

2013 Discharge to the Commission

WRITTEN QUESTIONS TO SG OF THE COMMISSION CATHERINE DAY

Hearing on 22 January 2015

Relations with OLAF

1. Unit B4 "Public Service Ethics" of the Secretariat General is entrusted with the follow up of information transmitted by OLAF to the Commission. Yet, information communicated by OLAF to the Commission is transmitted by the Secretary General of the Commission in writing to Commissioners and Directors Generals responsible for the matter at stake as well as to the Commissioners responsible for Human Resources/IDOC, Anti-fraud and for Budget. 2013 the Commission indicated that there were 5 servants charged with the treatment of information provided by OLAF.
 - a. How many cases has the unit handled in 2013?

Commission's answer :

In 2013 the Unit handled just over 100 distinct cases.

- b. Have there been special cases for which the information flow was restricted to a more selected circle?

Commission's answer :

Information received from OLAF is usually transmitted on a strict need-to-know basis, respecting any restrictions on transmission of information signalled by OLAF..

- c. How many staff is currently charged with managing the relations to OLAF?

Commission's answer :

Currently 3 policy officers.

2. Could the Commission provide the current text of the memorandum of understanding of the Commission with OLAF?

Commission's answer :

The current text of the memorandum of understanding is SEC(2003)871 which is publicly available. It is being revised to align it with the new OLAF Regulation N° 883/2013.

3. How many information had the Secretary General received in 2013 for which it deemed it necessary to forward them to OLAF?

Commission's answer :

The Secretary General transmits to OLAF all information as required. This normal activity is not recorded in a quantitative manner.

4. How many lawyers are currently charged with the handling of the Dalli case?
How many public officials deal with it?

Commission's answer :

For Case T-562/12, *Dalli v Commission*, no external lawyers have been retained. The case is dealt with by the Commission's own Legal Service. Three officials were appointed as agents.

5. Does the Secretary General take part in the so called "Clearing House Meetings" with the OLAF Director General? Can the Secretary General provide the minutes of all meetings in 2012 and 2013, where appropriate via secure reading room?

Commission's answer :

The Secretary General chairs the Clearing House meetings. If required the minutes can be made available in accordance with Annex II of the Inter-institutional Agreement, concerning the arrangements for transfer of confidential material. In addition to the use of a secure reading room, redaction of personal data would also be necessary.

6. Why is the OLAF Supervisory Committee not invited to safeguard OLAF's independence in such meetings?

Commission's answer :

Article 15 of Regulation N° 883/2013, which defines the role of the Supervisory Committee, does not provide a legal basis for the participation of members of the Supervisory Committee in such meetings.

Court of Justice cases

7. What are the Commissions expenses for lawyers that handle court cases in which the Commission is involved in at the European Court of Justice? How many lawyers are dealing with court cases elsewhere?

Commission's answer :

In 2013, the Commission concluded 80 contracts cases in the European Court of Justice for a total of € 970.000 and 168 contracts (€ 936.000) for national and WTO cases.

8. Has the Commission made reservations for the risks stemming from ongoing Court cases? If yes, how high are these reservations? How are they invested? From which budget lines does the money come?

Commission's answer :

In accordance with its accounting rules, the Commission includes provisions on its balance sheet in respect of legal cases where it is considered probable that the EU budget will have to pay out monies in the future – at 31/12/2013 these provisions totalled EUR 487 million. This is a normal year-end accrual accounting entry made every year and audited by the Court of Auditors, and has no budgetary impact. It does not represent a reserve of money put aside and there is thus no money to invest.

Philipp Morris

9. What is the role of the legal service in negotiating a possible continuation of the Cooperation Agreement with Philipp Morris?

Commission's answer:

The Commission has not yet taken a position on whether or not to seek a prolongation of the existing anti-fraud agreement with Philip Morris International.

Cooperation and verification mechanism

10. How many staff of the Secretariat General surveyed the Cooperation and Verification mechanism (CVM) in 2013 for Bulgaria and Romania, respectively? What are the main achievements of the CVM for Romania and Bulgaria, respectively?

Commission's answer :

Four SG officials work on the CVM with Romania and Bulgaria.

The Commission considers that the CVM has had a major impact on the acceleration of the reform process in Bulgaria and Romania. The progress achieved by Romania in respect of judicial reform and anti-corruption, and Bulgaria in respect of judicial reform, anti-corruption and the fight against organised crime, can be directly linked to the recommendations of CVM reports and to the general support and cooperation on these issues between the Commission and the two Member States. The reports, their analysis and methodology have been consistently supported by conclusions of the Council of Ministers following every CVM report.

11. Could the Commission please provide the number of staff (contract agents, officials - respectively) who was working in the Secretariat General on the 1.1.2013 and 31.12.2013, respectively?

Commission's answer :

The staff numbers are as follows:

1/01/2013	
Permanent Officials (FP)	448
Probationer Officials (FS)	5
Temporary Agents on Permanent Post (TP)	8
Temporary Agents on Temporary Post (TT)	2
Contract Agents (CA+CB)	48
Total	511

31/12/2013	
Permanent Officials (FP)	453
Probationer Officials (FS)	3
Temporary Agents on Permanent Post (TP)	6
Temporary Agents on Temporary Post (TT)	2
Contract Agents (CA+CB)	41
Total	505

Commissioner's code of conduct

12. The Code of Conduct for Commissioners foresees an important role for the Ethical Committee. Can you explain how the Committee works, how many complaints or cases it had to deal with, how its independence is guaranteed?

Commission's answer :

The Ad hoc Ethical Committee works in general through written exchanges among its Members. They act in full independence from the Commission and pro bono. The Committee does not deal with complaints. Its remit is to assess, upon request of the Commission, the compatibility with the Treaties and the Code of Conduct for Commissioners of activities that former Commissioners take up within 18 months of

ending their Commission mandates.. In 2013, the Committee delivered 1 opinion and in 2014, the Ad hoc Ethical Committee delivered 10 opinions.

13. Have there been clarifications in respect of the Code of Conduct for Commissioners following complaints or cases relating to alleged violations in respect of the Code of Conduct?

Commission's answer :

No.

14. Will the new measures of President Juncker relating to transparency with respect of contacts of Commissioners, Cabinet members and DGs with lobbyists be reflected in the Code of Conduct?

Commission's answer :

There is no need to modify the Code of Conduct for Commissioners following President Juncker's engagement concerning transparency. Appropriate practical measures have already been taken to implement this engagement in decision C(2014) 9051 of 25.11.2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals.

Experts and advisory groups

15. How has the composition of expert and advisory groups be changed following complaints from NGOs and MEPs? Will the guidelines on expert groups be evaluated, as was originally foreseen? Which measures are taken to improve the quality of the public register of expert groups? Can you provide a copy of the rules governing reimbursement of members of such groups, not only for travel costs, but also for the costs relating to their preparatory work?

Commission's answer :

Commission provisions on expert groups were complemented by additional commitments taken vis-à-vis the Parliament in 2012 and provide Commission departments with guidelines for a coherent approach in the area of expert groups.

Transparency has been significantly enhanced via the Register of expert groups, which now provides for a great deal of information on each individual group, including on its composition, tasks, selection procedures and activities. Furthermore, technical measures were taken to make the Register more user friendly, also in response to requests from NGOs and the general public.

As requested, the Commission is providing a copy of its decision on conditions for granting a special allowance to participants in the activities of Commission expert groups, in exceptional cases. The text is also published on the Internet.

Transparency register

16. Which improvements have been made with regard to the transparency register? President Juncker announced his intention to come to a new inter-institutional arrangement with regard to the transparency register. Does this mean that no further steps will be taken until the Council also is on board?

Commission's answer :

The Inter-institutional Agreement signed between European Parliament and the European Commission in April 2014 and in force since 1 January 2015, serving as the 'legal basis', sets out the rules and the principles on which the Transparency Register is based. The key changes to the new version of the Transparency Register due to be launched on 27.01.2015 are the following:

- All registrants must declare their estimated costs related to lobbying the EU institutions – previously this was a requirement only for Section II registrants – companies and trade/professional associations;
- Indication of human resources invested in lobbying broken down in percentages of full time equivalent (FTE) – previously only an overall figure of staff was provided;
- Indication for the first time of participation in EU committees, forums, inter-groups or other similar structure
- Streamlined 'alerts & complaints' procedure allowing for more efficient treatment of registrations allegedly containing wrong/misleading information;
- Continuation of the voluntary scheme but with strengthened incentives (e.g. depriving non-registered actors of badges giving access to EU premises; participation in a Commission expert group would normally require registration).

In line with its Work Programme 2015, the Commission will propose to the European Parliament and the Council a tripartite Inter-institutional Agreement for a mandatory Transparency Register.

Home office of Commissioners

17. What were the total costs for establishing home offices for Commissioners?
What were the highest and the lowest amount for the set-up of a home office?

Commission's answer:

The Commission did not supply any equipment for the home offices of Commissioners in 2013 and did not incur any costs related to them.

18. What were the total costs for running these home offices for Commissioners?

Commission's answer:

See reply to question 17

19. Which cost occurred in 2013 for home offices for Commissioners?

Commission's answer:

See reply to question 17

20. Was there any staff paid for home offices of Commissioners in 2013?

Commission's answer:

The Commission did not pay any staff in 2013 to assist the Commissioners at home.

Annual Activity Report

21. In its 2013 Annual Activity Report the Secretary General announced that all the indicators put in place in the preceding years to measure the progress of the Europe 2020 strategy growth enhancing reforms at both EU and national level (see 1.3 ABB activity Coordination within the Commission), will be removed from the management plan as of 2014 as the achievement of the objectives are outside the control of the Secretariat General and indeed of the Commission.
- a. Is it usual for the Secretary General to drop any ambition and objective when the results are not as good as was expected? Is this attitude not the most obvious illustration of a complete abandonment of responsibility and ambition?

- b. How can the Secretary General justify that EU policies lead by the Commission under direct or shared management, in particular through the flagships initiatives of the Europe 2020 strategy, would have no effect on employment, the financing of research, the emission of the greenhouse gas effect and so on?
- c. How can the Secretary General consider that its task of monitoring the implementation of the Europe 2020 strategy and to provide guidance to the Member States has just no effect?

Commission's answer:

Common reply to points a, b and c

The SG 2014 Management Plan (which will be reflected in the Annual Activity Report) contains specific objectives and relevant indicators. For example, in the 2014 Management plan a result indicator looks at the quality of the Commission's analysis and of the pertinence/relevance of the country-specific recommendations.

The Secretariat General steers and ensures coordination across all relevant Commission services in the European Semester of economic governance and the Europe 2020 strategy for smart, sustainable and inclusive growth. The policy work is done by the relevant DGs who report on it in their performance in their Annual Activity Reports in accordance with the indicators they have fixed.

The Commission considers that the Europe 2020 strategy has helped Member States to orient and develop their policies towards its goals and targets but as the strategy is implemented differently by each Member State according to its own traditions and practices it is not possible to attribute precise, quantified results to individual Commission actions. In March 2013 the Commission published its mid-term review of the strategy which sets out its view of the impact of the strategy. The Commission also carried out a public consultation which will provide an input to the new Commission which will draw policy conclusions for the future.

22. As to 1.1.4 of the ABB activity (Coordination within the Commission: 'Supporting the implementation of the President's political agenda by translating the State of the Union speech into concrete initiatives and developing policy initiatives with cut across multiple policy strands') the Secretary General's Annual Activity Report mentions that as the achievement depends critically on the activities of the other Directorates-General, this indicator has been removed from the management plan as of 2014.

How can the Secretary General abandon any pretention to coordinate the Commission services whilst it is one of its core activities?

Commission's answer:

The Secretariat General has not "abandoned" its co-ordinating role – in fact this has been reinforced by the new Commission. The rules of procedure of the Commission provide that "the Secretary General shall assist the President so that, in the context of the political guidelines laid down by the President, the Commission achieves the priorities that it has set. The Secretary General shall also help to ensure political consistency by organising the necessary coordination between departments"

DG SANCO contract study

23. DG SANCO has provided a contract study to Eurogroup Consulting Portugal that has interestingly subcontracted the task to a company called Sovereign Border Solutions.
- a. The tender document excludes organisations or their staff who currently work for the tobacco industry or have worked for the tobacco industry for two years prior to the tender. Did the Commission apply the same exclusion to organisations or their staff who now work for any other vested interest in this process or have done so in the two years prior to the tender?

Commission's answer :

The tender specifications contain very strict conflict of interest provisions. These provide that the contractors cannot currently work for the tobacco industry, nor can they have worked for the industry in the past five years.

Regarding companies with vested interests in the area of the tender, e.g. in "track and trace" technologies, a conflict of interest is assumed as well. Concerning consultants who have worked for such companies an assessment needs to be carried out on a case by case basis. In this respect it is important to underline that some prior experience in track and trace technologies is essential to ensure the success of the contract.

The Commission carried out the necessary "conflict of interest" assessments before the contract was signed and came to the conclusion that an exclusion of the contractor ultimately retained and/or its subcontractors was not warranted.

- b. Is the Commission aware of any other link between EuroGroup Consulting or Sovereign Border Solutions and providers of track and trace systems or product or pack security features either on an on-going basis or within the two years prior to the tender process? In the meantime work by EuroGroup Consulting has been progressed. Does the Commission have a clear and robust understanding about the methodologies used by EuroGroup Consulting when carrying out the tender objectives for DG SANCO?

Commission's answer :

The Commission remained vigilant throughout the contract as regards the neutrality of the contractor and carried out the necessary inquiries.

The Commission can confirm that it has a good understanding of the methodologies used by the contractor. The preliminary results of the contract were discussed with other experts in the Commission and presented to Member States. The contract is soon coming to an end. It is the intention of the Commission to send the final report to Member States for further discussion with Member State experts. The Commission intends to publish the final report, which will allow all stakeholders to assess the report and its conclusions.

Cycling path in Italy

24. In the context of European funding in Italy a project for a cycling path in the Lago Trasimeno area was foreseen, originally divided into three pieces. The first part was from Panicarola to Castiglione del Lago - apparently this part was approved and co-financed by the EU already in 1996. Due to information we have received the Italian authorities built the cycling path aside of the approved plans which means amongst others that the cycling path now runs in direct proximity and in parts even in the Lago Trasimeno instead of a originally foreseen distance of 1 km from the lake which poses problems like parts of the path are not accessible and the path runs within a protected area (FFH and birds directive). These issues were also subject of a TV broadcast, recently.

- a. Follow-up of question 85 b of the questionnaire to Commissioner Cretu: Had there been any acceptance inspection (collaudo) of the "old" part of the cycling path and was this one of the conditions to receive the full amount of EU-funding?

Commission's answer :

According to the information provided by the Italian Managing Authorities, at the time of the closure of this 1994-1999 programme (February 2004), the cycle path project was already completed since 2003. On this basis, since any decision to carry out an acceptance inspection (collaudo) lies with the Managing authority and was not a requirement to receive the full amount of EU funding for projects under this programme, the Commission accepted the submitted certified expenditure for this programme, which included expenditure for this project.

- b. Follow-up of question No. 85 c of the questionnaire to Commissioner Cretu: The Commission states that "*There has been no recovery in the past because the allegations about an environmental infringement were unfounded and because no proof has been presented that, at the*

*time, the original 1996 project was not correctly implemented.” Having regard to the Commissions answer to written question E-2054/2003 the Commission points out: “After examining the Italian reply, the Commission considers that the project mentioned above is “not likely” to have a significant impact on the SPA IT5210070 “Lago Trasimeno”. Therefore, a full assessment of the implications of the project on the mentioned SPA is not required under Article 6 (3) of Directive 92/43/EEC.” It came to our attention that in (2007) **The Commission and OLAF (CMS No. OF/2002/0555, CMS Title “Bicycle Lane near the lake Trasimeno, Italy)** has received supporting documents which apparently showed the infringement of the rules.*

- i. What were the reasons that there had been no follow-up on these supporting documents which were personally delivered to Brussels and handed over to the Commission on **27.07.2007**.

Commission's answer :

The infringement procedure 2002/4342 concerned the Lago Trasimeno; in particular the extraction of water for irrigation purposes from the lake, which apparently degraded the area, designated as SPA under the Birds Directive.

The case was closed on 06/05/2008 on the basis that sufficient measures were put in place by the responsible Authorities to stop and reverse the phenomena of degradation of water quality and decrease of water level.

The complainant sent additional information, claiming that a cycling path produced significant habitat alteration and negative impacts on the local fauna.

However, it was concluded that the additional documentation produced by the complainant did not provide any clear evidence that the cycling path, even with a revised project plan, produced significant habitat alteration and negative impacts on the local fauna, i.e. on Natura 2000 value.

- ii. Has the Commission ever verified (on-the-spot) the information provided by the Italian authorities? If yes, what were the conclusions?

Commission's answer :

OF/2002/0555 was a 'criminal assistance' case closed in accordance with OLAF procedures applicable at the time. Recently new information was received and in December 2014 a fact-finding mission was carried out by OLAF to assess the current situation. The information gathered has been forwarded to the OLAF Investigation

Selection and Review unit who will assess whether or not to recommend the opening of an investigation.