



# Annual Activity Report 2023

LEGAL SERVICE

# Contents

The Legal Service in brief.....	4
EXECUTIVE SUMMARY .....	5
A. Key results and progress towards achieving the Commission’s general objectives and departments' specific objectives.....	5
B. Key performance indicators.....	8
C. Key conclusions on internal control and financial management.....	9
D. Provision of information to the President.....	9
1. KEY RESULTS AND PROGRESS TOWARDS ACHIEVING THE COMMISSION’S GENERAL OBJECTIVES AND SPECIFIC OBJECTIVES OF THE DEPARTMENT .....	10
1.1. Legal Advice.....	10
1.1.1. Consultations .....	11
1.1.2. Fast track .....	12
1.1.3. Access to documents.....	12
1.1.4. Other consultations.....	13
1.1.5. Infringement procedures.....	13
1.2. Quality of Legislation.....	14
1.2.1. Revision of draft legal acts.....	15
1.2.2. Codification and recast of legal acts.....	15
1.2.3. Other aspects of legislative simplification and further activities.....	16
1.3. Legal Representation .....	16
1.3.1. Defending the interests of the European Union .....	17
1.3.2. Cases in the Courts of the Union.....	18
1.3.3. Preliminary rulings .....	18
1.3.4. World Trade Organisation – WTO and Bilateral Trade Agreements.....	19
1.3.5. Arbitration proceedings.....	20
1.3.6. National court cases.....	20
1.3.7. Infringement proceedings before the Court.....	21
1.3.8. Financial resources for legal representation .....	22
1.4. Negotiations on accession to the European Convention on Human Rights (ECHR) ..	22
1.5. Reform of the statutes of the European Court of Justice .....	23
2. INTERNAL CONTROL AND FINANCIAL MANAGEMENT.....	24
2.1. Control results .....	25

2.1.1	Effectiveness of controls	27
2.1.2	Efficiency of controls	30
2.1.3	Economy of controls	31
2.1.4	Conclusion on the cost-effectiveness of controls	31
2.2	Audit observations and recommendations	32
2.3	Assessment of the effectiveness of internal control systems	32
2.4	Conclusions on the assurance	33
2.5	Declaration of Assurance	34
3	MODERNISING THE ADMINISTRATION	35
3.1	Human resource management	35
3.2	Digital transformation and information management	36
3.3	Sound environmental management	38
3.4	Examples of economy and efficiency	38

## The Legal Service in brief

The Legal Service is a Presidential Service under the authority of and reporting directly to the President of the Commission, Ursula von der Leyen.



The Legal Service is an internal horizontal service. Its principal tasks are to provide high quality and timely legal advice and to defend the interests of the Commission and of the Union in litigation before the courts and tribunals. The Legal Service contributes to the development and implementation of all initiatives of the Commission and ensures that the provisions of the Treaties are correctly interpreted and applied, so that all Commission acts and proposals are in accordance with the law of the European Union and international law.

Deadlines are often very short and, nevertheless, high quality legal expertise is expected at all times. Its flat organisational structure contributes to effective and efficient information flows and decision making, facilitating the fulfilment of its objectives.

During 2023, the Legal Service dealt with:

- 2.094 on-going cases before the Union Courts and 789 cases before national courts,
- replied to 16.831 consultations <sup>(1)</sup> of which 10.052 arrived through the Commission's decision-making process <sup>(2)</sup>,
- gave its opinion on 3.653 replies to parliamentary questions and 493 petitions.

On 17 March 2023, the Legal Service organised its first **Annual Conference** with the participation of a number of distinguished speakers on key domains of EU law and undertook considerable outreach activities on EU law by presenting its book “70 years of EU law – A Union for its citizens” at 21 events.

During the 60<sup>th</sup> anniversary of the **World Jurist Association**, held on 21 July 2023; President von der Leyen, on behalf of the European Commission, received the **World Peace and Liberty award**, a very prestigious recognition of the EU as a global contribution to world peace.

At the end of 2023, the Legal Service had 426 staff members, whereby 95% of staff are in teams providing legal advice and legal representation, of which 15% focus on legislative drafting. The remaining 5% of total staff provide internal support (HR, IT, communication and finance). Administrative spending in 2023 was EUR 3.2 million of which EUR 2.8 million was used to pay legal fees. The Contract and Recoveries Unit recovered a total of EUR 1.7 million in 2023.

---

<sup>(1)</sup> Consultations registered in ARES

<sup>(2)</sup> Consultations registered in Decide

## EXECUTIVE SUMMARY

This annual activity report is a management report from the Director-General of the Legal Service to the College of Commissioners. Annual activity reports are the main instrument of management accountability within the Commission and constitute the basis on which the College takes political responsibility for the decisions it makes as well as for the coordinating, executive and management functions it exercises, as laid down in the Treaties, in particular Article 17(1) of the Treaty on European Union.

### A. Key results and progress towards achieving the Commission's general objectives and departments' specific objectives

The Legal Service is responsible for providing legal advice and for representing the Commission before Union, national and international courts and tribunals. This work must be of the highest quality and be delivered in due time, and the representation of the Commission before the Union courts must be ensured in all official languages of the Union. The flat organisational structure of the Legal Service allows for quick adaption to new situations, it allows for fast dissemination of information, and to quickly, and yet thoroughly, respond to every request in whatever legal field it may concern.



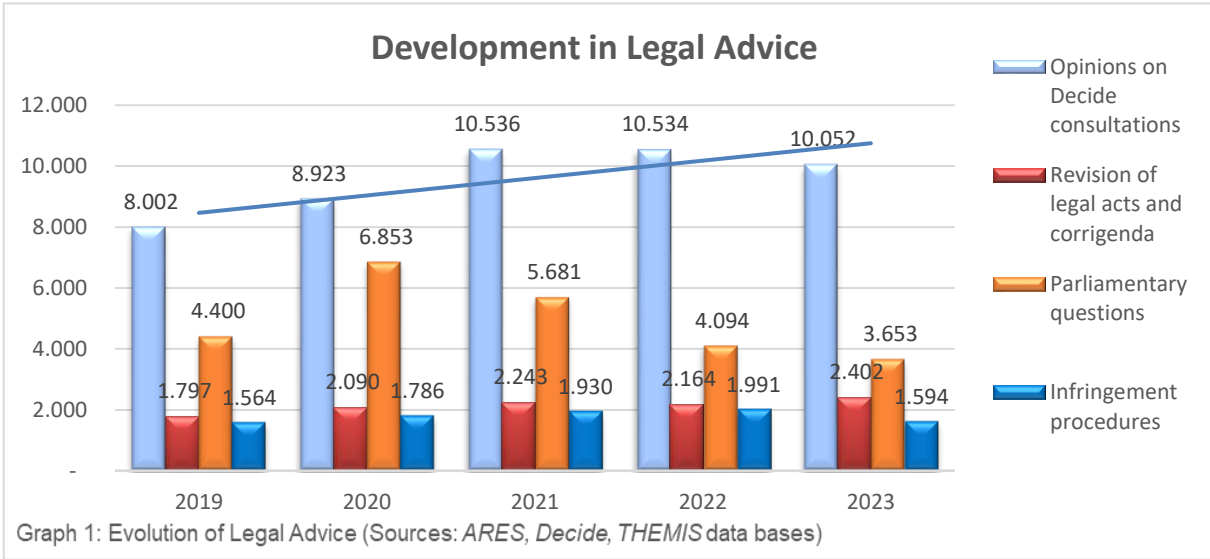
Through both its advisory role and its litigation role, the Legal Service contributes to all 7 priorities of the von der Leyen Commission. The Legal Service contributes to **General objective No 7: A modern, high-performing and sustainable European Commission**. The timely and high-quality legal advice and legal representation is expected to contribute to an increase in **Impact indicator 1: Image of the European Commission**.

The Legal Service is the lead service within the Commission for relations with all judicial bodies. It is also responsible for the negotiations concerning the accession of the European Union to the European Convention on Human Rights (ECHR). In this way, the Legal Service contributes to **General objective No 6: A new push for Democracy**. The negotiations led by the Legal Service are expected to contribute to an increase in **Impact indicator 8: Perceived independence of the national justice systems in the European Union**.

In 2023, the Legal Service worked to ensure that all measures proposed or adopted by the Commission were legally sound and that they could be successfully defended before the EU Courts and national courts.

- In the context of the **on-going war in Ukraine**, the Legal Service provided advice on urgent proposals concerning, inter alia, **EU sanctions**, the Ukraine Facility, emergency **energy measures, migration**, and support of the EU defence industry.
- Worked intensively on flagship crosscutting legislative initiatives such as the **Critical Raw Materials Act** and the **Net Zero Industry Act**.
- Gave advice on the negotiations in co-decision such as for the **Media Freedom Act**, the **Electricity Market Design**, the **Artificial Intelligence Act** and the **Pact on Migration and Asylum**, which were politically agreed by the end of 2023.
- Work related to the rule of law, implementation of the **green and digital agenda (Digital Market Act, Digital Service Act)**, on **Economic Governance** and the **Multannual Financial Framework** mid-term review were particularly intense.

2023 has shown a slight increase in the number of formal consultations. However, informal consultations have also increased, and the challenges of very short deadlines continue to put pressure on the Legal Service and its staff.

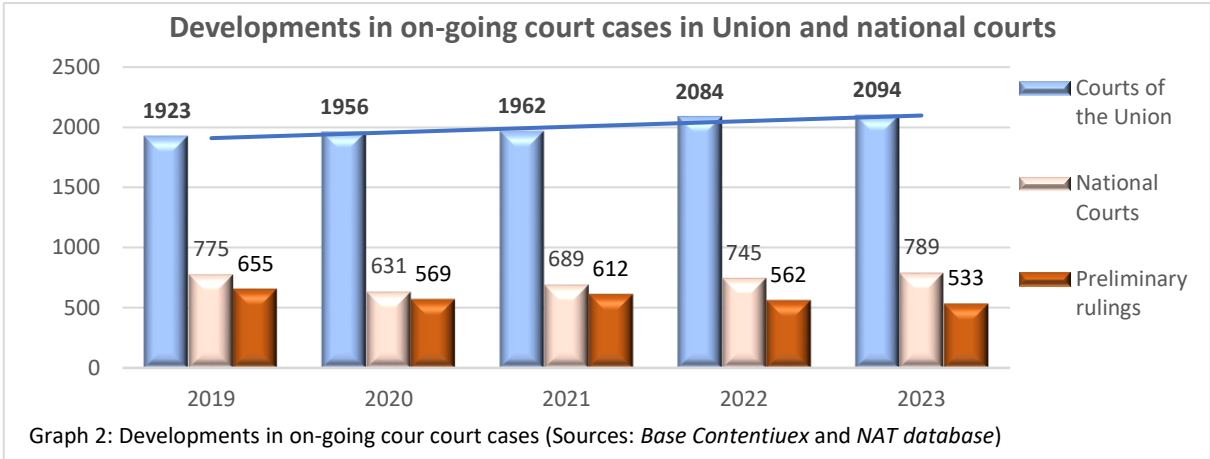


Graph 1 shows the evolution of the various types of consultations over the past 5 years in the Commission decision-making process. In 2023, the Legal Service gave its opinion on 10,052 legal acts <sup>(3)</sup>; of which 2,402 underwent legal revisions; replied to 3,653 parliamentary questions and dealt with 1,594 infringement procedures.

In 2023, the Legal Service defended the interests of the European Commission in **2,094 on-going cases** before the Courts of the Union, including by assisting the European Court of Justice and the EFTA Court in **533 preliminary rulings**. It also represented the

<sup>(3)</sup> *Decide* is the corporate IT tool supporting the Commission's decision-making process, from planning to Commission adoption.

Commission in **789 on-going national court cases**. Graph 2 shows the developments in legal representation.



The Legal Service recovered EUR 1.7 million of claims for the benefit of the Commission’s budget, and therefore also for the benefit of the Union’s budget.

On 17 March 2023, a provisional agreement was reached on a revised package of accession instruments, a significant step further in the process of **accession of the European Union to the European Convention for Human Rights (ECHR)**.



In 2022, the Legal Service published the book **“70 years of EU law – A Union for its citizens”**, written by members of the Legal Service and with a preface by Ursula von der Leyen.

It was followed by the first Legal Service **Annual Conference** held on 17 March 2023, **“70 years of EU law”**. Several VIP keynote speakers participated in a series of

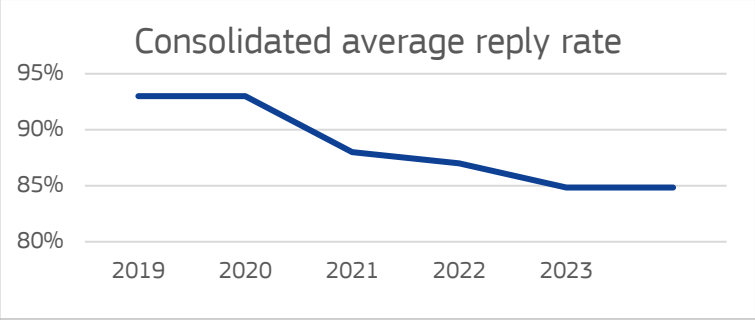

sessions on key EU law domains growing in importance, among others Internet and platforms regulation and Intergenerational Justice and Climate Litigation.

There was an extremely high level of interest in the conference with more than 400 participants physically at the event and even more people following it online.





## B. Key performance indicators

<p><b>KPI 1:</b></p> <p><b>Attendance by the Director General of the Legal Service in Commission and Heads of Cabinet meetings</b></p>	<p><b>Attendance by the DG in Commission and Heads of Cabinet meetings</b></p> <ul style="list-style-type: none"> <li>• The Director-General of the Legal Service or his Deputy attended all Commission meetings</li> <li>• The Director-General of the Legal Service or his Deputy attended all Heads of Cabinet meetings</li> </ul>
<p><b>KPI 2:</b></p> <p><b>Average rate of timely reply to Consultations at 85%</b></p>	<p>Average rate of timely reply to consultations</p>  <p>Development in reply rate (Sources : <i>Decide</i>, Sec Gen (Parliamentary questions, Petition, Ombudsman), Access to documents)</p>
<p><b>KPI 3:</b></p> <p><b>100% of selected draft legal proposals have undergone a review to ensure a high level of linguistic quality</b></p>	<p><b>Legal acts dealt with by the Quality of Legislation team</b></p>  <p>Development in legal acts reviewed (Source: <i>Decide</i>)</p>
<p><b>KPI 4:</b></p> <p><b>Ensuring the interests of the European Commission by attendance at all Court hearings</b></p>	<p><b>Presence of the Legal Service staff at court hearings</b></p> <ul style="list-style-type: none"> <li>• Legal Service was represented in 100% of Union Court hearings</li> <li>• Legal Service was represented in 100% of national court hearings</li> <li>• 100% of court documents filed within deadline</li> </ul>
<p><b>KPI 5:</b></p> <p><b>Estimated risk at closure</b></p>	<p><b>Error rate on financial transactions</b></p> <ul style="list-style-type: none"> <li>• Detected error rate at closure was below 0.5%</li> </ul>



## **C. Key conclusions on internal control and financial management**

In line with the Commission's Internal Control Framework, the Legal Service has assessed its internal control systems during the reporting year and has concluded that it is effective and the components and principles are present and functioning as intended. More information is presented in section 2.3 of this report.

Administrative spending (payments of EUR 3.2 million in 2023) in the Legal Service is mainly for contracts for external legal expertise and cost compensation to opposing parties for their legal costs (87%) and IT (13%) including the co-delegated budget with DIGIT (4%).

In addition, the Legal Service has systematically examined the available control results and indicators, as well as the observations and recommendations issued by the internal auditor and the European Court of Auditors. These elements have been assessed to determine their impact on management's assurance about the achievement of the control objectives. Please refer to section 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. The Director-General, in his capacity as Authorising Officer by Delegation, has signed the Declaration of Assurance.

## **D. Provision of information to the President**

In the context of the regular meetings during the year between the Legal Service and the President of the Commission, via her cabinet, on management matters, the main elements of this report and assurance declaration have been brought to the attention of President von der Leyen.

# 1. KEY RESULTS AND PROGRESS TOWARDS ACHIEVING THE COMMISSION'S GENERAL OBJECTIVES AND SPECIFIC OBJECTIVES OF THE DEPARTMENT

## 1.1. Legal Advice

In its advisory function, the Legal Service ensures that all Commission acts and initiatives are in accordance with the Treaties and correspond to the highest requirements of legal certainty and clarity. The Legal Service intervenes throughout the process in the preparation of legal acts, both formally and informally. Legal advice provided on documents with legal implications may contribute to a reduction in the number of litigations; hence, it contributes to efficiency gains throughout the Commission.

The Legal Service assists the President of the European Commission, the Commission, its DGs and Services in all areas of the Commission's activities and in particular:

- preparing legislative and non-legislative proposals,
- drafting legislation,
- conducting international negotiations,
- fulfilling its role as Guardian of the Treaties,
- adopting implementing and delegated acts.



Arising from the Reform of the Legal Service, new initiatives to **improve quality of drafting** through regular training courses, together with the establishment of an **inter-service Working Group on quality of drafting** with all Commission's services concerned were launched or are envisaged. In addition, the Legal Service has issued a **Handbook on "How to consult the Legal Service"** in 2023. These actions are expected to increase the quality of incoming consultations and improve the efficiency and effectiveness of our procedures. The internal **Litigation Guide** of the Legal Service was revised in 2023 and this will assist the daily work on litigation.

The Legal Service has very extensive horizontal duties as provider of legal advice to the Commission, which contributes to **General objective No 7: A modern, high-performing and sustainable European Commission.**

Chart 1 presents the proportion of staff working with legal advice. In total, approximately 55% of human resources is devoted to legal advice. However, in the thematic teams, approximately half of the working time is spent giving legal advice, while for the Quality of Legislation team, the majority of their time is spent giving legal advice.

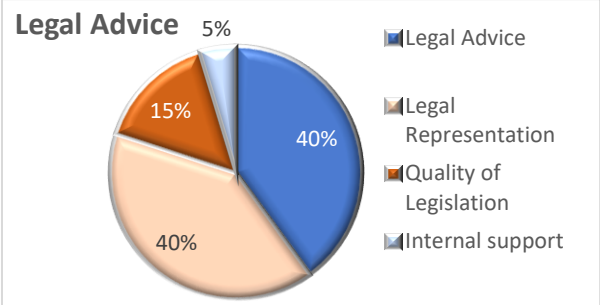
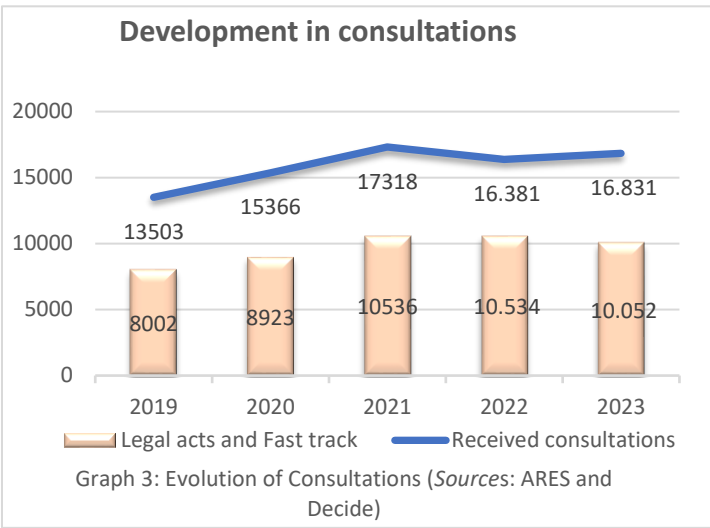


Chart 1: Human resources in Legal Advice (Source: Sysper)

**1.1.1. Consultations**

The Legal Service received 16,831 consultations in 2023, of which 10,052 were on legislative documents to be adopted by the Commission.



The Legal Service is required to issue its opinion on all documents which may have legal implications, on legislative and non-legislative proposals. From 2019 to 2023 there has been a 20% increase in the total number of consultations.

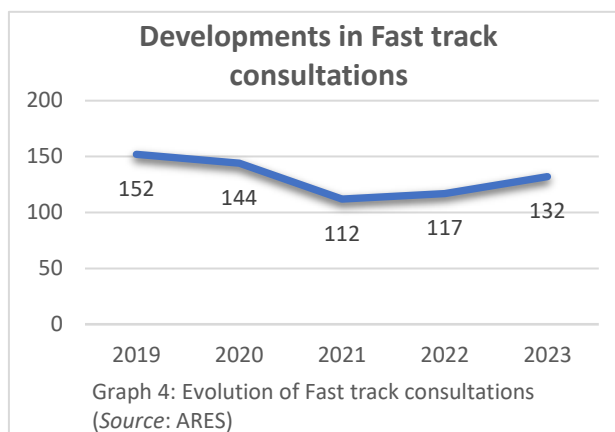
Through an efficient mobilisation of internal resources, swift internal decision-making procedures and a high sense of commitment from its staff, the Legal Service is able to promptly meet the requests for legal advice. The lawyers provide

timely and thorough legal assessments, despite the often very tight deadlines, the high legal complexity and the sensitivity of the issues at hand. In 2023, the Legal Service replied within the deadline to 85% of all formal consultations. The reply rate has slightly decreased over the past years due to the increased number of requests, the process of consultations between DGs/Services, the growing number of informal consultations, and the reduction of resources. More information on the attribution of consultations can be found in Annex 2, Section 1.1, Table 1 and Graph A.

The Legal Service is also consulted by DGs, Services and Cabinets on legal questions in a more informal and direct basis including "exploratory" discussions or very urgent legal issues, often by a simple email, or assists the Services in the formulation of replies to citizens and interested parties. For example, the Legal Service regularly assists the Spokesperson's Service by giving replies to journalists regarding court cases and other legal matters, and DG Communication by replying to questions raised by EU citizens to the 'Europe Direct Contact Centre' on European law.

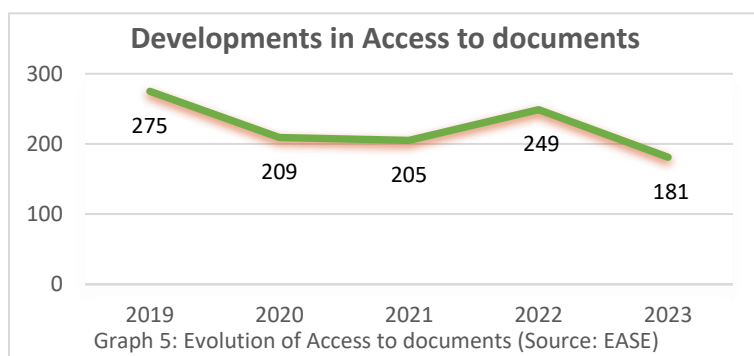
### 1.1.2. Fast-track

Fast track are consultations, which require replies from the Legal Service within 24 or 48 hours, sometimes even less. Some of these consultations may contain hundreds of pages. A significant number of fast-track consultations in 2023 needed *extremely* urgent replies, notably in the area of sanctions, energy, environment, migration, the Digital Services Act, the Digital Market Act and the Artificial Intelligence Act, cybersecurity, critical technologies, media policy implementation of the Recovery and Resilience Facility, assistance to Ukraine, EU-UK relations, international trade and finance agreements and Income Taxation. More information is set out in Annex 2, Section 1.1, Table 1.



### 1.1.3. Access to documents

The Legal Service is responsible for the handling of documents of which it is the author, such as: legal opinions and documents related to court proceedings in which it represented the Commission; its submissions before the EU, national and international courts and arbitration bodies; and the submissions of other parties <sup>(4)</sup>. In 2023, the Access to Documents team within the Communication, Knowledge Management & Documentation



Unit dealt with 181 initial requests for access to approximately 477 documents. More information is set out in Annex 2, Section 1.1, Table 1.

In the area of requests for access to documents, the Institutions team is consulted on all the decisions taken by the Secretary-General on behalf of the College at the confirmatory level of the administrative procedure. In 2023, the Legal Service gave its opinion on 246 draft confirmatory decisions.

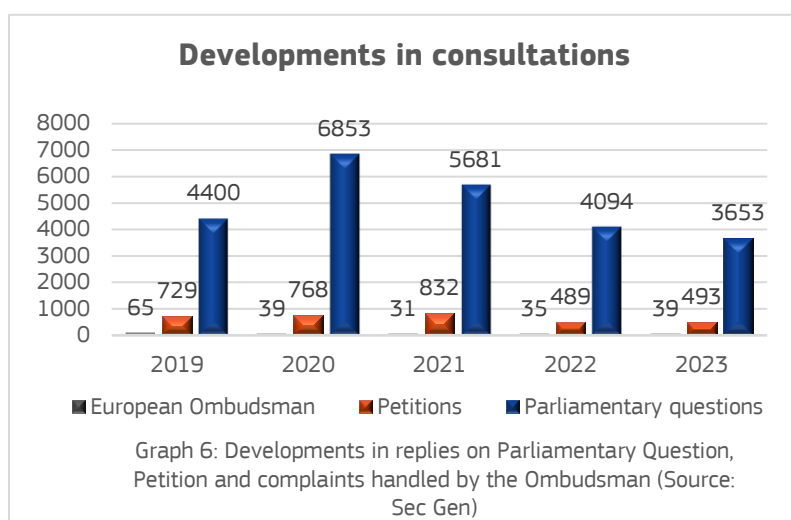
This is an area that also generates litigation. In 2023, 20 new cases for annulment were brought against Commission confirmatory decisions. 12 judgements and 6 orders were handed down in 2023. At year-end 2023, there were 36 pending cases.

<sup>(4)</sup> In its judgement in case C-213/15P on 18 July 2017, the Court confirmed that the Commission cannot refuse access to written submissions by the Member States and third parties held by it, on the sole grounds that they are documents relating to court proceedings of which it is not the author.

### 1.1.4. Other consultations

The Legal Service is consulted on all replies to **parliamentary questions** and, in 2023, gave its legal opinion on 3,653 parliamentary questions <sup>(5)</sup>.

More than half of all complaints to the **European Ombudsman** concern the European Commission. When consulted on draft Commission replies to the Ombudsman, the Legal Service has to ensure not only that the law is respected, but also that there is a coherent approach across the Commission as regards the acceptance of the Ombudsman's recommendations and suggestions for improving Commission procedures. The Legal Service provided its opinion on 39 draft replies to the Ombudsman.



### The European Parliament

asks the Commission for information/preliminary investigations on **petitions** which allege a lack of compliance with EU law on the part of a Member State or an institution. The Secretariat-General attributes it to the competent lead service. The Legal Service is also consulted on all replies to petitions in its role as

internal legal adviser. Graph 6 shows the development over the past five years on questions from the Parliament, the Ombudsman and Petitions. More information is set out in Annex 2, Section 1.1, Table 1.

### 1.1.5. Infringement procedures

It is important that EU law <sup>(6)</sup> is correctly transposed, implemented and applied in the Member States. To assist the Commission in its role as *Guardian of the Treaties*, the Legal Service provides advice throughout the pre-litigation procedure and during infringement proceedings to defend the interests of the Commission and the Union before the Court of Justice. The Legal Service also gives its opinion on all cases submitted for adoption by the College and assists the Secretariat-General in the infringement decision-making process.

The Secretariat-General and the Legal Service organise annual infringement coherence meetings to assess the performance of the Directorates-General in managing infringement

<sup>(5)</sup> Since 2021, a parliamentary question may consist of up to four individual questions. Previously, each question raised was registered individually.

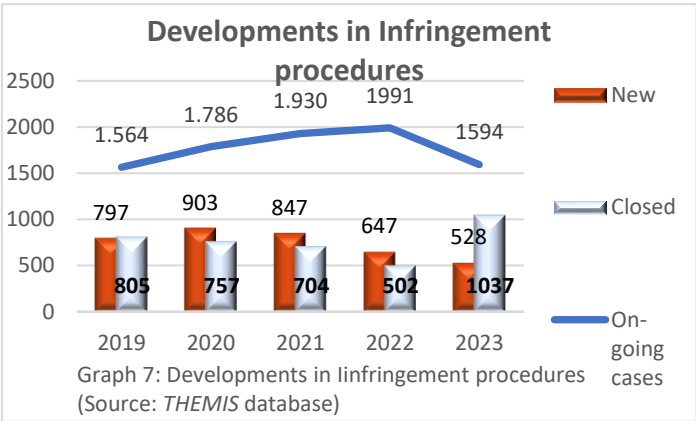
<sup>(6)</sup> including EU Treaties, Union Directives and Judgements by the Union Courts.

proceedings, to ensure coherence through sound legal reasoning and equal treatment of Member States and to identify and discuss horizontal legal issues.

The Secretariat-General and the Legal Service worked closely to improve working methods and the tool (7) for management of infringement procedures was further developed in 2023. A comprehensive stocktaking report (8) identified recommendations and follow-up actions to be implemented in 2023 and 2024, also with contributions by the Legal Service.

There were 528 new infringement procedures opened in 2023 and 1.037 were closed. At year end, there were 1.594 ongoing infringement procedures. The

increase in closed cases is a result of a call made on the DGs and services, under the guidance of the respective Commissioners, to review their portfolio of cases towards the end of the current mandate, including by proposing closures on grounds of expediency. Graph 7 sets out more information about developments in

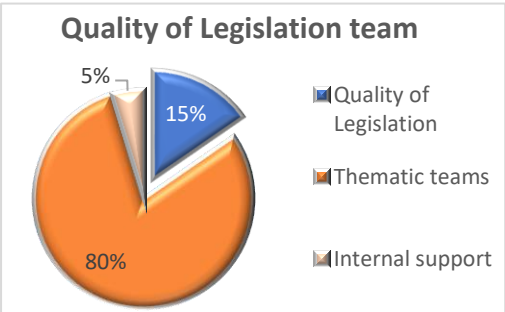


infringement procedures during the past 5 years. More information on infringement procedures can be found in Annex 2, Section 1.2, Table 2 and Graph B.

## 1.2. Quality of Legislation

The Quality of Legislation team contributes to the quality of legal acts by giving advice on their structure and drafting and to efficiency gains in the further steps of the legislative procedure by enabling more clarity, accuracy and legal consistency in the final drafts and draft proposals which are to be translated into all language versions. The legal and linguistic advice from the Quality of Legislation team contributes to the **General objective No 7: A modern, high-performing and sustainable European Commission.**

Chart 2 presents the proportion of staff working with quality of legislation. Some 15% of



the Legal Service’s staff work in the Quality of Legislation team. The core work of the team consists in providing legal advice. In addition, members of the team also act as linguistic agents in court cases thereby contributing significantly to the litigation function of the Legal Service, especially in languages that are not well represented in the thematic teams.

Chart 2: Human resources in the quality of legislation team (Source: Sysper)

(7) THEMIS/ Infringements.

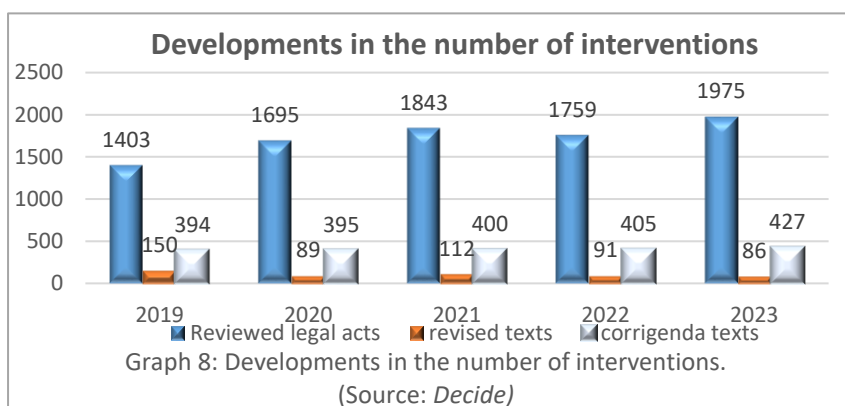
(8) adopted on 14 July 2023 (SWD(2023)254) together with a Communication to the Commission (C(2023)4769).

### 1.2.1. Revision of draft legal acts

Well drafted legal acts enhance clarity and legal certainty, enable better and more accurate translation into all official languages of the Union and therefore contribute to efficiency and effectiveness gains in the implementation of legislation.

The Quality of Legislation team gives advice in the conceptual phase of drafting legal acts, proactively and reactively during and after the official inter-service consultation. The selection of legal acts for revision is based on several parameters, the most important being that a text is due to become legally binding. Based on the rules of legislative drafting, the text in the legal act can be changed and reformulated, both in substance, form and structure. The advice given by the Quality of Legislation team is of value to both operational DGs and to horizontal services such as DG Translation.

Before adoption or approval by the Commission, after a text has been translated, it may be revised in all official languages by the Quality of Legislation team. The multilingual revision verifies the consistency of the linguistic versions from a legal point of view and that the text corresponds to the advice on legislative drafting given by the team.



Graph 8 shows the evolution of the number of interventions. 2023 showed a significant increase in numbers of acts selected. The team maintained high-quality output. More information is set out in Annex 2, Section 1.3, Table 4.

### 1.2.2. Codification and recast of legal acts

Codification is a formal re-adoption of an act with all its applicable amendments incorporated, contributing to better legislation.

As the lead service, the Quality of Legislation team works together with the relevant Commission DGs and Services on codification. In 2023, several acts were identified as codifiable. 3 legislative proposals were codified, one submitted to the EP and Council, one was finalised but kept in abeyance awaiting a possible amendment. The third proposal has been postponed to the first quarter of 2024. 3 further master copy texts were prepared by the team but the responsible DGs did not start a codification or a 'technical recast'. 4 new recasts<sup>(9)</sup> were also carried out, leading to the submission of 3 legislative proposals to the European Parliament and to the Council in 2023.

<sup>(9)</sup> Recast consists of the codification of an act and the inclusion of new amendments into the codified text.



### 1.2.3. Other aspects of legislative simplification and further activities

The Quality of Legislation team contributes to the development of digital techniques and tools for the elaboration of legislation.

In 2023, the Quality of Legislation team continued to provide targeted training to Commission DGs and agencies on legislative drafting and participated in the inter-institutional training programme for lawyer-linguists and legal revisers. Furthermore, in the context of the Reform of the Legal Service, the team participated in the preparation and delivery of the systematic training given to drafters by the Legal Service as a whole.

The Quality of Legislation team continues to maintain a list of the active *acquis* <sup>(10)</sup>, identifying those acts of Union law in force which are currently applicable with a view to translation needs in the context of future accessions. The team met and surpassed its objectives in 2023.

## 1.3. Legal Representation

Defending the interests of the Commission contributes to **General objective No 7: A modern, high-performing and sustainable European Commission.**

The Director-General of the Legal Service appoints agents <sup>(11)</sup> who will defend the interests of the European Commission and/or the European Union before:

- the Court of Justice and the General Court of the European Union,
- national courts, both in Member States and in third countries, in cases where the Union or the Commission are parties, as an applicant or defendant,
- dispute settlement procedures under the World Trade Organisation Agreement (WTO) and other international agreements,
- the European Free Trade Association Court (EFTA Court),
- arbitration bodies,
- international courts and tribunals, such as. the European Court of Human Rights, the International Court of Justice and the International Tribunal for the Law of the Sea.



The Commission may:

- act as applicant, for instance in the case of an infringement of EU law by a Member State, or to challenge an act taken by another institution,

---

<sup>(10)</sup> Established body of Union law.

<sup>(11)</sup> The Director-General of the Legal Service is empowered by the College to designate the agents (i.e. lawyer(s) responsible for representing the Commission before the courts).

- act as defendant, as in the case of an action for annulment of one of its acts or in the case of a failure to act,
- intervene in disputes between other parties and systematically intervenes as *amicus curiae* in all preliminary ruling procedures before the European Court of Justice.

It is of vital importance that all court cases are dealt with correctly, that court deadlines are respected and that the Commission is represented at all court hearings. The Legal Service met these targets in 2023.

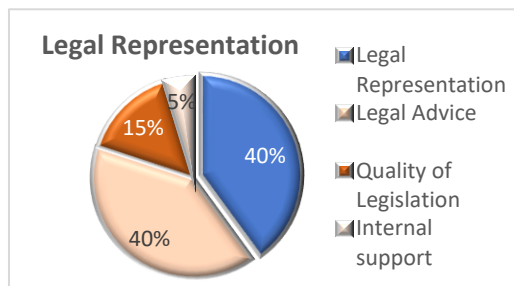


Chart 3 presents the proportion of staff working on legal representation, which is approximately 40%. All lawyers in the thematic teams are expected to undertake representation of the Commission in court cases and several staff members in the Quality of Legislation team also represent the Commission in court cases.

Chart 3: Human resources in legal representation (Source: Sysper)

### 1.3.1. Defending the interests of the European Union

The Legal Service has the unique responsibility of defending the Commission. Its staff have in-depth knowledge of Union law and often have previous experience as external lawyers or as lawyers in other Commission DGs or Services, in other Union institutions or in Member States' administrations. The flat organisational structure of the Legal Service enables staff to take on a high level of responsibility, which is one of the key aspects believed to contribute to the high staff satisfaction index.



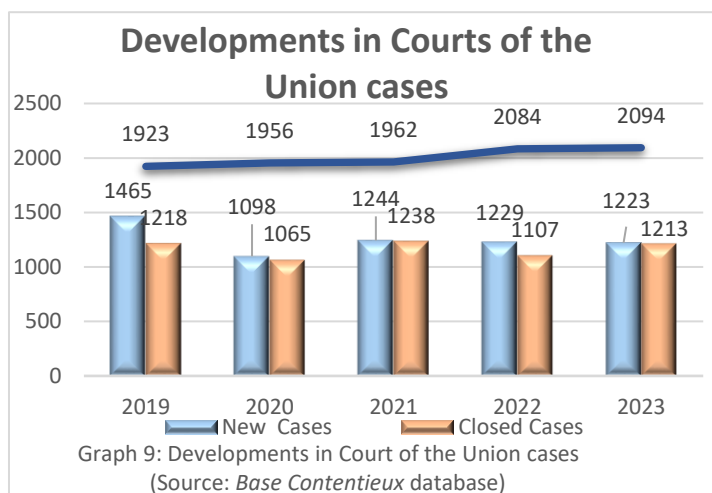
Many of the cases defended by the Legal Service in courts concern large sums of money, important points of law for EU citizens or crucial points of institutional law. Losing these cases could impact the reputation of the Legal Service and of the Commission.

The Legal Service has put in place several measures to ensure quality in legal representation and coordination mechanisms to ensure the consistency of positions taken in litigation.

The Legal Service informs the President's Cabinet of judgments in sensitive cases and contributes to the public communication on judgments by working jointly with the Spokesperson's Service. The most significant judgments are mentioned in the Commission's General Report on the activities of the European Union.

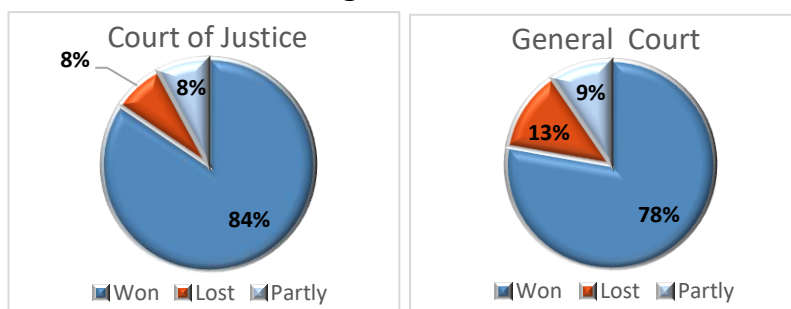
### 1.3.2. Cases in the Courts of the Union

Most of the cases in which the Legal Service represents the interests of the European Commission and/or the Union take place before the Court of Justice and the General Court.



There were 1.223 new cases registered in 2023 in the Courts of the Union and 1.213 cases were closed. The Commission was one of the parties in 1.060 of the closed cases. On-going cases have increased over the past 5 years. Graph 9 shows the developments in cases in Union courts from 2019 to 2023. More information can be found in Annex 2, Section 1.4, Table 5 and Graph C.

In general, the Legal Service won in more than 90% of legal cases before the Court of Justice and the General Court. The outcome of those court decisions is set out in Charts 4 and 5. More information about the court results can be found in Annex 2, Section 1.4, Table 6.

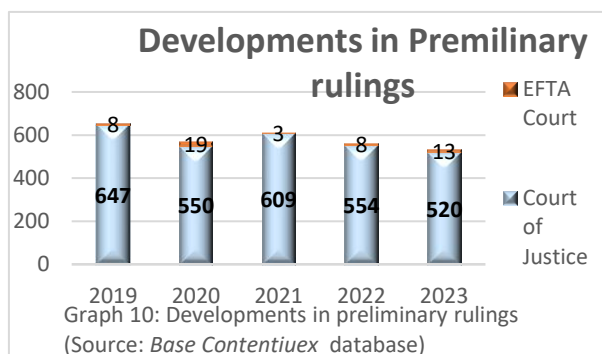


Charts 4 and 5: Court decisions on closed cases for the Union Courts  
(Source: Base Contentieux database)

### 1.3.3. Preliminary rulings

A national court may ask the Court of Justice to rule on the interpretation or validity of Union law, in so-called preliminary rulings. The Legal Service assists the Court as *amicus curiae* (friend of the court) in finding the correct interpretation of Union law, a role which is much appreciated by the Court.

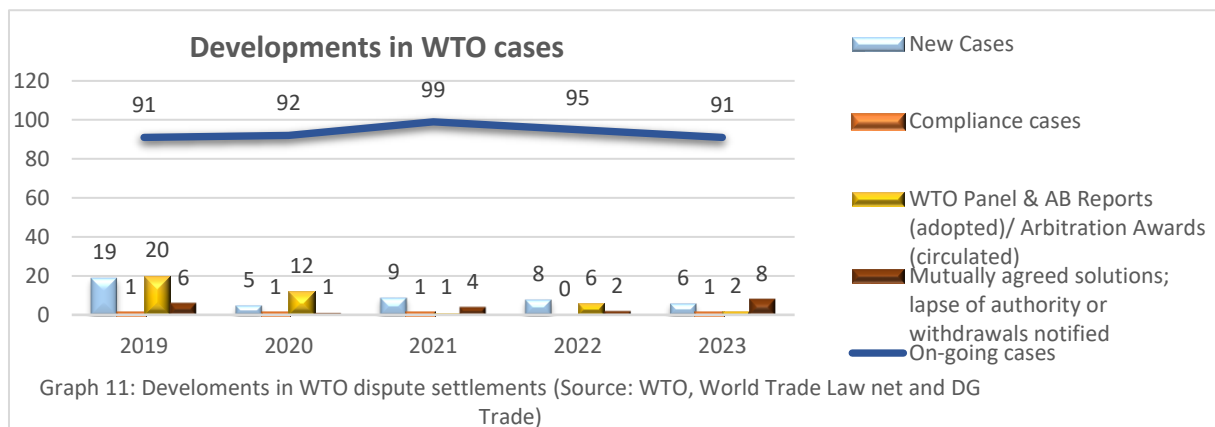
As shown in graph 10, in 2023, the Legal Service assisted the Court of Justice in 520 preliminary rulings and 13 rulings in the EFTA court. The number of preliminary rulings fell back slightly compared to the previous year. More information is presented in Annex 2, Section 1.4, Table 6.



### 1.3.4. World Trade Organisation – WTO and Bilateral Trade Agreements

The Legal Service assists the Commission in representing the European Union in all trade negotiations and represents the European Union before WTO Panels and the WTO Appellate Body. The Legal Service also deals with the cases arising under bilateral trade agreements to which the European Union is a party.

The EU includes a dispute settlement mechanism in all its trade agreements, which allows for the rapid settlement of disputes. It is specifically designed to deal with disputes arising out of the rules of the bilateral trade agreement. In 2023, there were 6 new dispute settlement cases. There were 91 ongoing cases in WTO at year end. Graph 11 below sets out the developments in WTO cases from 2019 to 2023.



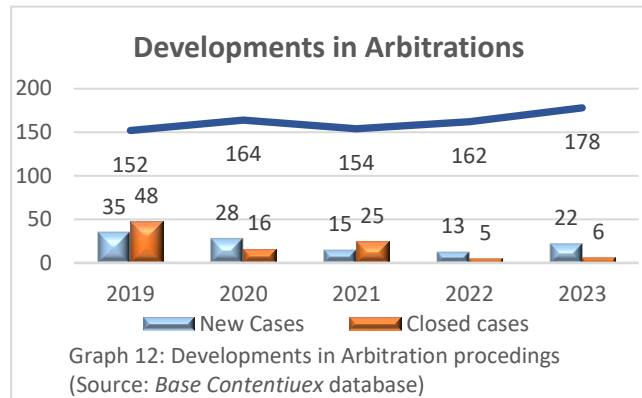
Unless there is a mutually agreed solution, it is difficult to determine when a WTO dispute is officially considered as closed (settled by the parties). WTO dispute settlement cases continue after the litigation part (implementation, reasonable period of time, retaliation) and are often considered as “not settled” even if nothing has happened for a long time, including cases where only consultations have taken place.

The work of the Appellate Body is currently disrupted by the obstruction of appointments by the United States. This explains the numbers of on-going cases as shown in graph 11 above. 28 panel reports have been appealed to an Appellate Body that has no members available to hear such appeals. To circumvent this blockage, 52 WTO Members, including the European Union and its 27 Member States, have established the Multi-Party Interim Appeal Arbitration Arrangement (MPIA), based on Article 25 of the WTO Dispute Settlement Understanding, which allows for final resolution of disputes on appeal, on a reciprocal basis, following the same rules that would apply under the Appellate Body. The European Union reserves the right, under its Enforcement Regulation (Regulation (EU) No 654/2014 of the European Parliament and of the Council), to adopt countermeasures against any WTO Member who refuses to permit final resolution of panel proceedings under the terms set out in the MPIA.



### 1.3.5. Arbitration proceedings

The Legal Service ensures that the interests of the European Commission are represented and defended in arbitration proceedings. As shown in Graph 12, there were 22 new arbitration cases in 2023 and 6 cases were closed. At the end of the year, there were 178 ongoing cases. There has been an increasing number of arbitration proceedings over the past 5 years. More information is presented in Annex 2, Section 1.4, Table 6.

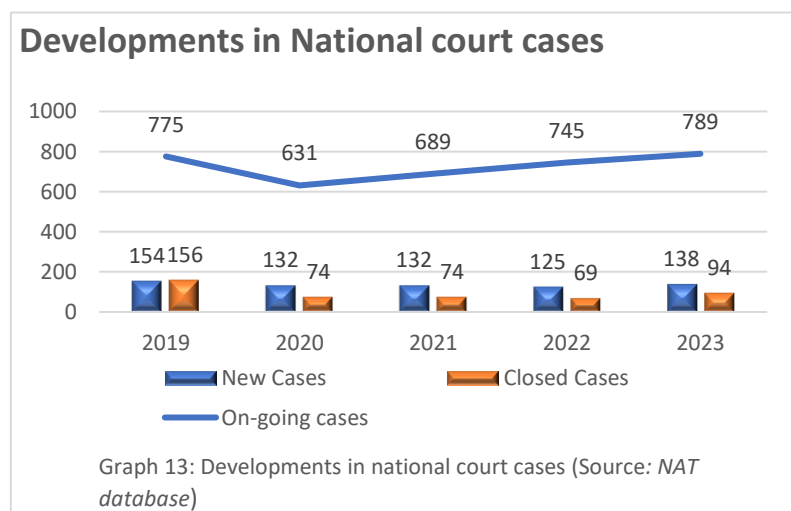


### 1.3.6. National court cases

A nationally registered lawyer is often required, and therefore contracted, to represent the Legal Service and the Commission before national courts. In 2023:

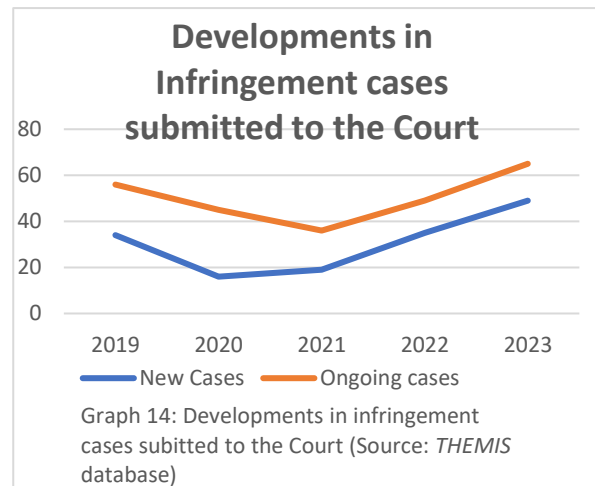
- there were 42 new cases brought before national jurisdictions, of which 37 (88%) concerned recovery of claims,
- there were 40 claims relating to liquidation/bankruptcy proceedings still open at year end,
- the Commission intervened as a civil party in 3 new criminal cases,
- unrecovered claims for an amount of EUR 38 million were transmitted to the Public Procurement and Recovery Unit for legal action to recover these amounts,
- EUR 1.7 million were recovered by the Unit. At year-end 1;040 recovery orders for a total amount of EUR 278 million were still open.

The 5-year evolution of national court cases is shown in Graph 13. At year end, there were 789 on-going cases before national jurisdictions, which is slightly above the 5-year average. There were 138 new cases and 94 were closed. 584 of the on-going cases concerned recovery of claims, i.e. 69% of the litigation cases before national courts.



### 1.3.7. Infringement proceedings before the Court

Most infringements are resolved through dialogue with Member States and consequently only a relatively small number of infringement procedures are submitted to the Court. In 2023, 49 cases were brought before the Court and at year end, there were 65 on-going infringement cases. The increase is explained by an increase in the number of non-communication infringements (Article 260(3) TFEU). The evolution of infringement cases at the Court is presented in graph 14. Additional information is set out in Annex 2, Section 1.2, Table 3.



#### *Noteworthy judgements pronounced by the Court of Justice in 2023*

**Judgment of the Court in Case C-204/21 | Commission v Poland (Independence and private life of judges).** This case is about the rule of law being an integral part of the identity of the European Union and the legally binding obligations of the Member States. The Court confirmed the Commission's action and ruled that the Polish justice reform in 2019 on judicial independence and protection is an infringement on EU law, in particular, the principle of judicial independence and effective judicial protection. According to the Court, the value of the rule of law is an integral part of the very identity of the European Union as a common legal order. By order of the Vice-President of the Court of 21 April 2023, the daily penalty payment was set at an amount of EUR 500.000.

**Judgment of the Court in Case C-823/21 | Commission v Hungary (Declaration of intent prior to an asylum application).** The Court ruled that Hungary has unduly hindered the possibility of making an application for asylum, by making the possibility of applying for international protection subject to the prior submission of a declaration of intent to an embassy located in a third country.

**Judgment of the Court in Case C-692/20 | Commission v United Kingdom (Fiscal marking of gas oil).** The Court ordered the United Kingdom to pay a lump sum penalty of EUR 32 million for having failed to prohibit the use of marked fuel in private pleasure boats within the time limit prescribed by the Commission. The United Kingdom did not comply with the judgment establishing the infringement until after the court proceedings were initiated, after a period of almost 3 years.

**Judgment of the Court in Case C-353/22 | Commission v Sweden (Control of the acquisition and possession of weapons).** The Court ordered Sweden to pay EUR 8.5 million for late transposition of the amended Firearms Directive. The infringement persisted for almost 5 years, namely from the expiry of the transposition deadline of the Firearms Directive on 14 September 2018 to 1 July 2023.



### 1.3.8. Financial resources for legal representation

The Legal Service's administrative budget is used for litigation expenditure. In 2023, EUR 2.78 million was paid for contracted external law firms and other legal expertise, mostly in national court cases and in arbitrations. The courts ordered the Legal Service to compensate opposing parties for their legal costs for a total amount of EUR 1.27 million. More information can be found in section 2.1.1.

The Paymaster's Office (PMO) paid a total amount of EUR 0.46 million for 1,053 missions undertaken by the Legal Service in 2023. Chart 6 presents the different categories of missions:

- 78% of missions were for travelling to court, mainly in Luxembourg,
- 12 % of missions were for international negotiations and other meetings,
- 5% of missions were for staff speaking at conferences and for attendance by the Director-General at Commission meetings in Strasbourg,
- 3 % of missions were to the World Trade Organisation (WTO), mainly in Geneva, and
- 2% of missions were for participation in training.

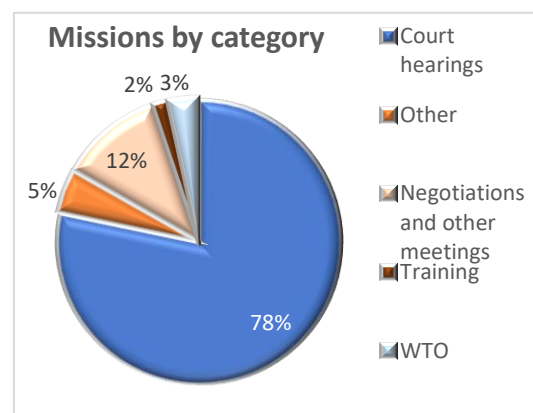


Chart 6: Number of missions by category (Source: Mips)

## 1.4. Negotiations on accession to the European Convention on Human Rights (ECHR)

Accession of the European Union to the European Convention on Human Rights has been an objective of the EU for many years and would be an important milestone in the protection of human rights and fundamental freedoms across Europe. It would provide an additional



layer of human rights protection for all those in Europe who are affected by the laws and decisions of the European Union. Accordingly, accession of the Union to the Convention contributes to **General objective No 6: A new push for European democracy.**

On 17 March 2023, the 46+1 Group of Negotiators – in which the Commission, with the Legal Service as the responsible service, represented the Union – reached a provisional agreement on a revised package of accession instruments. The revised instruments seek to address all issues arising under Opinion 2/13, except the issue of human rights protection in the Common Foreign and Security Policy. The European Union



informed the Group of its intention to tackle this issue internally and of its expectation that the Group would not be required to address it as part of its own work.

The European Court of Justice is expected to rule on the issue of its jurisdiction in matters of Common Foreign and Security Policy in a judgment that is expected in 2024. The judgment may provide useful indications on how to clear the path for the Union's accession to the Convention. In the meantime, the Legal Service is continuously working towards the goal of Union accession to the Convention, including by working with the Council on the 'internal rules', that is to say, the internal EU arrangements that will govern the practicalities of the Union's participation in the Convention system and in proceedings before the European Court of Human Rights. Information is also set out in Annex 2, section 1.5.



## 1.5. Reform of the statutes of the European Court of Justice

On 13.11.2022, the Court of Justice submitted a request for the adoption of a modification of the Statutes of the Court of Justice, by consultation of the Commission via standard legislative procedure. The main element of the proposal was to transfer requests for preliminary rulings, in specific areas, from the Court of Justice to the General Court (a possibility that is foreseen in Article 256(3) TFEU but has, so far; not been used). This should concern 5 main areas for which there is already an established case law, namely VAT, customs, excise duties, passengers' rights, and the emission trading system. The opinion of the Court was that this transfer would reduce by about 20% the number of preliminary rulings to be dealt with by the Court of Justice.



In accordance with Article 281 TFEU, the Commission issued an opinion on 10.3.2023. It declared that it fully shared the objectives of this reform and made some targeted suggestions to further clarify the areas concerned and the delimitation between the cases that would be transferred to the General Court from those which would stay with the Court of Justice. Following the adoption of the negotiation positions by the European Parliament and the Council, inter-institutional negotiations started on 4 October 2023, the Commission being represented by the Institution team of the Legal Service. The legislative process is expected to be finalised in 2024.

## 2. INTERNAL CONTROL AND FINANCIAL MANAGEMENT

Assurance is provided on the basis of information on the efficiency and effectiveness of internal control systems and governance processes. The management monitors the functioning of the internal control systems on a continuous basis and carries out an objective examination with internal and external auditors. The results are explicitly documented and reported to the Director-General. The following reports / documentation have been considered:

- the reports from Authorising Officers in other departments managing budget appropriations in cross sub-delegation;
- the contribution by the Director in charge of Risk Management and Internal Control, including the results of internal control monitoring at department level;
- the reports on recorded exceptions, non-compliance events and any cases of 'confirmation of instructions' (Art 92.3 Financial Regulation);
- the reports on ex-post supervision and/or audit results;
- the limited conclusion of the Internal Auditor on the state of internal control, and the observations and recommendations reported by the Internal Audit Service (IAS);
- the observations and the recommendations reported by the European Court of Auditors (ECA).

The systematic analysis of the available evidence provides sufficient guarantees as to the completeness and reliability of the information reported and results in the full coverage of the budget delegated to the Director-General of the Legal Service.

This section covers the control results and other relevant elements that support management's assurance. It is structured into 2.1. Control results, 2.2. Audit observations and recommendations, 2.3. Effectiveness of internal control systems, resulting in 2.4. Conclusions on the assurance.

## 2.1. Control results

This section reports on the control results used by management to support the assurance on the achievement of the internal control objectives (ICO) <sup>(12)</sup>. The Legal Service's assurance-building and materiality criteria are outlined in annual activity report annex 5. The annual activity report annex 6 outlines the main risks together with the control processes to mitigate them and the indicators used to measure the performance of the relevant control systems.

The Legal Service has implemented an internal control system tailored to its particular characteristics and circumstances with the purpose of ensuring adequate management of the risks relating to the legality and regularity of the underlying transactions for which it is responsible, taking into account the nature of the payments, revenues, provisions and contingent liabilities concerned. The effective functioning of the Service's internal control system will be assessed on an ongoing basis throughout the year and be subject to a specific annual assessment covering all internal control principles.

The control system is designed to prevent, detect and correct errors, irregularities and fraud by ex-ante and ex-post controls covering all types of financial operations and procurement. Furthermore, it <sup>(13)</sup> supports sound management and decision-making and ensures that risks to the achievement of objectives are taken into account and reduced to acceptable levels through cost-effective controls.

The centralised financial procedures in the Legal Service comply with baseline requirements and the existing controls put in place contribute to low error rates in payments and to payments within deadlines.

### a) Administrative expenditure

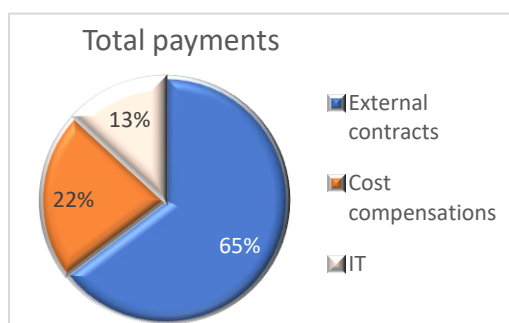


Chart 7: Payments per category (Source: ABAC)

The payments made from the administrative budget of EUR 3.2 million in 2023 consisted of EUR 1.50 million for legal expertise and EUR 1.27 million for payments to opposing parties for their legal costs. EUR 0.46 million was paid for informatics, for IT services and for accesses to legal databases. Chart 7 presents the payments per category.

<sup>(12)</sup> 1) Effectiveness, efficiency and economy of operations; 2) reliability of reporting; 3) safeguarding of assets and information; 4) prevention, detection, correction and follow-up of fraud and irregularities; and 5) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments (Financial Regulation Art 36.2). The 2nd and/or 3rd Internal Control Objective(s) (ICO) only when applicable, given the DG's activities.

<sup>(13)</sup> [Communication C\(2017\)2373 - Revision of the Internal Control Framework](#)

### *1) Fees for external lawyers and other legal expertise (EUR 1.5 million)*

For national court cases for which only a qualified national lawyer can plead, or when expert knowledge or a particular language skill are required, the Legal Service concludes contracts with external lawyers or other legal experts within the meaning of point 11.1.h of Annex I, section 2, to the Financial Regulation, based on a negotiated procedure with minimum one candidate. In 2023, EUR 1.5 million was paid for external legal services.

### *2) Payments to opposing party for their legal costs (EUR 1.27 million)*

The court can decide that the Commission must compensate the opposing party for their legal costs, in part or in full. Such expenditure does not arise from a contractual obligation. In 2023, payments to opposing parties for their legal costs amounted to EUR 1.27 million.

### *3) IT expenditure (EUR 0.29 million), Co-delegated budget lines (EUR 0.13 million)*

The Legal Service paid EUR 0.29 million on contracts for external staff to assist in IT development, investment and maintenance via the framework contract provided by DIGIT. Co-delegated budget lines with DG Communication and DIGIT amount to EUR 0.13 million.

## **b) Revenue (EUR 0.9 million)**

Certain court decisions will allow the Legal Service to recover expenditure for external legal fees and mission costs from opposing parties. In 2023, the Legal Service claimed a total amount of EUR 0.9 million and received payments for outstanding claims of EUR 0.9 million. At year end, unpaid claims amounted to EUR 0.5 million. More than 44% of outstanding claims are recovered by salary or pension deductions. Remaining unpaid claims are transmitted to the team responsible for forced recoveries. The Commission dunning procedure is followed and provisions for dubious claims are recorded at Commission level. The Legal Service does not consider that these outstanding amounts have any impact on the positive conclusion concerning the effectiveness of controls.

## **c) Provisions (EUR 9.9 million), Contingent liabilities (EUR 24.4 million)**

At year end, a provision for costs compensation for opposing parties is established, partly recorded as a provision and partly as contingent liabilities. In 2023, the cost compensation to opposing parties was EUR 9.9 million and the contingent liability was EUR 24.4 million.

In line with the 2018 Financial Regulation (FR), the Legal Service's assessment for the new reporting requirement is as follows:

- Cases of "confirmation of instructions" (FR art 92.3)
- Cases of financing not linked to costs (FR art 125.3)

- Financial Framework Partnerships >4 years (FR art 130.4)
- Cases of flat-rates >7% for indirect costs (FR art 181.6)
- Derogations from the principle of non-retroactivity pursuant to Article 193 of the Financial Regulation.

## 2.1.1 Effectiveness of controls

### **d) Legality and regularity of the transactions**

The Legal Service uses internal control processes to ensure sound management of risks relating to the legality and regularity of the underlying transactions it is responsible for, taking into account the nature of the payments concerned.

#### *1) Control objective*

The Legal Service has reached its control objective of an error rate below 0.5% through the internal control system put in place, which comply with base line requirements, and has not identified any control procedures which would be more cost-efficient.

#### *2) Assessment of the control results*

**Legal fees for external lawyers (47% of total paid amount):** The Legal Service's control strategy for its procurement procedure for legal expertise is based on ex-ante controls for all invoices, firstly by the financial cellule, thereafter by the "*conforme aux faits*" control performed by the agent in charge of the court case and lastly by the review by the AOSD before final approval ("good for payment").

All AOSDs perform ex-post controls before issuing their declaration of assurance and the Internal Control Officer (ICO) carries out ex-post controls by analytical desktop reviews and a review of the transaction sample checks performed by the financial cellule. During the past 7 years, there has been one incorrect payment for a total amount of EUR 2,500 discovered ex-post. The amount discovered has been recovered.

All non-compliance and exception events in the contracting and payment procedures are reported to, analysed and assessed by the Internal Control Officer (ICO). In 2023, no serious breaches were discovered, and the expenditures were justified, both operationally and financially. The non-compliance rate in the procedures for contracting and paying for legal expertise was 0.4% and 1.5% for missions. There was one reported exception in 2023. All expenditure relating to the non-compliance and exception events was justified.

Based on the available information, the Legal Service has reasonable assurance that it has effective controls in the contracting procedure and that there are no significant errors in legal expenditure.

**Payments to opposing parties for their legal costs (40% of total paid amount):**

The Legal Service's control strategy for this expenditure is based on ex-ante controls. All claims for cost compensations are reviewed and assessed and, to come to an agreement, often negotiated with the lawyer representing the opposing party. If an agreement cannot be reached, it is referred to the Court for a decision determining a reasonable amount the Legal Service should pay the opposing party to cover their legal costs.

At year end, all legal teams are requested to ensure full registration of closed cases and their potential financial consequences. The financial cellule, the Internal Control Officer (ICO) and the Head of Unit (S.J.R.1) may request additional information and may carry out additional controls to ensure completeness of the information.

Based on the available information, the Legal Service has reasonable assurance that it has effective controls in the procedure for payments to opposing parties for their legal costs and that there are no significant errors.

**IT expenditure (9% of total paid amount):** The Legal Service paid EUR 0.3 million for external staff to assist in IT development, investments and maintenance via the framework contract provided by DIGIT.

**Co-delegated budget lines (4% of total paid amount):** There were two co-delegated budget lines in 2023, one with DIGIT and one with DG Communication for a total amount of EUR 0.1 million.

**Mission expenditure (paid by PMO):** In 2023, the Legal Service's mission expenditure of EUR 0.46 million.

Based on the available information, the Legal Service has reasonable assurance that controls for IT expenditure, co-delegated budget lines and mission expenditure are efficient.

**Provisions and contingent liabilities:** At year end, a provision for costs compensation for opposing parties is established, partly recorded as a provision and partly as contingent liabilities. It is based on historical figures and followed up on by comparisons of the provisions compared to the actual payments.

Based on the available information, the Legal Service has reasonable assurance that it has effective controls for its provisions and contingent liabilities and that there are no significant errors in these items.

**Preventive and Corrective measures:** The Legal Service's portfolio consists of segments with a relatively low error rate, i.e. 0.5%. This is thanks to the inherent risk profile of the administrative expenditure and the performance of the related control systems. In addition, the Legal Service has an effective mechanism in place for correcting errors, through ex-ante and ex-post controls, resulting in preventive and corrective measures, respectively. Please see Table 1 below for details.

### 3) Overview of the Legal Service risk profile

The Legal Service's portfolio consists of segments with a relatively low error rate, i.e. <0.5%, thanks to the inherent risk profile of the administrative spending and the performance of the related control systems.

### 4) Table 1: Estimated risk at payment and at closure

Based on all the above, the Legal Service presents in table X an estimation of the risk at payment and risk at closure for the expenditure managed during the reporting year:

**Table X: Estimated risk at payment and at closure (amounts in EUR million)**

The full detailed version of the table is provided in annex 9.

DG SJ	Payments made	Relevant expenditure	Estimated risk (error rate %) at payment		Estimated future corrections and deductions		Estimated risk (error rate %) at closure	
	m EUR	m EUR	m EUR	%	m EUR	%	m EUR	%
Legal fees	1,50	1,50	0,01	0,50%	0,00	0,00%	0,01	0,50%
Cost compensation to opposing parties	1,27	1,27	0,01	0,50%	0,00	0,00%	0,01	0,50%
IT	0,42	0,42	0,00	0,50%	0,00	0,00%	0,00	0,50%
Other expenditure	0,04	0,04	0,00	0,50%	0,00	0,00%	0,00	0,50%
<b>DG total</b>	<b>3,24</b>	<b>3,24</b>	<b>0,02</b>	<b>0,50%</b>	<b>0,00</b>	<b>0,00%</b>	<b>0,02</b>	<b>0,50%</b>

The estimated overall risk at payment for 2023 expenditure, 0.5%, is the AOD's best conservative estimate of the amount of relevant expenditure during the year, not in conformity with the contractual and regulatory provisions applicable at the time the payment was made. This expenditure will subsequently be subject to ex-post controls and a proportion of the underlying errors will be detected and corrected in subsequent years, corresponding to the conservatively estimated future corrections for 2023 expenditure, 0%.

The difference between those two results in the estimated overall risk at closure <sup>(14)</sup>, 0.5%. This is no change compared to 2022 mainly due to the stable budget of the Legal Service and the well-functioning implemented internal control systems.

For an overview at Commission level, the departments' estimated overall risk at payment, estimated future corrections and risk at closure are consolidated in the AMPR.

### 5) Preventive and corrective measures

As regards the corrections carried out in 2023, the Legal Service has in place an effective mechanism for correcting errors, through ex-ante and ex-post controls, resulting in

<sup>(14)</sup> This is the AOD's best, conservative estimate of the expenditure authorised during the year that would remain not in conformity with applicable regulatory and contractual provisions by the end of implementation of the programme.



preventive and corrective measures, amounting to EUR 0.01 million and EUR 0 million respectively. This represents a decrease compared to 2022 with EUR 0.2 million, explained by fewer incorrect invoices received for which a credit note had to be requested.

#### ***e) Fraud prevention, detection and correction***

The Legal Service has developed and implemented its own anti-fraud strategy since 2013, based on the methodology provided by OLAF. It is updated every 3 years and the last update was launched in 2023 following a fraud risk assessment. It is expected to be endorsed by OLAF in April 2024. Implementation of the current AFS (adopted in 2022) is being monitored and reported to the management; the mechanism and frequency will be confirmed with the adoption of the updated anti-fraud strategy. All necessary actions have been implemented.

The Legal Service also contributed to the revised Commission anti-fraud strategy Action Plan of July 2023, notably to action 30a on providing guidance on cooperation with the European Public Prosecution Office (EPPO).

The anti-fraud measures in place and the high ethical standards among staff contributed to the fact that no fraud attempts were identified during the year. There were no financial recommendations from OLAF to follow up.

On the basis of the available information, the Legal Service has reasonable assurance that the anti-fraud measures in place are effective.

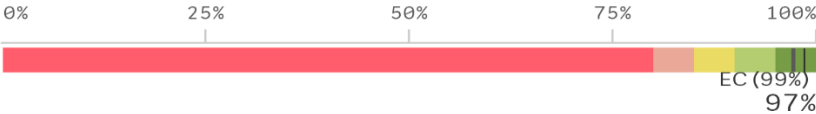
#### ***f) Safeguarding of assets and information***

The Legal Service deals with sensitive information, both classified and non-classified and has implemented internal procedures, a supporting informatics structure and issued guidelines to staff on how to handle sensitive information from receipt to destruction. A working group meets regularly to decide on additional measures and to assess any reported breaches. Staff receive annual requests to confirm their ethics awareness and are also reminded through various channels of the importance of the rules and procedures in place in the Legal Service and in the Commission for the handling of sensitive information.

No breaches were reported in 2023. The systems put in place are considered to be effective and to work as intended.

### **2.1.2 Efficiency of controls**

The Legal Service does not have any programme spending; hence indicators for time-to-inform and time-to-grant do not exist. In 2023 the timely payment rate was 97%, which is just below the Commission score and at the same level as in 2022. In 2023, the Legal Service made 325 payments for an amount of EUR 4.600, on average.

Timely Payments	SJ Score	EC Score
	<b>97%</b>	<b>99%</b>

The Legal Service makes payments after verifying that contracted legal services have been provided and reached expected results. The implemented financial and internal control procedures in the Legal Service comply with baseline requirements and have proven to be efficient; no material errors have been identified in the past few years. No other procedures have been identified to be more cost effective. Based on the available information, the Legal Service has reasonable assurance that the payment procedure has efficient controls.

**2.1.3 Economy of controls**

The Legal Service quantifies the costs of the resources and inputs required for carrying out the controls described in Annex 7 and estimates, as far as possible, their benefits in terms of the number of errors and irregularities prevented, detected and corrected by these controls.

All commitments and payments follow the same procedures. The controls implemented in the centralised financial circuit comply with the baseline requirements of the Financial Regulation. The number of staff involved in the financial circuit is limited. The total cost of controls for 2023 remains at EUR 0.3 million, which represent 10.9% of total expenditure. The cost of controls in relation to total payments appears to be relatively high. More information about the calculation of total cost of controls is set out in Annex 7, Table Y.

The ex-post controls did not reveal any errors and hence no financial corrections were applied. 90% of contracts (including amendments) signed in 2023 were for amounts of less than EUR 15,000. In 2023 the average amount paid was EUR 4,600.

**2.1.4 Conclusion on the cost-effectiveness of controls**

Based on the most relevant key indicators and control results, the Legal Service has assessed the effectiveness, efficiency and economy of its control system and reached a positive conclusion on the cost-effectiveness of the controls for which it is responsible.

The following factors have contributed to keeping error rates at very low levels and therefore giving sufficient assurance of sound financial management, hence additional controls are considered to be neither efficient nor effective:

- the organisational structure in place,

- the financial circuit implemented,
- that the implementation and performance of controls are in line with the baseline requirements,
- a stable control environment in the Legal Service over several years,
- the total amounts paid of EUR 1.5 million for contracted legal expertise, EUR 1.3 million paid to opposing parties to compensate for their legal fees and EUR 0.4 million for IT expenditure,
- no identified fraud attempts in 2023,
- no erroneous payments in 2023.

The control systems put in place in the Legal Service comply with baseline requirements and are considered to be cost-effective.

## **2.2 Audit observations and recommendations**

This section sets out the observations, opinions and conclusions reported by auditors – including the limited conclusion of the Internal Auditor on the state of internal control. Summaries of the management measures taken in response to the audit recommendations are also included, together with an assessment of the likely material impact of the findings on the achievement of the internal control objectives, and therefore on management's assurance.

There were no audits undertaken in 2023 by the European Court of Auditors (ECA) and there are no outstanding audit recommendations from the ECA.

There were no audits undertaken in 2023 by the Internal Audit Service and there are no outstanding audit recommendations from the IAS.

The basis for the IAS's conclusions was the work undertaken in 2019-2023, namely: the Audit on Data Protection in 2020 (SG, DIGIT, LS, HR, JRC).

The IAS concluded that the internal control systems in place for the audited processes are effective.

## **2.3 Assessment of the effectiveness of internal control systems**

The Commission has adopted an Internal Control Framework based on international good practice to ensure the achievement of its policy and management objectives. Compliance with the internal control framework is a compulsory requirement.

The Legal Service uses the organisational structure and the internal control systems suited to achieving its policy and internal control objectives in accordance with the internal control principles and has due regard to the risks associated with the environment in which it operates.

The methodology established in the Legal Service and which has proved to be efficient for its organisation, includes:

- a yearly risk assessment exercise with Senior Managers to assess a number of internal control principles, including risk management, ethics and fraud through a questionnaire and followed by an in-depth interview with the Director for Risk Management and Internal Control (RMIC) and the Internal Control Officer,
- analysis of identified non-compliance events and exceptions,
- regular exchange on potential internal control weaknesses or control failures recorded during the year between the Financial cellule, the Director for Risk Management and internal control and the Internal Control Officer,
- monitoring of audits and audit recommendations issued,
- results of the corporate indicators reported in Annex 4 of the Annual Activity Report.

The Legal Service has assessed its internal control system during the reporting year and has concluded that it is effective and the components and principles are present and functioning as intended.

## **2.4 Conclusions on the assurance**

The information reported in section 2.1 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 comprehensive coverage of the budget delegated to the Director-General of the Legal Service.

The centralised financial circuit, the internal control function, the reporting of non-compliance events, the low number of actual errors and the low number of estimated risk of errors, the actions taken on anti-fraud prevention and the financial indicators, all provide support to conclude that the Annual Activity Report of the Legal Service presents a true and fair view, that resources are used for their intended purposes, that sound financial management is applied as well as the legality and regularity of transactions and that there is no omission of significant information. No internal control weaknesses were identified.

In conclusion, based on the elements reported above, 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.

## 2.5 Declaration of Assurance

Declaration of Assurance

I, the undersigned,

Director-General of the Legal Service

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view <sup>(15)</sup>.

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

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls and the work of the Internal Audit Service.

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

Brussels on April 2, 2024

(electronic signature)

Daniel CALLEJA CRESPO

---

<sup>(15)</sup> True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG/Executive Agency.

## 3 MODERNISING THE ADMINISTRATION

**Internal and external communication** have been further developed in 2023 by modernising the intranet of the Legal Service and preparing a **new My SJ intranet**. All collaborative spaces have migrated to *SharePoint* and, for all teams, new web pages have been created in *SharePoint* online.

Complementary to the book **“70 years of EU law”** with a preface by President Ursula von der Leyen, the **outreach activities** were further developed by the Legal Service’s first **Annual Conference**, which took place on 17 March 2023 with the participation of VIP keynote speakers on a series of key EU law domains that are growing in importance. The conference was a huge success. More than 400 people participated in the conference and more than 440 other people followed the presentations online.



### 3.1 Human resource management

In November 2023, a Staff Survey showed that staff engagement levels in the Legal Service are high (76% as compared to 73% in 2021) and that 92% of staff perceive colleagues in the Legal Service to be committed to producing quality work. A total of 94% of staff explicitly indicated that they have a clear understanding of what is expected from them at work. Having a sense of pride in doing their job is confirmed by 84% of staff. The Legal Service also scores highly on the trust that we give to our staff to carry out their job effectively.

The Legal Service ensured the best use of its available resources to attain all its objectives. Working under the constraints of stable staffing and increasing workload, it continued to ensure swift selections, recruitments and secondments and maintained a very low vacancy rate in 2023.

The Reform of the Legal Service continued to contribute positively to staff satisfaction, and to the modernisation of its working methods and procedures, including its working environment.

In 2021, the Legal Service launched an internal Reform process. It was based on the wishes and needs expressed by all colleagues (from all grades and perspectives) in the Legal Service to be able to discuss how the Legal Service functions best, its structure, and how we work and interact between the different legal teams. The aim of this **ongoing process is to modernise the Legal Service** and to further improve the working environment. Colleagues in the Legal Service showed their commitment to the internal reform, the success of which can be illustrated by 51 deliverables that were concluded in 2023.

Among them, the **internal mobility exercise of lawyers within the Legal Service**. The first exercise was completed and the second internal mobility exercise was launched, which will result in coming close to mobility for 1 out of every 5 lawyers. This mobility allows not only for internal redeployment but also allows lawyers to acquire legal expertise in various EU law domains throughout their careers. In the staff opinion survey of 2023, the **opinion on mobility and whether it is efficiently encouraged went up considerably in the Legal Service** with 27 points, which means that our staff are twice as satisfied compared to the Commission average.

A central **recruitment panel of the Legal Service** was up and running to ensure that the best lawyers and talents are hired. A **new training strategy** for the Legal Service started to be implemented for our lawyers and assistants, targeting learning and development designed for their specific needs.

Furthermore, initiatives were taken on **staff engagement, promoting diversity** as well as **gender balance**. The number of female colleagues in the organisation chart has increased and the Legal Service is on track with the gender target in management positions. The Legal Service also concentrated on ensuring the best representation of the Service in several initiatives such as: **Female Talent Development Program; external Management Development programmes tailored for women** and **Female empowerment** trainings currently under preparation. Furthermore, the Legal Service organised a further round of consultations of all women in the Service on **“how to get beyond self-limitations”** and a dedicated **questionnaire for its staff on “equal opportunities”**.

A **guide for mentors** and a **long-term and ad hoc mentoring programme** was developed to increase personal development, satisfaction and corporate culture. A **“welcoming team”** has been efficiently guiding new colleagues arriving in the Legal Service. The **“chambre d’écoute”** started its activities.

## **3.2 Digital transformation and information management**

### ***Digital transformation***

In 2023, the **ULM** used for the follow-up of litigation proceedings before the European Court of Justice and international jurisdictions was improved by the **“ULM Search” module**. It is a smart one-stop shop search engine for high-value information such as applications to the courts (“Pleadings”) and legal notes. It allows the business users to look up information in the vast amount of Legal Service documents via a single access point.

The efforts to propose **ULM in service mode** to other EIUBAs have been pursued with the signature of a Service Level Agreement (SLA) with the Single Resolution Board (SRB) in 2023 and on-going advanced discussions with the Council will continue in 2024. **ULM**



**BOARD** and **ULM Template** were extended to cover more jurisdictions and types of court procedural documents.

The successful **Ref2Link** legal reference detection technology, supported by the DIGITAL EUROPE programme, has been embedded in the authoring tool used by lawyers as a productivity enhancer with advanced features like footnotes or links automation.

The preparations to move to a new financial system are well underway. Developments for an integration of **FINSJ** to the new accounting system of the Commission, **SUMMA**, are ongoing.

The data consolidation project to better align the taxonomy used with corporate vocabularies such as the **EuroVoc** was initiated in 2023 and will be continued in 2024.

### ***Information management***

21 **case-law lunch seminars** took place in 2023 and all press releases issued by the European Court of Justice were published on MySJ. All weekly senior management meetings discussing recent developments of jurisprudence were accessible to all staff by on-line debriefs and later published on MySJ.

An 'AI@SJ' **Artificial Intelligence Strategy** was delivered at the end of the year. This effort has been supported by the development of several proof-of-concept apps using generative AI. The Legal Service has been actively involved in the AI@EC network.

An **internal Help Desk** providing prompt advice on court proceedings (infringement proceedings excluded) and information sharing regarding significant developments in case-law on court proceedings became operational in 2023.

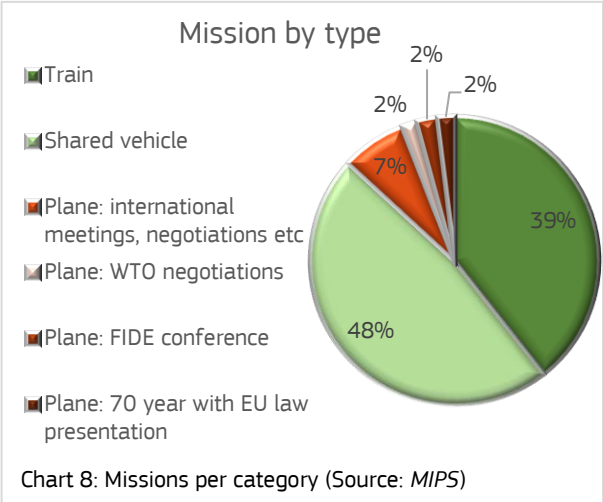
### ***Data protection***

Appropriate technical and organisational measures are in place to ensure the accountability for compliance with the data protection rules and an appropriate level of security in conformity with Objective 1 of the Commission Data Protection Action Plan (C(2018)7432 final), hereafter DPAP. The DPC and assistant DPC participated in regular meetings with DPO in particular regarding crosscutting issues, defining best practices and identifying areas for a harmonised approach (Objective 5 of the DPAP).

All staff have received the SG's Guide to Data Protection and the SG's Guide to Document Management and Access to Documents. To further increase staff awareness information on available data protection training courses has been communicated. Records of processing operations under Legal Service responsibility have been reviewed and updated in line with Objective 3 of the DPAP, as are privacy statements (Objective 4 of the DPAP).

### 3.3 Sound environmental management

The missions undertaken by Legal Service staff are mainly for hearings at the European Courts in Luxembourg (73%) and travel is by train or in shared vehicles, hence complying with the initiatives on the Greening of the Commission. In 2023, missions by plane increased by 4% compared to 2022, mainly explained by the biannual FIDE conference in Bulgaria and missions to the Member States to present the '70 years with EU law' book. All missions by plane were for distances longer than 500 km. Since most missions are to Luxembourg, and often with staff using electric cars, the overall CO<sub>2</sub> impact for all missions is difficult to establish. If we take account of the missions by plane (some exceptional for 2023), and calculate car travel based on fuel engines only, the maximum increase would be 17% (calculated at 91,038 kg for 2023 versus 75,350 kg in 2022). Reduction of the overall CO<sub>2</sub> impact will follow in 2024 by increasing and monitoring the use of electric cars and train travel. The use of plane travel will depend on international legal proceedings or legal advice. Chart 8 presents the missions per category.



The Legal Service contributed 15 different actions supporting the Commission initiatives and consequently contributing to Fit for 55. The campaigns mainly focused on; energy savings in the premises that the Legal Service occupy, promoting tap water and other water reducing campaigns, reducing of CO<sub>2</sub> emissions on missions, promoting alternative commuting with the aim of reducing CO<sub>2</sub> emissions, electricity savings by good digital ideas, information on how to organise green events, waste sorting and waste reduction information campaigns and sustainable eating.

### 3.4 Examples of economy and efficiency

On top of the initiatives included in section 3.2 Digital transformation and information management on digitalisation, in the context of the **DIGITAL EUROPE** program, the **Ref2Link** tool set has been put at the disposal to both Commission DGs and Services as well as Member States and other institutions. Ref2Link detects and enriches legal references, especially in the context of EU law, in any document; on the basis of European standards such as the European Law Identifier.

Furthermore, in October 2023, the Legal Service concluded a **service level agreement with the single resolution board (SRB)** on the provision and maintenance of its knowledge management system **ULM (Unified Litigation Management)** in SaaS ('Software as a Service') mode. Negotiations are ongoing with the Council and a similar agreement is expected to be concluded in 2024.