



2013

Annual Activity Report

Legal Service

Foreword

In 2013, 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 Commission on the sovereign debt crisis, the banking crisis and closer monetary union. It also took the lead role in the negotiations on the accession of the European Union to the European Convention of Human Rights. The Legal Service also played an important role in the preparations for Croatia joining the European Union in 2013.

Table of Contents

INTRODUCTION:	4
THE DG/SERVICE IN BRIEF	4
THE YEAR IN BRIEF	4
EXECUTIVE SUMMARY (FIVE PAGES)	5
KEY PERFORMANCE INDICATORS (5 MOST RELEVANT)	9
POLICY HIGHLIGHTS OF THE YEAR (EXECUTIVE SUMMARY OF PART I)	14
KEY CONCLUSIONS ON RESOURCE MANAGEMENT AND INTERNAL CONTROL EFFECTIVENESS (EXECUTIVE SUMMARY ON PART 2 AND 3)	14
INFORMATION TO THE COMMISSIONER(S)	14
1. POLICY ACHIEVEMENTS	15
1.1 ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES	15
1.1.1 ABB ACTIVITY QUALITY OF LEGISLATION	15
1.1.2 ABB ACTIVITY C	15
1.2 SPECIFIC EFFORTS TO IMPROVE 'ECONOMY' AND 'EFFICIENCY' OF SPENDING AND NON-SPENDING ACTIVITIES	23
1.2.1 ELECTRONIC TRANSMISSION OF POWER OF ATTORNEY	23
1.2.2 ELECTRONIC TRANSMISSION OF DOCUMENTS TO THE UNION COURTS	23
2. MANAGEMENT OF RESOURCES	24
2.1 MANAGEMENT OF HUMAN AND FINANCIAL RESOURCES BY THE LEGAL SERVICE	25
2.2 BUDGET IMPLEMENTATION TASKS ENTRUSTED TO OTHER SERVICES AND ENTITIES.	28
2.3 ASSESSMENT OF AUDIT RESULTS AND FOLLOW UP OF AUDIT RECOMMENDATIONS	29
3. ASSESSMENT OF THE EFFECTIVENESS OF THE INTERNAL CONTROL SYSTEMS	30
4. MANAGEMENT ASSURANCE	32
4.1 REVIEW OF THE ELEMENTS SUPPORTING ASSURANCE	32
4.2 RESERVATIONS AND OVERALL CONCLUSION ON ASSURANCE (IF APPLICABLE)	32
DECLARATION OF ASSURANCE	34
ANNEXES	35
ANNEX 1: STATEMENT OF THE RESOURCES DIRECTOR	35
ANNEX 2: HUMAN AND FINANCIAL RESOURCES	36
ANNEX 3: DRAFT ANNUAL ACCOUNTS AND FINANCIAL REPORTS	37
ANNEX 4: MATERIALITY CRITERIA	38
ANNEX 5: INTERNAL CONTROL TEMPLATE(S) FOR BUDGET IMPLEMENTATION (ICTs)	39
ANNEX 6: IMPLEMENTATION THROUGH NATIONAL OR INTERNATIONAL PUBLIC-SECTOR BODIES AND BODIES GOVERNED BY PRIVATE LAW WITH A PUBLIC SECTOR MISSION (IF APPLICABLE)	42
ANNEX 7: AARs OF EXECUTIVE AGENCIES (IF APPLICABLE) AND THE EAMR OF THE UNION DELEGATIONS (DG DEVCO ONLY)	42
ANNEX 8: DECENTRALISED AGENCIES (IF APPLICABLE)	42
ANNEX 9: PERFORMANCE INFORMATION INCLUDED IN EVALUATIONS	42
ANNEX 10: SPECIFIC ANNEXES RELATED TO "MANAGEMENT OF RESOURCES" (PART 2) (IF NEEDED- FREE FORMAT)	42
ANNEX 11: SPECIFIC ANNEXES RELATED TO "ASSESSMENT OF THE EFFECTIVENESS OF THE INTERNAL CONTROL SYSTEMS" (PART 3) (IF NEEDED- FREE FORMAT)	42

INTRODUCTION:

The Legal Service in brief

The mission of the Legal Service is to ensure that the provisions of the Treaties and other measures taken by the institutions are interpreted and applied in accordance with the law. For this purpose, it will give legal advice, defend the interests of the Commission and of the Union before the courts, the national or international tribunals and other dispute settlement bodies, and strive to assure the highest quality, coherence and development of Union legislation.

In other words, the Legal Service is the legal adviser and the exclusive advocate of the Commission, the Commissioners and to a certain extent also to the other EU institutions.

The Legal Service has a unique function in the Commission. In comparison with most of the other Directorates General, 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 advisor and representative of the Institutions in all Court hearings.

Given that there are no policy and no programs for which the Legal Service is responsible, its annual spending of some 3 million Euros is mainly paid for external legal expertise.

One fifth of Legal Service staff contributes by the work they perform to ensure high quality of new legislation proposed by the Commission. The Quality of Legislation team also assist accession countries to ensure they have correctly translated the *acquis communautaire*. The continuously evolution of legal acts are, by the codification and recast activities, keeps them up to date. The team has, in 2013, contributed to the simplification objectives set out in the Commission's REFIT communication.

The remaining Legal Service staff provides high quality legal advice to the Commission DGs and Services, defend the Commission when attacked and undertakes infringement procedures in case a Member State has not correctly transposed Community legislation.

The year in brief

The Legal Service pleaded in excess of 2000 cases in 2013. The following cases give a flavour of the issues pleaded in 2013.

Among the cases regarding the internal market and services dealt with in 2013, those relating to rights of air passengers may be mentioned. The Commission presented observations on all the cases notified to it during the year dealing with passenger compensation, which may be due notably in case of long delay, as the Court of justice has clarified since 2009. The aspects dealt with in 2013 include the calculation of any delay, the term "extraordinary circumstances" (which allow the air carrier to refuse compensation), questions regarding connecting flights, the consequences arising where passengers confronted with a delay resort to other flights and the imputation of other payments made by the air carrier or of reductions obtained from a tour operator.

In the *Soukopova* case, the Court of Justice had to strike a balance between the principle of equal treatment between men and women and the discretion of the Member States when implementing the Union rural development policy. In rural development support, early retirement can be granted only to farmers who have not yet reached normal retirement age. For this, the Czech Republic referred to their social security scheme in which the retirement age is higher for men than for women. The Court of Justice ruled that while, in principle, it is for the Member States to define normal retirement age, and they must at the same time prohibit any discrimination on grounds of gender.

The Court of Justice ruled that the obligation of individual electronic identification for sheep and goats, imposed by Council Regulation, is valid. It found in particular that that obligation does not infringe the sheep farmers' freedom to conduct a business. It emphasised that there are legitimate objectives in the public interest, namely health protection, the control of epizootic diseases, which justify the onerous obligation for individual electronic registration of sheep and goats.

In the *Bouygues Télécom State Aide* case, the Court of Justice accepted the Commission's argument that several consecutive measures of State intervention must be regarded as a single intervention, especially where those interventions, having regard to their chronology, their purpose and the circumstances of the undertaking, are so closely linked to each other that they are inseparable from one another.

In the Commission appeal in a case versus *Ireland and others member states*, the Court of Justice held that the General Court had disregarded the respective powers of the Council and the Commission in the area of the harmonization of legislation relating to excise duties, on the one hand, and in the area of State aid, on the other. The judgment clearly affirms the principle that a Council decision concerning another area of law cannot deprive the Commission of the right to exercise its powers in the field of State aid control.

In a comprehensive inter-service consultation on Trade Defence Instruments (TDI) modernisation consisting of a legislative proposal, a communication and 4 draft guidelines, accompanied by an impact assessment and the assessment by a consultant, the Legal Service identified a number of legal difficulties in the documents submitted to the College, and worked actively to substantially improve the drafts, including during the discussions in the Heads of Cabinet meeting. The Legal Service continued to provide legal advice after the adoption of the package by the College, in particular with respect to

the revision of the draft guidelines after completion of the public consultation.

The General Court rendered 17 judgements in **cartel cases** concerning Bathroom Fittings where the cartel members contested the Commission's fines and decisions. The Commission presented evidence justifying that the groups had taken part in cartels for several years. The General Court upheld all the essential aspects of the Commission's decision while reducing fines imposed on certain legal entities. Several of the judgments have been appealed to the European Court of Justice, including one by the Commission.

A third party challenged the Commission's approval of the merger case of Microsoft and Skype. The General Court rejected the third party challenge and, in doing so, it made a number of important findings for future cases.

The **Institutions Team** is actively engaged in inter alia advising on the appropriate institutional design of a large series of measures aimed at combatting the banking and sovereign debt crisis as well as at developing a deeper and genuine EMU. In that context, it also successfully intervened on behalf of the Commission on the side of the Council and the European Parliament in a case before the Court of Justice opposing the latter to the UK with respect to the legality of certain provisions in EU legislation pertaining to short selling practices. The Institutions Team was also responsible for submitting an elaborate request to the Court of Justice for an advisory opinion on the draft treaty enabling the EU to adhere to the European Convention of Human Rights.

The **JLS** and Quality of Legislation teams assisted Directorate General Home Affairs in the preparation of a recast of the Visa Code, which is due to be adopted by the Commission on 19 March 2014. The Court of Justice clarified in a case that the competent authorities of a Member State cannot refuse, following the examination of an application for a uniform visa, to issue such a visa to an applicant unless one of the grounds for refusal of a visa listed in those provisions can be applied to that applicant. The Court added that the authorities have a wide discretion in the examination of that application so far as concerns the conditions for the application of those provisions and the assessment of the relevant facts, with a view to ascertaining whether one of those grounds for refusal can be applied to the applicant. This judgement appears very relevant for the many third country nationals who intend to travel to the Union.

In the **environmental area**, there were several Court judgements rendered. In the *Belgische Petroleum Unie* case concerning blended biofuels with petrol and diesel, the Court stated that a Belgian state measure was in accordance with the EU objective to promote the use of biofuels in transport. In the German *Altrip* case, the Court found that Member States cannot limit the applicability of judicial review to cases in which no environmental impact assessment was carried out at all. Respect for the formal requirements must be subject to judicial review as well. It is for the developer or the competent authorities and not for the applicant to prove that the contested decision would have been different if the procedure had been correct. The Court clarified a request by the UK *Supreme Court* that persons should not be prevented from seeking a review by the courts by reasons of the financial burden that might arise. The assessment must be carried out on the basis of the financial situation of the person concerned and on all the circumstances of the case (such as amount of costs, prospect of success, importance for the claimant and for the environment, complexity of the relevant law and the potentially frivolous nature of the claim).

One major event of 2013 in the area of staff law was the adoption by the Parliament and Council of amendments to the Staff Regulations ("SR"), which came into force on 1 January 2014.

The GC has recently given judgment annulling a judgment of the CST in which it had held that the duty of care ("*devoir de sollicitude*") owed to agents could prevent an agency from terminating an indeterminate contract, even though the duties on which the agent had been employed had been taken away from the agency. The GC holds that the duty of care cannot be extended this far.

In **WTO litigation** the Legal Service represents the EU against third country members of the WTO before WTO panels and other bodies. In 2013, the Legal Service defended the interests of the Union in 24 new disputes in addition to the 69 cases initiated in previous years that are still on-going.

The Panel in China – Export restrictions on Rare earth, Tungsten and Molybdenum (DS 431, 432, 433) issued its final reports to the parties on 21 November 2013. The EU and its co-complainants (US and Japan) prevailed on all the main claims brought against China. The Panel found that China's export duties, export quotas and certain challenged quota administration requirements are inconsistent with China's obligations under the GATT and under its Accession Protocol.

The Panel reports in EC on Seal Products were circulated on 25 November. The dispute brought by Canada and Norway concerned certain EU measures that prohibit the import and placing on the market of seal products. The case required the Panel to assess whether public morals exception under the GATT can justify the ban on seal products. In its key finding the Panel accepted that the EU ban pursues a legitimate objective (public moral concerns on seal welfare) and is not more trade restrictive than necessary. The Panel however rejected certain aspects of the EU's exceptions for products derived from traditional Inuit hunts and from marine resource management hunts. All parties have appealed unfavourable findings.

Member States have the possibility to ask the Court of Justice for an interpretation of a legal act in a **preliminary rulings procedure**. The Legal Service always intervenes to give the Court its views on the interpretation of the legal question. Out of the 635 cases new to the Court of Justice in 2013, 432 were preliminary rulings. The number of preliminary rulings is steadily increasing as a result of the gradual involvement of new Member States.

The **Recovery and Contracts Unit** of the Legal Service assists the Commission services in various fields of their activity (in particular procurement procedures, procurement contracts and grant agreements - including recovery of sums owed to the Commission in case of breach of those contracts and agreements), in case of litigation or need for a legal advice. It is also competent in case of litigation or need for a legal advice in relation with the buildings that the Commission occupies in Brussels and Luxembourg mainly.

In 2013, with the assistance of external lawyers, the recovery and Contracts Unit obtained payment of around €3 million to the Commission. This payment was made by some pre-stressing steel producers to cover part of the fine that the Commission imposed on them in 2010 for two-decades long-price fixing and market-sharing cartel, pending their appeal before the General Court against the fine.

In order to ensure that Member States implement and apply the *acquis communautaire* correctly, the **Infringement** cellule of the Legal Service assists the Commission in meetings and negotiations with Member States to improve their legislation and, if necessary, brings cases to the Court of Justice.

In 2013, the **Quality of Legislation** team was involved in the preparation of very important and urgent legislative files, in particular as regards the initiatives of the Commission relating to banking governance, the multi-annual financial framework or the implementation of the agricultural reform.

The Quality of Legislation team made a new electronic tool, the "Drafters' Assistance Package", available to drafters in the Commission. This should improve the quality of draft acts at an early stage and have an impact on the final result, thereby facilitating the understanding and implementation of those acts by the Member States and the public.

On 1 July 2013, Croatia became the 28th member of the European Union. The Quality of Legislation team finalised the translations made by the Croatian authorities of the *acquis of the Union* and managed to reach the target date (accession date).

Executive Summary (five pages)

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 and the achievement of objectives.

Key Performance Indicators

The Legal Service has, since its establishment, been responsible for providing legal advice and for defending the interests of the Commission. 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 influence 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.

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

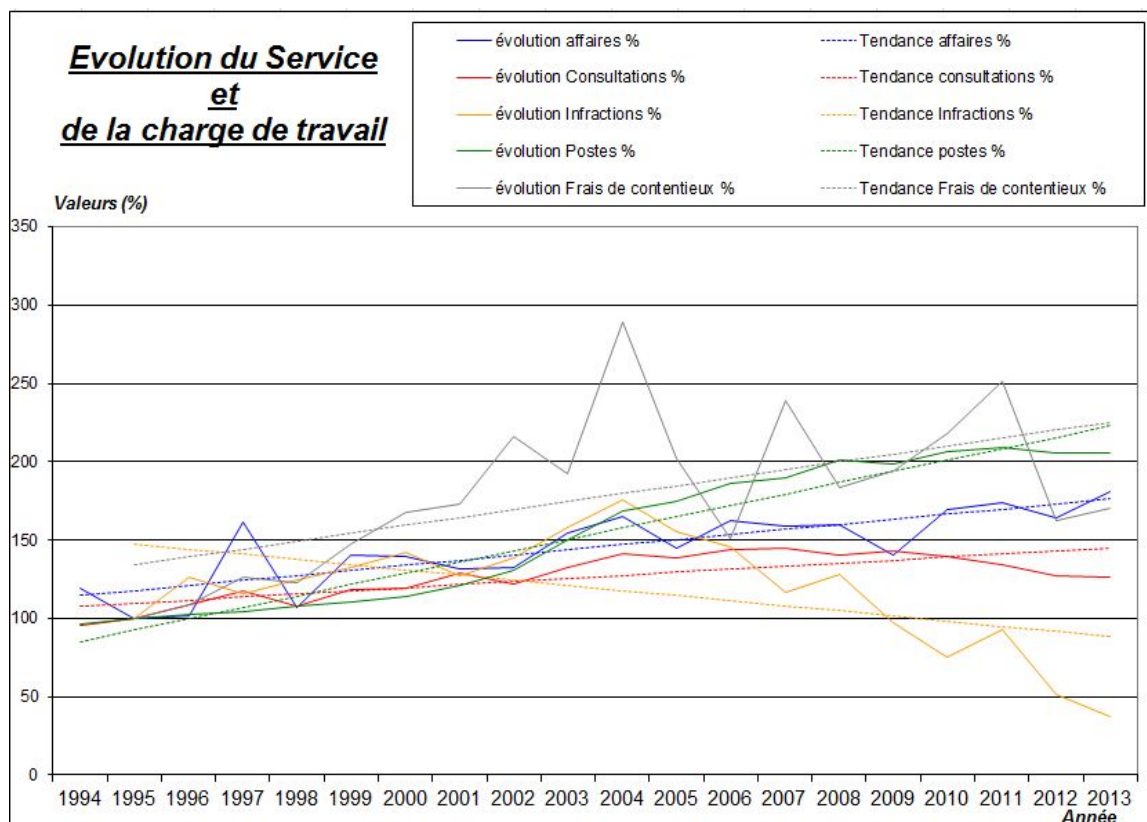


Table 1: Workload evolution in the Legal Service

Quality of Legislation

The work of the Quality of Legislation team is of major significance for legal drafting in the Commission. The team revises the vast majority of legal acts to be published, with a view to ensuring that they comply with the rules of legal drafting and that they are clearly structured and correctly formulated.

The Quality of Legislation team can therefore be considered to contribute to efficiency gains throughout the Commission as regards the preparation of its draft legal acts and proposals to be sent to the other institutions. Finally, well drafted legal texts ensure coherence and equal treatment for citizens of the Union.

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

KPI n° 1: Continuously 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.

In 2013, the Quality of Legislation team has reviewed 1 560 legal texts.

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

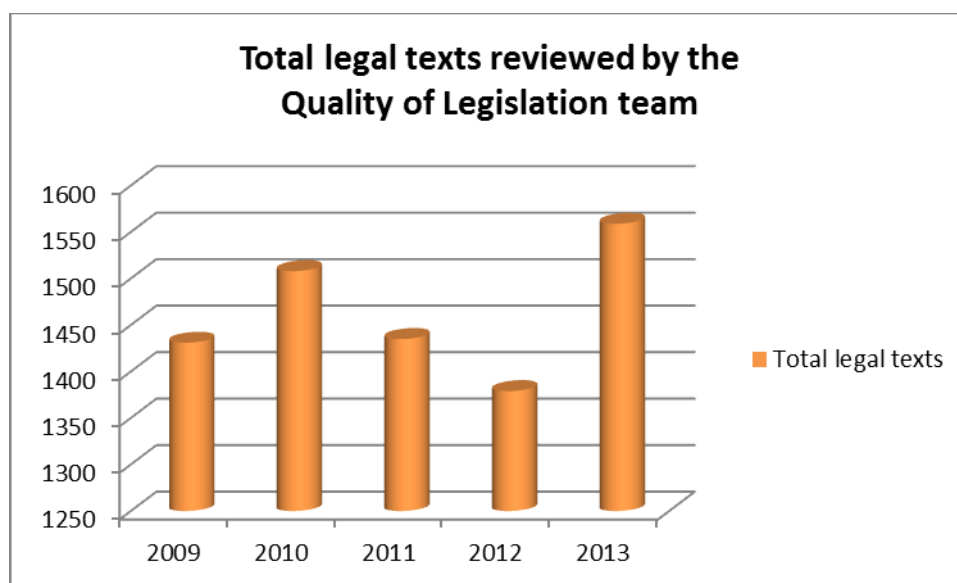


Table: Number of legal texts reviewed by the Quality of Legislation Team per year (Source: Jurrev)

Timely and qualitative Legal Advice

The Director Generals 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.

KPI n° 2: Provide high quality and timely legal advice to the Commission DGs and Services.

In 2013, the Legal Service replied to 12.790 consultations, whereof inter Service Consultations (CIS) represents 50%. 93% of the Inter Service Consultations were replied to within set deadline.

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

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

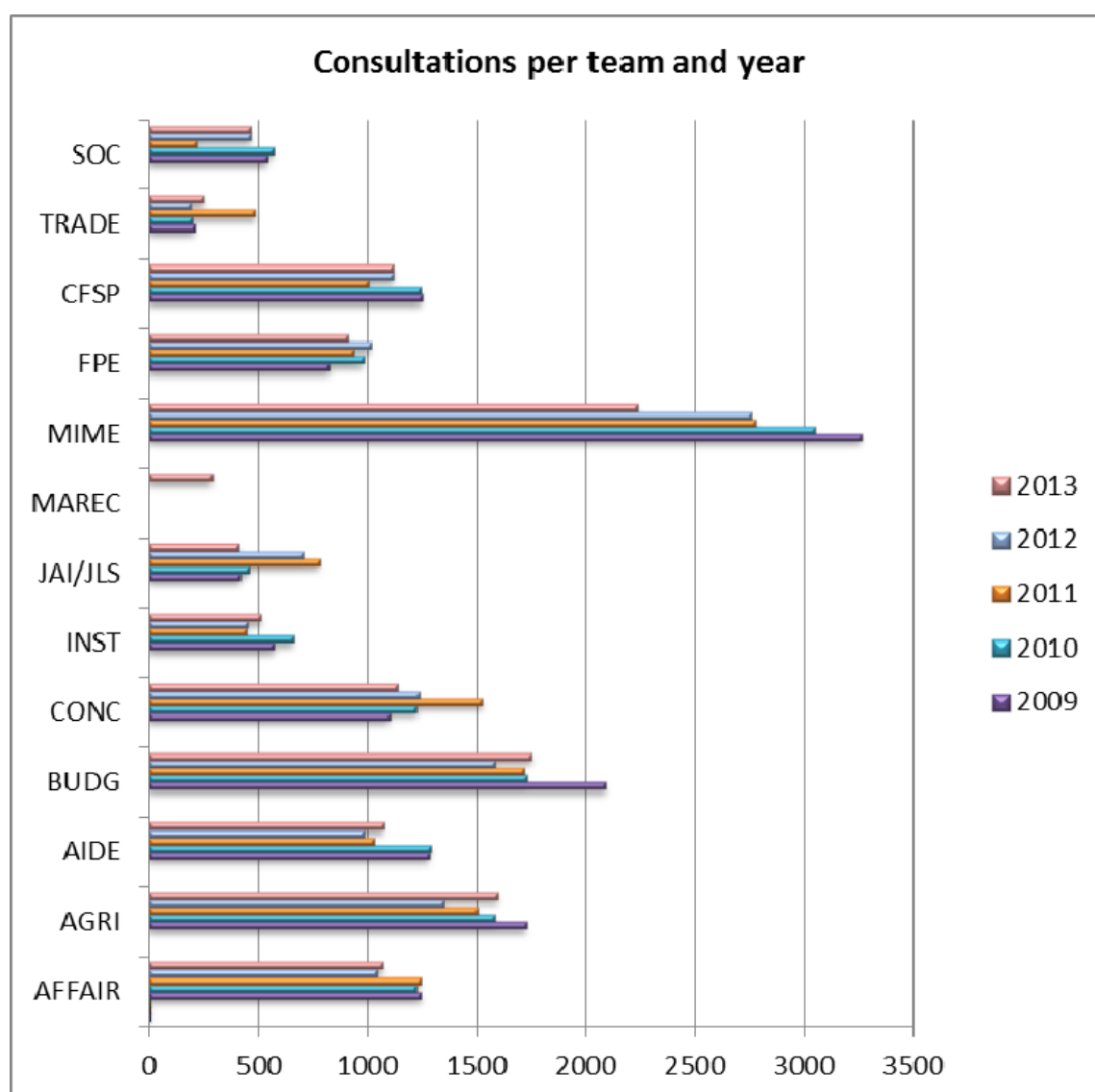


Table: Total registered consultations per team and year (Source: Ares)

Quality of Legal Representation

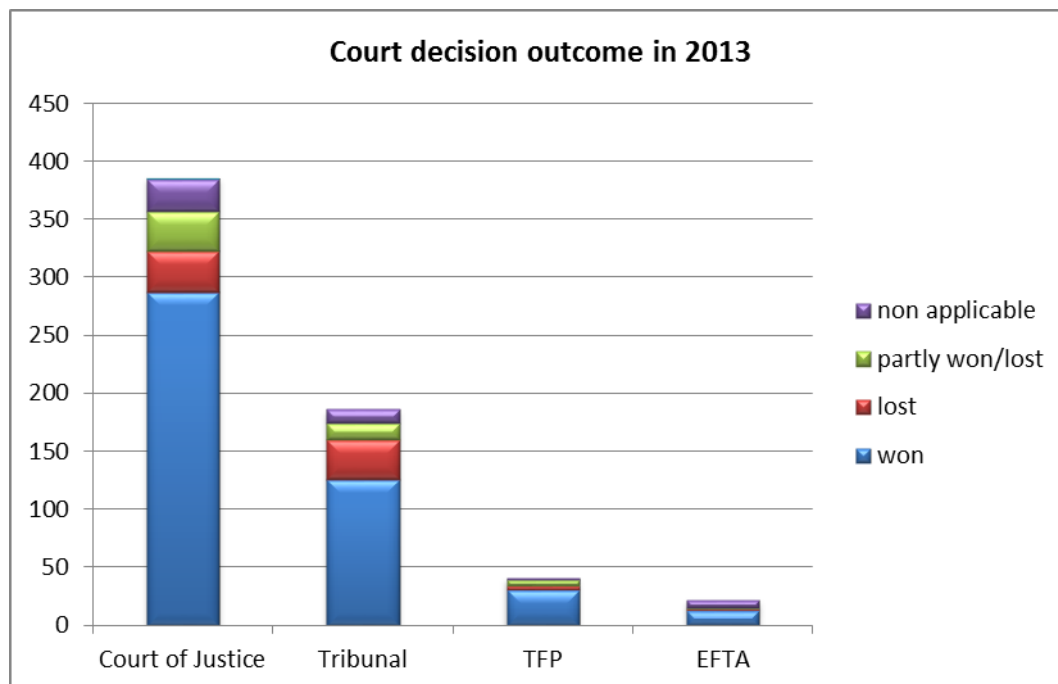
The Legal Service represents the Commission before the Court: the three instances within the Court of Justice of the European Union – namely the Court of Justice, the General Court and the Civil Service Tribunal (CST); then the Dispute settlement bodies within the WTO in Geneva; and finally, the national 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 more than 60% of national cases).

KPI n° 3: Provide high quality and timely legal representation in order to defend the interest of the Commission before the courts and tribunals.

In 2013, out of the 745 decisions by the Courts of the Union, the Legal Service won 66% and lost 17%. The remaining 17% are cases that were partly won or where the court referred the case for various reasons.

The Commission wins (69%) more cases than it loses (17%), the distinction between "won and lost" is not always easy or appropriate. In addition, 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. Furthermore, the Commission sometimes decides to bring "test cases" in order to try to advance or confirm the legal interpretation of the Treaties or of other pieces of Union law. In such cases a more refined analysis of the result is warranted.

The table below presents the 2013 court decision outcome for the Courts of the Union.



Outcome of Court decisions in 2013 (Source: Base Contentieux)

For Judgements in the most important cases, a briefing note is addressed to the President's Cabinet and to the spokesperson service, as well as to the other cabinets and Directorates General concerned. The Legal Service regularly reports to the Commission on important court cases and the most significant court cases (decisions) are included in the annual report of the Commission.

Full benefits of rules to the European citizens

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 in its contacts with Member States in with a view to achieving compliance with EU law and, if necessary, represents the Commission in cases before the Court of Justice.

The Legal Service provides its advice at every stage in the formal infringement procedure and on each proposal of a Directorate General in the infringement cases and if needed, defends the interests of the EU and Union law, by representing the Commission before the Court of Justice; these procedures will ultimately benefit the citizens of the EU

KPI n° 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.

1660 ongoing infringement cases in 2013, 869 were closed and 54 were submitted to the court.

The evolution of the number of Infringement cases treated by the Legal Service since 2003 is presented in the table below.

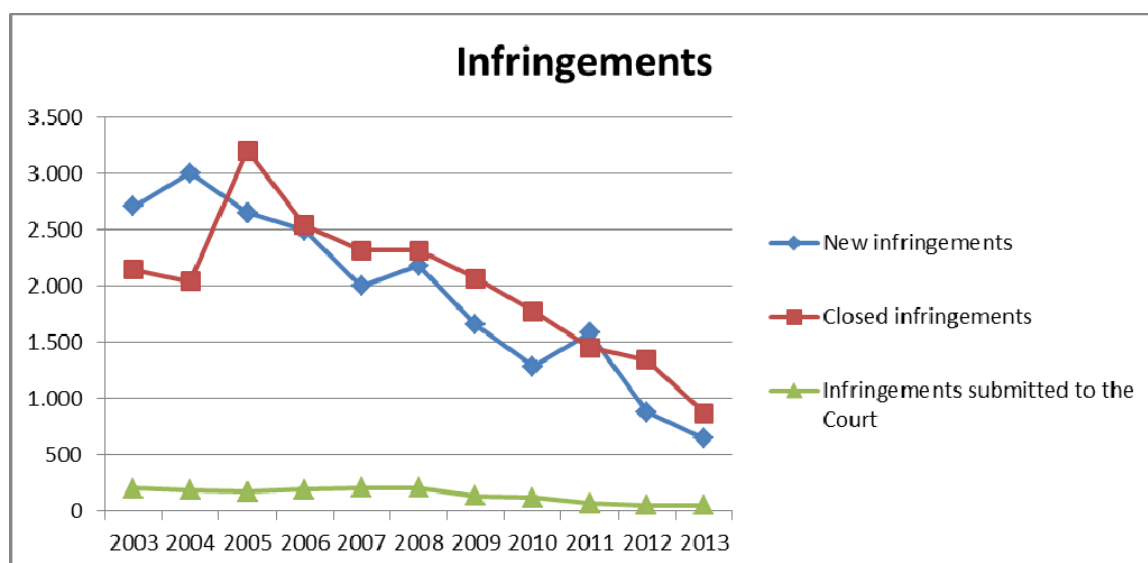


Table 2: Development of Infringements cases (Source: NIF)

Handling of Sensitive Information

KPI n° 5: Development and implementation of the handling of sensitive information for the Legal Service.

Establish a permanent group to issue guidance to Legal Service staff on the handling of sensitive information and the implementation of the IAS audit recommendations on this subject.

The Legal Service has enhanced its organisation of the management and monitoring of sensitive information by the establishment of a permanent group and the issuance of several guidance notes to staff on various aspects of sensitive information.

Policy highlights of the year (executive summary of part I)

Not applicable to the Legal Service as it is not a policy making DG.

Key conclusions on resource management and internal control effectiveness (executive summary on part 2 and 3)

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. As required by the Financial Regulation, the Director-General 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 has assessed the effectiveness of its key internal control systems during the reporting year and has concluded that the internal control standards are effectively implemented. During 2013, the Legal Service has taken measures to further improve the efficiency of its internal control systems in the area of ICS 11 on Document Management, ICS 6 on Risk Management and ICS 10 on Business Continuity; for more information, see Part 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.

Information to the Commissioner

The main elements of this report and assurance declaration have been brought to the attention of the President of the Commission, José Manuel Barroso.

POLICY ACHIEVEMENTS

1.1 Achievement of general and specific objectives

1.1.1 ABB activity Quality of Legislation

ABB activity: Quality of Legislation		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending	
Objectives	Indicators	Target (2013)	Current situation (as achieved)
Provide the Commission with timely and high-quality advice by intervening at an early stage in the drafting of legal texts in the DG's and Services	1. Revision of draft legislative texts for publication in the Official Journey (Source: OJ) 2. Number of texts revised in all official languages per month. 3. Number of corrigenda revised in one or more of the official languages per month 4. Individual Commission decisions revised in one or more of the official languages per month	90% ~5 per month ~23 per month ~5 per month	1560 legal texts 55 255 55
Improve the quality of legislation through the revision of draft texts and the update and development of models, guides and related tools.	Joint Practical Guide updated and published and DAP completed and launched.	To be updated To be launched	Update completed Completed/launched
Preparation for Enlargement	All of the translations submitted by the Croatian authorities finalised by the Legal Service.	100%	36 330 pages (representing 100%)

Revision of draft legal texts

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 21% of the resources of the Service.

A – Legal Revision

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. In the end, this 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 or 24 languages (as applicable from 1.7.2013), 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 2013, some 1210 texts were reviewed by the Quality of Legislation team from the point of view of legislative drafting and 64 legal-linguistic revisions (verifying the legal and linguistic consistency of legislation and other preparatory documents) were carried out by the team during "consistency meetings", or equivalent procedures. The number of requests for corrigenda in one or more languages remained broadly the same as in 2012 (275 files).

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 act is adopted under an accelerated legislative procedure and replaces and repeals the acts codified.

Due to the large number of changes and of outdated and obsolete texts, this work is of strategic importance, as is recognised by the Commission's policy on Quality of Legislation in which codification plays an important role.

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 2013, the codification process was completed for 8 acts in all official languages. Moreover, on request of the competent DGs, new codification exercises were launched preparing the “*mastercopies*” for 3 “*vertical*” codifications of existing acts with their amendments and 1 “horizontal” codification, in the field of company law, covering 7 different directives with their amendments.

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.

In the context of simplification in particular towards small and medium enterprises, the Quality of Legislation team participated in preliminary reflections with the Secretariat General and the Publications Office on ways of making better use of consolidated texts in the legislative process.

1.1.2 ABB activity Consultation, litigation and infringements

This activity is managed by the thematic teams of the Legal Service, accounting for 72% of Service personnel with 337 persons / year. The workload is divided equally between consultation and litigation (including infringements).

In 2013, the Legal Service paid €3.2 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.

ABB activity: Consultation, litigation and infringements			<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Objectives	Indicators	Target 90% (2013)	Current situation (as achieved)
Provide high quality and timely legal advice to DG's, Services, the College and the Commission	1. Reply to consultations within deadline. CISNET Infringement Ombudsman RECO (Source: CISNET, NIF, Sec Gen, RECO)	90% at due date 90% > 10 w.d. 90% at due date 90% > 15 w.d.	93% (of 6386 CIS) 90% (of 1391 consul.) 57% (of 143 requests) 90% within 15 w.d.
Defend the interests of the EU and EU legislation by providing high quality and timely legal representation before the courts in litigation proceedings	100% presentation within due date (Source: register of ICS n°8)	100%	99.9%
Pursuing Member States to ensure that they have correctly transposed EU Legislation within the set deadlines and apply EU law correctly	Infringements)	90%	90%

Consultations

Giving advice to the Commission and its services is important and has a preventative effect on litigation; hence it contributes to efficiency gains throughout the Commission in its activities.

The Legal Service is consulted and has provided advice in all areas of the Commission's activities. In 2013, 12 790 requests for advice were received.

In 2013, there were 6 386 Inter Service Consultations, which represents 50% of all registered consultation. 181 of the Inter Service Consultations were so called Fast-Track consultations.

The majority of advice was given in the area of the internal market and the environment (17.4% - team MIME), taxes and budget (13.7% - Team BUDG), agriculture and fisheries (12.5% - team AGRI), Competition (8.9% - team CONC) and external relations (8.7% - RELEX group).

During the year, the Legal Service also replied on 143 requests from the Ombudsman, on 741 petitions and on 13 518 parliamentary questions.

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 C below).

The number of consultations treated by each respective team and year is presented in the table below.

Number of Consultation per team and year									
Team ¹	2006	2007	2008	2009	2010	2011	2012	2013	% (*)
AFFAIR	1.238	1.104	1.224	1.243	1.222	1.239	1.042	1.069	8.4%
AGRI	1.671	1.754	1.629	1.726	1.582	1.502	1.348	1.594	12.5%
AIDE	1.282	1.098	1.199	1.280	1.289	1.027	979	1.072	8.4%
BUDG	1.412	1.728	1.718	2.089	1.727	1.715	1.581	1.748	13.7%
CONC	1.248	1.285	1.178	1.100	1.224	1522	1.233	1.132	8.9%
INST	830	810	666	570	659	443	445	509	4.0%
JLS	912	827	745	416	454	779	699	408	3.2%
MAREC (previously in JLS)								286	2.2%
MIME	2.475	2.619	3.051	3.259	3.046	2776	2.752	2.236	17.5%
FPE	902	869	746	823	980	934	1.011	910	7,1%
Group RELEX	1.982	1.925	1.497	-					
CFSP				1.245	1.243	1.004	1.115	1.117	8,7%
TRADE				205	197	482	189	248	1,9%
SOC	585	653	520	538	565	216	463	461	3,6%
Others	28	38	36	-	-				
Total	14.565	14.710	14.209	14.494	14.188	13.639	12.857	12.790	100,0%

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

¹ The complete name of the teams are included in the organisation chart on page 15

Litigation

The Legal Service represents the Commission before the Courts. There are three instances within the Court of Justice of the European Union –the Court of Justice, the General Court and the Civil Service Tribunal (CST); then 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 (forced recovery of debts represents more than 60% of national cases for the year).

In addition, Legal Service members must be present in 100% of the hearings before the three instances of the Court of Justice of the European Union.

Over the last 10 years, in the three Courts of Justice of the European Union, there are on average 2000 on-going cases with a fluctuation of less than 10%. During the same time period, national court cases have increased by more than 50%, mainly due to improvements made in the Commission dunning procedure. The level has stabilised over the last five years with some 800 ongoing cases annually. The on-going cases in WTO have increased by 30% over the last 10 years.

In order to ensure that a court case receives its rightful court treatment, it is of vital importance that 100% of all court deadlines are respected.

In 2013, the Legal Service has defended the interests of the Institution and / or the Union in 1052 new cases before the courts of the Union, and 24 at the WTO in Geneva. These cases are in addition to those initiated in previous years and still on-going in 2013, (1877 in the courts of the Union and 24 in the WTO).

National litigation is essentially managed and coordinated by the Recovery Order and Contracts unit. In 2013 the cellule faced 139 new cases before national courts of which 93 cases concern forced recovery orders. Out of the 710 pending cases at year end, 498 concern forced recovery orders, i.e. 69% of all national litigation. In the context of forced recovery orders, the Legal Service is obliged to recover the sums owed to the Commission by all legal means.

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

Number of cases managed by the Legal Service per year and per jurisdiction										
Jurisdiction	Cases	2005	2006	2007	2008	2009	2010	2011	2012	2013
Courts of the Union	On-going cases (indicative)	1970	1846	2032	1986	1860	2158	2187	1999	1877
	New Cases	921	1090	1066	1072	945	1136	1168	1099	1213
	Closed Cases	1113	968	653	1088	914	882	938	930	1156
National Courts	On-going cases (indicative)	540	540	560	730	750	850	800	800	710
	New Cases	182	227	233	164	176	183	144	129	139
WTO	On-going cases (indicative)	44	49	41	42	46	51	57	70	69
	New Cases	11	26	15	23	15	17	9	28	24

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

The 2013 judgements of the Courts of the Union are presented in the table below.

Court decisions per jurisdiction and out-come (2013)					
Jurisdiction	Won	Lost	Partly	non applicable	Total Court Decisions
Court of Justice	367	71	35	6	479
Tribunal	121	50	27	20	218
TFP	30	12	5	1	48
EFTA	13	1	1	7	22
total	531	134	68	34	767

Out-come per jurisdiction in percentage of total cases (2013)					
Jurisdiction	Won	Lost	Partly	non applicable	Total Court Decision
Court of Justice	77%	15%	7%	1%	62%
Tribunal	56%	23%	12%	9%	28%
TFP	63%	25%	10%	2%	6%
EFTA	59%	5%	5%	32%	3%
average	69%	17%	9%	7%	100%

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

For the Aide, Budget, Mime and Social teams, the number of cases has increased compared to previous years. There is a decrease in the number of cases in the Affair, Agriculture, JLS, FPE and Relex teams. Compared to previous years there is no significant change in volume in the Competition and Institution teams.

The table below presents the number of new court cases per team since 2007.

New Cases								
Subject/Team	2007	2008	2009	2010	2011	2012	2013	%
AFFAIR	115	159	96	133	98	130	106	8,8
AGRI	110	77	50	91	63	50	78	6.4
AIDE	78	93	116	103	101	104	130	10.4
BUDG	96	107	114	146	163	105	138	11.4
CONC	108	98	82	107	119	78	73	6.0
INST	25	38	28	46	44	57	61	5.0
JLS	59	88	87	53	104	94	81	6.7
MIME	197	133	119	135	81	79	122	10.1
FPE	186	160	141	169	175	203	201	16.6
SOC	65	73	75	91	96	91	111	9.1
Group RELEX (RELEX + TRADE + CSFP)	21	43	31	47	102	87	67	5.5
divers	6	3	6	15	22	21	45	3.6
total	1.066	1072	945	1136	1168	1099	1213	100

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

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 General 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.

1543 decision, were adopted in 2013 during the ten successive monthly decision-taking cycles and therefore were the subject of prior consultation with the Legal Service and 54 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	2005	2006	2007	2008	2009	2010	2011	2012	2013 ²
On-going cases (average)³	5.099	3.252	3.858	3.433	2.892	2092	2061	1835	1633
New cases	2.653	2.495	2.002	2.185	1.659	1289	1586	882	645
Closed cases	3.200	2.543	2.319	2.319	2.067	1779	1453	1344	869
Requests submitted to the Court	174	194	211	210	136	120	70	54	54

Infringement files per subject as at 31.12.2012	2005	2006	2007	2008	2009	2010	2011	2012	2013 ⁴
<i>Agriculture, Fishery</i>	99	66	42	80	22	11	41	35	40
<i>Energy and Transport</i>	344	364	345	361	355	309	448	318	306
<i>Enterprise</i>	309	257	289	213	158	90	133	70	73
<i>Environment</i>	1.386	684	792	670	525	444	342	305	375
<i>Taxes and Customs</i>	411	435	519	605	524	324	254	244	70
<i>Internal Market</i>	1.096	561	674	593	399	326	299	204	188
<i>Health and consumers</i>	584	189	431	220	166	123	75	101	240
<i>Others</i>	870	696	766	691	743	465	478	330	368
total	4.794	4.176	3.555	3.646	3.163	2.492	2.081	1.839	1.634

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

² Final figures for 2013 are provisional, final figures are will be presented in the annual report of Secretariat General.

³ As from 2011 and the new presentation of the annual report from Sec Gen presents average infringement cases.

⁴ Final figures for 2013 are provisional, final figures are will be presented in the annual report of Secretariat General.

1.2 Specific efforts to improve 'economy' and 'efficiency' of spending and non-spending activities.

According to the financial regulation (art 30), the principle of economy requires that the resources used by the institution in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of efficiency concerns the best relationship between resources employed and results achieved.

The respect of these principles is continuously pursued through the implementation of internal procedures and predefined practices. These procedures ensure that activities are executed in an efficient manner (e.g. the different workflows contribute to the efficient cooperation between staff, units, etc....) and according to the principle of economy (e.g. the procurement rules ensure procurement in optimal conditions).

The Legal Service is continuously fine-tuning its internal arrangements in order to improve the efficiency and economy of its operations. The following two initiatives show how these principles are implemented in our service:

1.2.1 Electronic transmission of power of attorney

In 2013, a modification in existing informatics systems BC (Base Contentieux) dealing with document management of court cases and the document registration system Ares-Hermes allowed the members of Quality of Legislation team to prepare the power of attorneys to be transmitted to the Court of Justice. The results are an increase in speed, reliability in the transmission and decreased paper consumption.

1.2.2 Electronic transmission of documents to the Union Courts

The usage of e-Curia, provided by the Court of Justice, has allowed very significant gains in the workload for the handling of documents coming from the Court of Justice and transmitted by the Legal Service to the Registrar of the Court of Justice. The results are an increase in speed, reliability in the transmission and decreased paper consumption.

2. MANAGEMENT OF RESOURCES

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 opinion and the observations of the Shared Internal Audit Capability (SIAC);

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.

The Legal Service is not the lead service for any policy or programs; hence all expenditures of the Legal Service are administrative.

In 2013, the Legal Service paid a total amount of 3.2 million Euro for external legal fees and costs to the successful party 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 procedure procurement. The total amount for external legal fees in 2013 was 2 million Euros.

For the cases lost in 2013, the Legal Service has been obliged by a court decision to pay the successful party for their legal fees at total of 1.2 million Euros.

The Legal Service spent 0.4 million Euro on mission expenses in 2013. 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 2013 are presented:

<u>Activity</u>	<u>Commitments in 2013</u>	<u>Payments in 2013</u>
Quality of Legislation	0.03 million Euro	0.03 million Euro
Legal advice, litigation and infringements	3.7 million Euro	
External lawyers and experts		2.0 million Euro
Cases lost – fees		1.2 million Euro
Administrative costs		
Missions	0.4 million Euro	0.4 million Euro
Other administrative expenses	0.5 million Euro	0.5 million Euro
TOTAL	4.6 million Euro	4.1 million Euro

Table: Committed and paid amounts per activity in 2013

2.1 Management of human and financial resources by the Legal Service.

This section reports and assesses the elements identified by management that support the assurance on the achievement of the internal control objectives. 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.

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.

Qualitative analysis of the management review of the registry or exceptions and internal control weaknesses.

During the reporting year there were 24 recorded instances of override of controls which all had an impact on the legality and regularity of the transactions in the financial area. These concerned *saisine a posteriori* as a formal compliance issue which does not have a negative impact on the budget.

In conclusion, the analysis of the available control results, the assessment of the weaknesses identified and of their relative impact on legality and regularity has not unveiled any significant weaknesses which could have a material impact as regards the legality and regularity of the financial operation and it is possible to conclude that the control objective as regards legality and regularity has been achieved.

There are no detected erroneous payments in the Legal Service in 2013.

In 2013, the total payments in the Legal Service were 3.2 million Euro for legal fees and an additional 0.9 million Euro for administrative expenses, mainly mission expenditure and IT development. The Legal Service has put in place a centralised financial circuit and hence, all commitments and payments follow the same procedures and controls. For materiality criteria, please see annex 4.

As regards the legality and regularity of the underlying transactions, the objective is to ensure that the estimated annual risk of errors in commitments and payments at the time of the authorisation of the transactions is less than 68 000 Euro.

The error rate in payments is less than 1% and the average payment delay is 13 days.

Exceptions to the ICS 8 with a financial impact are identified and recorded by the financial cellule, analysed by the ICC and suggestions for improvements are proposed to management by the ICC.

Control efficiency and cost-effectiveness.

The principle of efficiency concerns the best relationship between resources employed and results achieved. The principle of economy requires that the resources used by the institution in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price. This section outlines the indicators used to monitor the efficiency of the control systems, including an overall assessment of the costs and benefits of controls.

The Legal Service has produced an estimation of the costs of the three main control processes. However, since a quantitative estimation of the volume of errors prevented and detected is not available, it is not possible to quantify the related benefits. In consequence, it is not possible to determine the cost-effectiveness of controls by comparing costs with benefits; it is necessary to consider the efficiency indicators retained. To do so, the Legal Service has defined efficiency measures for the controls associated with the core processes (procurement, financial circuit and supervisory measures):

The benefits of control in non-financial terms cover: better value for money, deterrence efficiency gains, system improvements and, as mentioned above, compliance with regulatory provisions.

To reach a conclusion as to the relative efficiency of the controls, it is necessary to analyse the evolution of these efficiency indicators over time and/or to compare them with relevant benchmarks. This is not currently possible, as this is the first year in which the Legal Service has calculated and reported these indicators.

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 member.

All in total, the costs for controls represents 30% of a full time post, e.g. approximately 40.000€

Given the limited total payments of 4.1 million Euro in 2013 of which 3.2 million Euros was paid for contracted legal expertise and the error rate in the accounts of 0.3% and, furthermore, the fact that there are no recovery orders issued for unduly payments 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.

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 amount of errors and irregularities prevented, detected and corrected by these controls.

Overall, during the reporting year the controls carried out by the Legal Service for the management of the budget appropriations were cost effective, as they comprise the baseline requirements.

Fraud prevention and detection

The Legal Service has developed its anti-fraud strategy as foreseen in the Commission's overall anti-fraud strategy. All the resulting measures have been fully implemented by the end of 2013. The new Legal Service anti-fraud strategy was approved by the Director General on January 7, 2014 and was communicated to all staff shortly thereafter.

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 which the legal fees are paid to external legal experts and its mission expenditure covering staff presenting court cases to the Courts of the Union.

Other control objectives: use of resources for their intended purpose, reliability of reporting, safeguarding of assets and information

The Legal Service handles sensitive information and therefore, Senior Management decided to dedicate 2013 to enhance and improve efficiency in this area. Based on an audit report on the Handling of Sensitive Information by the IAS, the task force

established for this purpose, has worked intensively to implement all the recommendations. By the end of 2013, several guidance notes on the handling of sensitive information were issued and a permanent group established to ensure continuation of the task. Management consider the actions taken to have been effective and efficient and that they have contributed to a harmonised treatment of sensitive information in the Legal Service.

2.2 Budget implementation tasks entrusted to other services and entities.

As in previous years, the Legal Service has cross-sub-delegated 55 000 EUR to DG DIGIT for the support and maintenance of the informatics system LegisWrite. Being a Commission service itself, the AOD is required to implement the appropriations subject to the same rules, responsibilities and accountability arrangements. During 2013, DG DIGIT has carried out maintenance; several support activities and training in accordance with the established Memorandum of Understanding.

Cross-sub-delegations

Expenditure booked to the sub-delegated budget line has been managed under the internal control system put in place by the Commission and by DIGIT. The system is effective and conforms to the standards and norms defined by the Commission.

Neither the Court of Auditors, the IAS nor the IAC have made any remarks or observations on the programmes, operations or actions carried out with the use of the sub-delegated appropriations.

The sub-delegated budget line has not been the subject of any reservation by the Authorising Officer by Delegation in years prior to this report.

I, the undersigned, Stephen QUEST,

Director General of DG DIGIT

In my capacity as authorising officer by delegation,

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

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, the work of the internal audit capability, for years prior to the year of this declaration.

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

2.3 Assessment of audit results and follow up of audit recommendations

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

In 2013, the SIAC has performed one audit, Financial review of the Legal Service (final report of 02/10/2013): The audit assessed whether the rules and financial circuits applicable to the sampled transactions have been appropriately applied as regards commitment, validation, authorisation of payments/recoveries; and it assessed the effectiveness of control mechanisms in order to ensure the legality and regularity of transactions. A qualified opinion with 4 recommendations (1 'very important, 2 'important' and 1 'desirable') was issued. All recommendations have been accepted by management and were implemented before year end 2013.

The IAS has performed a follow up on the previously issued audit report on Management of Local IT. The IAS issued a report confirming that all recommendations have been implemented.

No audits were undertaken by the ECA in 2013.

Audit Opinion by the SIAC

The IAC believes that based on the results of its audit as described in the objectives and scope of the engagement carried out by the IAC of the Legal Service during 2013, the internal control system in place in the Legal Service provides reasonable assurance regarding the achievement of the business objectives set up for the processes audited, except for evidence about financial verification of commitments (Financial Review of the Legal Service).

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.

In conclusion, the internal control standards are effectively implemented. In addition, the Legal Service has taken measures to further improve the efficiency of its internal control systems in the area of Risk management, Business Continuity and the Handling of Sensitive Information.

Each year, the Legal Service selects a number of internal control standards for improvement. 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.

In 2013, there were two prioritised areas of internal controls:

1. the Risk Management process for daily operations as well as
2. Business Continuity and the Handling of Sensitive Information.

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.

A task force was established to identify and issue supplementary guidance on various aspects related to document management (ICS 11) with a special focus on the handling of sensitive information by Legal Service staff. Several notes were published on these aspects and actions were taken to ensure limited access to sensitive information. At the end of the year, a permanent group, headed by the Deputy Director General was established to ensure continuation of the development and monitoring of compliance in this area.

Based on the information obtained during the meetings with the Directors on Risk Management in a Business Continuity situation, a new Business Continuity Plan was developed and implemented. Training and awareness-raising of the duties in a business continuity situation have been undertaken and complementary actions are scheduled for 2014.

A register is kept of all exceptions in line with ICS 8 by the financial cellule for exceptions with a direct financial link and by the legal coordinators for the exceptions related to non-financial procedures. The ICC reviews these registers during the year in order to determine if there are any systemic issues which need to be brought to management's attention. In 2013, three non-financial exceptions were identified. Analyses of these exceptions showed that they had no reputational impact. Measures have been taken to improve the internal control systems to avoid repetition of these exceptions.

In 2013, the internal audit function was reorganised and since the beginning of the year is provided by a shared internal audit function. Management based its decision for this reorganisation on the several advantages there are with an internal audit team, certified by the Institute for Internal Auditors (IIA). The audits undertaken and reported upon during 2013 have not given management of the Legal Service any indications of significant malfunctioning of the financial procedures or in the field of internal controls.

In conclusion, the internal control standards are effectively implemented.

The Legal Service annually assesses the effectiveness of its key internal control systems, in accordance with the applicable Commission guidance. The assessment relies on a number of monitoring measures and sources of information including a survey-based management self-assessment; reported instances of exceptions, non-compliance events and internal control weaknesses; relevant audit findings; and the risk assessment process.

In its management plan for the reporting year, the Legal Service had foreseen a number of measures to improve the effective implementation of ICS 11 on Document Management, ICS 6 on Risk Management and ICS 10 on Business Continuity. By the end of the reporting year, these measures were fully and satisfactorily implemented.

The Legal Service's annual review of its implementation of the Internal Control Standards (ICS- 15) was based on an initial desk review by the ICC staff, followed by interviews of relevant horizontal units responsible for the implementation of the 16 ICS. This has led to the 'top-down' assessment of the DG's internal control status at the end of the reporting year, with respect to both the ICS compliance and the effectiveness of the control arrangements in place. Furthermore, the 'bottom-up' information on internal control issues received through the AOSDs' Management Reports has been checked for confirmation or any counter-indications. Finally, the SIAC's Opinion has been taken into account as well. This analysis had enabled the ICC to report on the state of internal control.

The functioning of the internal control system has been closely monitored throughout the year by the systematic registration of exceptions (under ICS 8) and internal control weaknesses (ICS 12). The underlying causes behind these exceptions and weaknesses have been analysed and corrective and alternative mitigating controls have been implemented when necessary.

Concerning the overall state of the internal control system, generally the Legal Service complies with the three assessment criteria for effectiveness; i.e. (a) staff having the required knowledge and skills, (b) systems and procedures designed and implemented to manage the key risks effectively, and (c) no instances of ineffective controls that have exposed the Legal Service to its key risks.

4. MANAGEMENT ASSURANCE

This section reviews the assessment of the elements reported in Parts 2 and 3 and draw conclusions supporting the declaration of assurance and namely, whether it should be qualified with reservations.

4.1 Review of the elements supporting 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 Parts 2 and 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.

4.2 Overall conclusion on assurance

In 2013, the Legal Service has continued its mission to provide the other DGs and Services of the Commission with high quality legal advice and legal representation within the deadlines set. The Legal Service has reached its objectives for legal advice and legal representation with the resources at hand; it has represented the Commission and defended Community legislation in all court hearings and it has responded within deadline on all important consultations. It has worked proactively on quality aspects of Community legislation and it has assisted the Courts in interpretations of Community law.

The Legal Service has continued to improve its internal organisation. The organisational structure and the working procedures have continued to undergo analyses aimed at improving quality controls and to ensure that all important deadlines are being met. Recommendations from audits performed by the auditors have been accepted and management is implementing them. Guidelines developed by the IAS during their consulting engagement were accepted and have been taken into account in further improvements in the procedures 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. Contracts are signed for all external legal services, the error rate in payments is less than 1% and the average payment delay is 13 days.

There were no deviations from procedures which led to any material exceptions to report on and there are no other incidents to report on which could have a negative impact on the reputation of the Legal Service.

Bearing all these aspects in mind, the officer authorised by sub-delegation considers that the information brought to his attention in this report, the procedures put in place by its management and coordination provide sufficient, complete and reliable information on his Directorate General regarding the financial situation as well as the execution of the mission of the Legal Service.

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 view⁵.

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, the work of the internal audit capability, [the observations of the Internal Audit Service - delete this if not applicable] [and the lessons learnt from the reports of the Court of Auditors - delete this if not applicable] for years prior to the year of this declaration.

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

Brussels at March 31, 2014

signed

Luis ROMERO REQUENA

⁵ True and fair in this context means a reliable, complete and correct view on the state of affairs in the service.

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 Commission⁶, I have reported my advice and recommendations to the Director-General/Head of Service on the overall state of internal control in the DG/service.

I hereby certify that the information provided in Parts 2 and 3 of the present AAR and in its annexes is, to the best of my knowledge, accurate and exhaustive.

Brussels, at March 31, 2014

signed

William O'LEARY

Head of Human Resources and Finance

⁶ 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	1	84
250108	Legal advice, litigation and infringements	304	27	331
AWBL - 10	Policy strategy and coordination for the Legal Service	10	1	11
AWBL - 11	Administrative support for the Legal Service	32		32
Total		429	29	458

Financial Resources by ABB activity (EUR Million) implementation of Commitment Appropriations (CA)				
Code ABB Activity	ABB Activity	Operational expenditure	Administrative expenditure	Total
250107	Quality of Legislation	0	0.1	0.1
250108	Legal Advice, litigation and Infringements	0	0.8	0.8
Total		0	0.9	0.9

ANNEX 3: Draft annual accounts and financial reports

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 2013 it is set at €68 000.

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 2013 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			
<p>B - NEED ASSESSMENT & DEFINITION OF NEEDS: Not Applicable</p>	n/a			

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>C – SELECTION OF THE OFFER & EVALUATION: Not Applicable</p> <p>For Quality of Legislation: LS rely on the Framework contract managed by OPOCE.</p> <p>For Legal Advice, Litigation and Infringements: LS apply the Low value procurement procedure.</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 (conform aux faits and bon a payer).</p> <p>100 % of the contracts are controlled before signature.</p> <p>All invoices are controlled (conform aux faits and bon a payer).</p> <p>40% 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 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: AARs of Executive Agencies (*if applicable*) and the EAMR of the Union Delegations (DG DEVCO only)

Not applicable to the Legal Service.

ANNEX 8: Decentralised agencies (if applicable)-

Not applicable to the Legal Service.

ANNEX 9: Performance information included in evaluations

Not applicable to the Legal Service.

ANNEX 10: Specific annexes related to "Management of Resources" (Part 2) (if needed- free format)

ANNEX 11: Specific annexes related to "Assessment of the effectiveness of the internal control systems" (Part 3) (if needed-free format)