>			
Contract External Staff	26.072,37 €		26.072,37 €
AST (50%+15%)	65.640,00 €		65.640,00 €
<i>Step 2: Cost of controls for Financial transactions (B)</i>			
Contract External Staff	17.800,00 €		17.800,00 €
AST (75%+15%)	92.990,00 €		92.990,00 €
<i>Step 3: Cost of Controls for Supervisory measures</i>			
Total cost of controls for legal fees (i)	202.502,37 €		202.502,37 €
Total payments of legal fees			2.119.292,07 €
CE indicator for legal fees			9,6%
Cost of controls per contract (A)			536,33 €
Cost of control per payment (B)			216,81 €
Average payment amount (A)			5.000,00 €
Average contract amount (B)			12.000,00 €
Cost of controls for payments to opposing parties for their legal fees (55 payments in 2019)			
<i>Step 1: Cost of Controls for Needs assessment AST (35%)</i>	38.290,00 €		38.290,00 €
<i>Step 2: Cost of Controls for Financial transactions AST (40%)</i>	43.760,00 €		43.760,00 €
<i>Step 3: Cost of Controls for Supervisory measures AD (<10%)</i>			
Total cost of controls for payments to opposing parties for their legal fees (ii)	82.050,00 €		82.050,00 €
Total payments to opposing parties for their legal fees (depens)			1.449.907,61 €
CE indicator for cost compensation			5,7%
Cost of control per <i>depens</i> payment			1.491,82 €
Average <i>depens</i> payment			26.000,00 €
<i>Cost of controls for internal control officer AD (10%)</i>	17.090,00 €		17.090,00 €
Total cost for internal control officer (iii)	16.790,00 €		17.090,00 €
Total cost of controls (i+ii+iii)			301.642,37 €
Average cost of controls - total			8,5%

Control efficiency indicators for payments. Source: FIN-SJ

2.3 Assessment of internal control

Complementary information to the assessment of efficiency and effectiveness in the internal control systems, Section 2.1.1.

Objective 1: Effective and reliable internal control system giving the necessary guarantees concerning the legality and the regularity of the underlying transactions

Main outputs in 2019:

Result/Impact indicator	Baseline (2016)	Target	Latest known results as per Annual Activity Report (2019)
Maintaining the residual error rate on payments	<1%%	maintain	<1%
Estimated overall amount at risk for the year for the entire budget under the LS responsibility	<20 000 €	reduce	12.500 €
Recovery orders for erroneous payments	<5000 € recovered for the past 7 years	reduce	One recovery of 3000 € during the past 7 years

Complementary information to the assessment of efficiency and effectiveness in the internal control systems, Section 2.1.1.

Objective 1: Effective and reliable internal control system giving the necessary guarantees concerning the legality and the regularity of the underlying transactions

Main outputs in 2018:

Result/Impact indicator	Baseline (2016)	Target	Latest known results as per Annual Activity Report (2018)
All transactions are reviewed ex-ante by the financial cellule to ascertain respect of the Fin. Reg. and the contractual conditions. Deviations reported to the internal control officer.	100% of transactions reviewed	maintain	100%
Exceptions, non-compliance	Zero exceptions <1% of non-compliance in missions <2% of non-compliance in external contracting	Maintain Maintain Maintain	Zero exceptions <1% non-compliance in the missions procedure <2% non-compliance in the external contracting procedure
Training in the financial circuit and the standard contract	2	Maintain	Individual training given at 4 occasions

Complementary information to the assessment of efficiency and effectiveness in the internal control system, Section 2.1.1 and 2.1.2.

Objective 2: Effective and reliable internal control system in line with sound financial management.			
Main outputs in 2018:			
Result/Impact indicator	Baseline (2016)	Target	Latest known results as per Annual Activity Report (2019)
Timely execution of payment	12 days	maintain	13 days
Open recommendations from European Court of Auditors (ECA) and the IAS	none	maintain	none