

2012 Discharge to the Commission

WRITTEN QUESTIONS TO SG OF THE COMMISSION CATHERINE DAY

Hearing on 21 January 2014

Written parliamentary questions

1. In a Letter to the Commission services from September 29th, 2011, the Secretariat General decreed in point 2 that the replies of the Commissioners to Parliamentary Questions have to be limited to 20 lines as of January 1, 2012. Quote: "*From 1 January 2012 the limit of length (20 lines) for replies to PQ will become compulsory. The implication is that the cabinet chef de file cannot upload and launch the written procedure if the answer exceeds this limit. The system however will allow for the SG to suspend this mechanism upon request from the cabinet but in exceptional and duly justified cases.*"
 - a. How often in 2012 did the Secretary General allow a Commissioner to give more information to a Member of Parliament as in 20 lines possible?
 - b. Has the College ever taken note of this instruction?
 - c. When? How? Why not?
 - d. The Treaty of the European Union makes the Commission accountable to the European Parliament. This instruction makes the accountability a pure formality. Is this instruction in compliance with this accountability?

Staff issues

2. How many posts in which DGs were occupied in 2012 and 2013 by successful applicants in EU competitions? How many of the persons hired did not participate in the competitions? At what grade levels have they been hired?
3. What was the amount of the highest and lowest pensions actually paid? What was the amount of the average pension of Commission officials and temporary staff covered by the Staff Regulations in 2013? Could you please distinguish between officials and temporary staff?
4. Could you please provide the Parliament with the rules for official cars for staff of the Commission, Offices and Agencies? Who is allowed to use them? How many official cars do the Commission, Offices and Agencies possess? What are the costs?
5. What is the procedure for the acceptance of Christmas gifts for Commissioners cabinet staff?
6. What was the budget for each of the 27 or rather 28 Commissioners cabinets (amongst others travel costs, staff remuneration, official cars) in 2012 and 2013?

7. In view of the fact that all institutions face staffing cuts, what measures does the EC have in place in terms of Outplacement Support for departing staff such as is obligatory under law in Belgium. For how long are departing staff given outplacement support such as coaching, help with CVs/résumés, job search, mock interviews etc. How much provision was there in 2012 and how is it evolving in 2013 onwards? Given that the problem is likely to increase significantly, what provisions are being made to ensure appropriate support to departing staff and what are the immediate budgetary implications?
8. In 2012 what take-up was there of anti-harassment procedures, how was the accessibility and effectiveness of the procedures assessed, how did that affect subsequent provision in 2013 and does the Commission believe its staff has confidence in current procedures?

Charge-back processes

9. The IAS has assessed whether charge-back processes complied with the Financial Regulation and central guidance and the consistent, transparent cost calculation of services provided. Several recommendations have been made by the IAS.
 - a. Has the Commission experienced cases where charge-back processes led to double budgeting, misuse of budget lines and miscalculation of costs? How were these cases handled?
 - b. What measures has the Commission undertaken to control the risk of double budgeting, misuse of budget lines, misuse of budget lines and miscalculation of cost?
 - c. Has the ABM Steering Group been made responsible for the definition (scope, actors, responsibilities, reporting arrangements) of the charge-back process and the cost models used by the service providers?
10. Can the Commission provide consolidated figures providing an overview of the amounts charged-back to internal and external clients by the Commission service providers?
11. Can the Commission assure Parliament that the amounts charged-back to internal and external clients by the Commission service providers have been accounted within the intended and correct budget lines?

Studies from external providers

12. Could the Commission provide a clear, concise and intelligible list in a machine readable format from the Commission's ABAC system such as an Excel table or a .CSV file including the topics of all studies carried out for the Commission by external providers with the names of these providers as well as the country where the providers have their seat, also indicating the date the authorising officers committed the budget appropriations related for every year since 2009?

Advice from external providers

13. Could the Commission provide a clear, concise and intelligible list in a machine readable format from the Commissions ABAC system such as an Excel table or a .CSV file including the specific issue of any external advice to the Commission requested, identifying the firms or individual advisers also indicating the date the authorising officers committed the budget appropriations related for every year since 2009?

Procurement – negotiation procedures

14. Welche 13 Generaldirektionen oder Dienststellen überschritten den Referenzwert für „negotiation procedures“ im Jahr 2012? Was waren die Hauptgründe in den jeweiligen Diensten für die Verwendung der ‚negotiation procedures‘?
15. Kann die Kommission eine Liste der Verträge bei denen ‚negotiation procedures‘ angewandt wurden bereitstellen?
16. Welche 2 Generaldirektionen oder Dienststellen steigerten die Anzahl der ‚negotiation procedures‘ um mehr als 10% im Jahr 2012? Was waren die Hauptgründe in den beiden Diensten für die Verwendung der ‚negotiation procedures‘?

Decisions to waive recovery orders

17. Auf wie viele Wiedereinziehungen wurde 2012 insgesamt verzichtet?
18. Kann die Kommission dem Parlament nähere Informationen, wie bspw. die Dokumentation der zugrundeliegenden Kommissionsentscheidungen, zu den 28 Entscheidungen zum Verzicht auf Wiedereinziehung mit einem Wert von über 100.000 EUR zur Verfügung stellen?
19. In der DG MARE wurde in einem Fall auf die Wiedereinziehung von rund 700.000 EUR verzichtet warum?

Outstanding Pre-financing

20. Zum 31.06.2013 waren von 181 Milliarden EUR an Vorauszahlungen seit 2005 rund 81 Milliarden EUR noch nicht abgewickelt (46 Mrd. EUR im Strukturbereich, 47 Mrd. EUR im Forschungsbereich und 32 Mrd. EUR im Außenbereich). Davon sind insgesamt rund 75% (d.h. rund 61 Mrd. EUR) der ausstehenden Vorauszahlungen älter als 18 Monate. 20% (d.h. rund 16 Mrd. EUR) sind sogar älter als 6 Jahre.

- a. Wie kommt es zu solch hohen Rückständen?
- b. Wie schätzt die Kommission die Risiken im Zusammenhang mit diesen Vorauszahlungen ein?
- c. Wie viele Vorauszahlungen sind mit Garantien abgedeckt?
- d. Wie viele Vorauszahlungen sind mit Garantien aus europäischen Garantiefonds abgedeckt – wie dies zuletzt bei Vorauszahlungen durch nationale Zahlstellen in einigen Mitgliedsstaaten im Agrarbereich der Fall war?
- e. Gerade im Strukturbereich besteht ein erheblicher Rückstau. Nur für 8% der Vorauszahlungen aus dem Jahr 2007 von insgesamt von rund 12 Mrd. EUR wurden tatsächlich Rechnungen eingereicht oder Wiedereinziehungen angeordnet.
 - i. Woran liegt das?
 - ii. Was gedenkt die Kommission speziell für den Strukturbereich zu tun um die Risiken zu minimieren?

21. Rund 2,3 Mrd. EUR an ausstehenden Vorauszahlungen aus den Jahren vor 2007 wurden von der Kommission ohne Rückforderung einfach abgeschrieben.

- a. Was waren das für Fälle?
- b. Kann das Parlament eine Liste aller Fälle über 100.000 EUR erhalten?

Internal Audit Service

22. In the Commission Staff Working Document (SWD(2013)0314 - point 2.1.2.) one can read the following risks and audit recommendations related to the Central Services:

“Corporate Framework to support Commission Services’ management and monitoring of staff allocation – Risk rating High: Insufficient corporate guidance and support to help the Commission Services in their responsibility to achieve efficient and effective HR allocation may have a negative effect on the effectiveness and efficiency of the HR allocation within the Commission Services. The Central Services should further develop a framework for the management and monitoring of staff allocation and communicate it to the Commission Services.”

In addition, the insufficient support to the staff allocation process by means of corporate tools and methodologies may cause certain Services to develop similar tools and methods locally, leading to a duplication of efforts and waste of human and financial resources. The Central Services should therefore further facilitate the coordination and exchanges of experiences, good practices, tools and methodologies between the HR professionals, e.g. through joint meetings of HR and SPP practitioners.

Reporting and accountability by Commission Services on the effective use of posts – Risk rating High: The insufficient reporting and accountability on the effective use of posts attributed to the Commission Services in the context of the staff allocation procedure may leave potential cases of non-respect of the applicable Commission decision undetected. This could lead to an ineffective or inefficient redeployment of posts, which in its turn could adversely impact the achievement of the Commission's priorities. IAS recommends that the Central Services should improve the corporate framework for reporting and accountability by Commission Services about the use of posts redeployed to these Services, in line with the Commission decisions on the allocation of posts.”

Which concrete steps has the Commission undertaken to follow this recommendation?

Cooperation and Verification Mechanism (CVM)

23. In 2007 Bulgaria has ranked 64th in the Corruption index, in 2012 it was ranked 77th. Romania's position is unchanged (69.).
- a. Could the Commission please comment on this figures?
 - b. How is possible that under the CVM for corruption and justice the figures turned out to be even worse?
 - c. What are the main achievements under the CVM?

Romania

24. Welche Aktivitäten unternimmt die Kommission im Rahmen des CVM gegen die geplante Amnestie/Straffreiheit für Politiker, auch Strukturfonds verwaltende Kommunalpolitiker, wie Bürgermeister, bei Betrugs-, Korruptionsdelikten und Interessenkonflikten?

Whistleblowers:

25. In 2012 new rules were adopted by the Commission for EU staff on whistleblowing. These rules established 3 routes for whistleblowers: 1. Internal whistle blowing (direct superior, DG or Head of Service) 2. Internal whistleblowing (to secretariat general or OLAF) 3. External (OLAF). For option 2 and 3 practical implementing measures and guidelines were necessary, to which, among others a Network of Ethics Correspondents is established.

- Are the rules fully implemented? Have the practical implementing measures for option 2 and 3 been taken and how are they made know to the staff?
- Have advisory officers been appointed in all DGs?
- How many cases of whistleblowing or requests for advice or support have been made in 2012 through the Network of Ethics Correspondents?
- The Commission introduced an obligation for staff to report suspicions of irregularities to the hierarchy in their institution. Has the number of whistleblower cases risen since the introduction of this obligation ?

IDOC

26. How many cases have been reported to the disciplinary office in 2012?
27. How many investigations took place; how many of these led to disciplinary measures?
28. How many of these disciplinary measures were financial penalties? Could these be specified to a delay in advancement to a higher salary step, removal from post, or reduction of pension or other measures?
29. What was the budgetary exposure and potential risk to the EU budget in these cases?

Ad-hoc Ethical Committee

30. For how many cases was the Ethical Committee consulted in 2012?
31. How many of these cases related to incoming staff and how many to staff leaving the Commission?
32. How does this relate in % to the total amount of incoming/outgoing staff?
33. How many and what type of rulings did the committee formulate? In how many cases related to conflicts of interest did this lead to a) the refusal to appoint the official b) the request to end certain activities in order to be eligible to be appointed and c) the request not to engage in activities or a particular job after leaving the Commission?
34. Which measures did the Commission take in 2012 to come to a fully independent ad-hoc ethical committee?

35. Which measure were taken in 2012 to clarify the role and duties of this committee?
36. How does the COM respond to the ruling from the Ombudsman on Petite's reappointment to the ethics committee? The Ombudsman was very critical of the COM's approach; doesn't this require a change of approach from the COM?
37. Did the COM have any exchange of views or other communications with Mr. Petite prior to the upcoming publication of the Ombudsman's report?
38. Why has the COM reacted so re-active on this case? Ie. is it a coincidence that the COM announced the resignation of Mr Petite on December 18th , just a few days before the publication of the Ombudsman's report?
39. A large number of Commissioners will move into new jobs in 2014; considering the controversy that emerged the last time this happened (in 2010-11), which changes in approach to conflicts of interest and revolving door cases is COM planning for 2014? Apart from appointment of Petite's replacement, which other changes are planned in the work of the ethics committee?
40. As commissioners prepare to leave office, and to follow up earlier comments from Commissioner Sefcovic to CONT, how will you ensure the ethics committee is fit for purpose to assess the risk of conflicts of interest when commissioners take on new jobs: what other changes will you make to the functioning of the com?
41. Following the revolving door scandals which plagued the end of the Barroso I - Commission, how will the COM ensure that the code of conduct is this time fully observed by departing commissioners?
42. Do you consider an 18 month cooling off period for commissioners taking lobby jobs in the current code of conduct sufficient? Shouldn't the present code be reviewed and tightened before the current college of commissioners reaches the end of its term in office?

OLAF

43. In its proposal for the creation of a European Public Prosecutor, the Commission complains about the low number of convictions resulting from cases examined by OLAF and brought to the attention of national prosecutors. Did OLAF examine in detail what were the main reasons for the low number of follow-up investigations and convictions? How does the Commission explain differences between Member States? Is this due to a lack of political will, lack of resources at national level, or are there problems with regard to the quality of the investigations undertaken by OLAF?
44. Which measures are taken to improve the relationship between the OLAF supervisory committee, OLAF and the Commission?
45. As indicated on page 19 of the OLAF report for 2012, OLAF opened 90 investigations in 2012 concerning EP staff. How many of these have led to internal sanctions or improvements in internal procedures?
46. Article 22a of the staff regulations obliges staff members to report serious irregularities outlined in the article to their immediate superior, the Secretariat General or to OLAF. How many complaints have been made to the Secretariat General in 2012?
47. How many of these complaints have been put through to OLAF for further investigation and how many have been dealt with internally?
48. In 2012 19 disciplinary measures were taken against 19 staff members.
How many of these cases related to conflicts of interest?

Systems for the recruitment, hiring, retention, promotion and retirement of civil servants

49. Which changes were made in 2012 with regards to systems for the recruitment, hiring, retention, promotion and retirement of civil servants?

Code of conduct for Commissioners

50. The code of conduct for Commissioners contains strict rules for gifts and travels. Is it possible to receive an overview of gifts received and travels made in 2012?

Gifts and Hospitality

51. In 2012 new Commission Guidelines on Gifts and Hospitality for the Staff Members were implemented. According to these rules the acceptance of gifts worth below € 50 is allowed, those above € 150 have to be rejected and for those between € 50-150 permission has to be granted from a superior.
 - How many of such requests to a superior have been made in 2012?

Code of good administrative behaviour

52. Impartiality is a core principle of the code of good administrative behaviour:

- Which safeguards has the Commission implemented to ensure this principle for its contact with external parties and experts by staff?

External, temporary staff and seconded national experts

53. How many external and temporary staff were employed by the Commission in 2012? Which conflict of interest rules apply to external staff and how are conflicts of interest checks being conducted towards them to ensure these do not occur?
54. How many seconded national experts were stationed at the Commission in 2012? Which conflict of interest rules apply to external staff and how are conflicts of interest checks being conducted towards them to ensure these do not occur?

Revolving Doors

55. Revolving doors are a recurring problem among EU civil servants. Pending an Ombudsman investigation on the Commission's alleged failure to curb conflicts of interest via the revolving door; which measures were taken in 2012 to resolve this issue?

Conflicts of interest

56. In 2013 a Practical Guide to Staff Ethics and Conduct has been published for the attention of all staff. The Commission states that it considers that the ethical framework on COI is compatible with the guidelines of the FCTC and that no additional provisions are required.
- Could you please explain which measures the Commission exactly has implemented to fulfil its obligations under article 5.3, which states that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”?
57. According to principle 2 ‘Parties should ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent.’
- Are all meetings between staff and the tobacco industry public? (ie meeting place, subject and contributions to the discussion?); where are they published?
58. At the moment only DG SANCO and DG Trade publish meetings with representatives of the tobacco industry. Do officials of other bodies, agencies or departments not meet with representatives of the tobacco industry?
- Could the budgetary control committee be provided with the full overview of these meetings and those of Ms. Day?
 - Is the Commission able to state that no other officials met with the tobacco industry?
59. Why had Commissioner Dalli been criticized for not having reported on all his unofficial meetings with tobacco lobbyists whilst according to the letter sent by

President Barroso to Mr Groote on 12.3.2012 art 5.3 of the WHO Framework Convention is not binding?

Study on pay-levels

60. In the 2011 discharge report the Budgetary Control Committee requested a study on pay levels. In the answers to written questions posed to Vice-President Sefcovic, the Commission wrote that '. It should be noted in this regard that, in a letter to the European Parliament in 2012, the Member States indicated that they did not wish to provide data about salaries and working conditions of national civil servants employed in Permanent Representations "

It is quite surprising that the Commission finds this letter of the Member States an acceptable excuse not to be publically accountable for the pay levels for EU civil servants. The public support for the EU is ever decreasing, to which the allegedly exorbitant pay levels of EU Civil Servants contribute. It is in the interest of the Member States themselves to cooperate with the Commission and to contribute to a study and to come to a duly justified argumentation for the current remuneration policy. Is the Commission willing therefore to start such a study and make public the Member States that are willing to cooperate?

External staff and temporary agents

61. The Budgetary Control Committee has requested the number and amounts of money involved for external and temporary staff for years in a row. The inability or unwillingness of the Commission to provide the Committee with proper insight in these figures indicate a lack of proper accountability on the Commission's side.

We therefore request to get full and proper insight in this matter once again.

Staff mobility

62. How many persons left the Commission in 2012 (please specify these figures on the basis of types of contracts)?
63. How many persons were newly hired by the Commission in 2012, please specify these figures on the basis of contract type: ie. national seconded experts, temporary staff, external contract staff, contract directly with the Commission?
64. How many internal promotions took place in the Commission in 2012? Could you specify these according to grade level?
65. Having regard to the Guidelines on Mobility: Secretary General took over her office in November 2005. Mobility for senior management is also obligatory after 5 years in post (Sec 2004 1352/2). Why the Mobility was not applied so far? When it will be applied?

Sick leave

66. According to the answers to written questions to Commissioner Sefcovic, the average numbers of days of sickness including Saturdays and Sundays is 14,6 in 2012. This appears to be high compared to national averages. What are the reasons for this high number and what measures did the Commission take to lower this number?

Agencies

67. How is the Commission now following up on the work of the Inter-Institutional Working Group on Agencies which concluded in July 2012, and implementing the 'Roadmap', which aims to address the problems which are identified in many instances by the European Court of Auditors, i.e.
 - a. carry-overs which are not supported by commitments or which appear excessively high
 - b. lack of transparency or rigour in recruitments
 - c. problems with procurement and contract management
 - d. potential conflicts of interest of experts and board members

EMA

68. The European Medicines Agencies co-operates with and seeks advice from patient and consumer organisations. A large number of eligible patient and consumer groups do receive funding from industry. Does the Commission agree that this might constitutes a direct, rather than an indirect, conflict of interest? Which measures take the Commission in the case of such conflicts of interests? Does it, in particular, disregard the input given from such organizations, if they are primarily financed by the industry?

69. Is the Commission willing to request the public disclosure of funding information of any patient, consumer or healthcare professional organisation before they are involved in any EMA activity, making transparency an eligible criterion?
70. Which measures did the Commission take in 2012 to involve independent patient, consumer and healthcare professional organisations in the work of EMA?
71. EMA is improving its conflicts of interest policy since 2012; is the Commission of the opinion that some of their policies are in need of further clarification? For example EMA states that ‘‘as a general rule, current employment with a pharmaceutical company or current financial interests in pharmaceutical industry are incompatible with involvement in the activities of the Agency’’. It appears that it is not sufficiently clear, that other current direct interests in the pharmaceutical industry (e.g. consultancy and strategic advisory role for a company) are also incompatible with involvement in EMAs work.
72. How does the Commission view the fact that EMA did not include in its Annual Report a special section on the prevention and management of conflicts of interest? Will the Commission make sure that the EP will receive the additional information from EMA and seek clarification from the agency why it had not submitted this information in the first place, as in the context of the discharge of the 2011 budget, the EP had explicitly asked for it?

Expert Groups

73. In 2012 the budget for Expert Groups was frozen by the European Parliament. It was released after a dialogue has started with the European Parliament in which the Commission committed itself to meet certain conditions relating to transparency, composition and preventing of conflicts of interest in these groups.

The establishment of new expert groups in 2012 and 2013 indicates that the commitments have not been fully implemented by the Secretariat General itself. Considering its example role vis a vis the rest of the Commission, will the Secretariat General ensure that:

- *Composition*: It's expert groups will be composed in a balanced manner - not leading to the dominance of a single interest
- *National members*: to allow national representatives from national member organisations to be mandated by their umbrella organisation to participate in certain expert groups in order to find sufficient experts.
- *Remuneration*: The Commission announced to draw up specific conditions for granting special allowances. We are looking forward to receive those conditions, as this is a way to attract more representatives from organisations with limited means.
- *Open calls*: an open call is published for all new expert groups

- *Personal capacity*: It is worrisome that the Secretariat-General, overseeing the progress on expert groups, since September 2012 has labelled many non-governmental individuals as members in 'personal capacity' which are in fact linked to industry. This mis-labelling constitutes for potential conflicts of interest and we would like to hear what measures will be taken to make sure that members in personal capacity are truly independent.
 - *Declaration of interests*: No full overview of progress or examples of checked declaration of interests is available. This is worrisome as it was one of the conditions for lifting the budget reserve. We would like to receive an update on this point and hear from you which measures DGs are taking to come to an active conflicts of interest policy.
 - *Reporting*: What is the Commission's opinion on requesting DGs to request DGs to report on expert groups in their annual activity reports?
74. What guarantees can the COM give us that, the COM has introduced measures to implement the WHO rules in accordance with UNFCTC article 5.3, and thus ensuring that all meetings with the tobacco industry will be disclosed in a full transparent manner on the Commission website?

EU 2020 Strategy

75. In its annual activity report the Secretary General of the Commission stated that a major priority is to make sure that the Commission's policy initiatives are coherent with the EU 2020 strategy.

On the other side the SG has to pursue growth enhancing reforms both EU and national level by monitoring the implementation of the Europe 2020 Strategy. (Specific objectives 4 and 5)

Through which mechanisms the Commission can ensure that the delivering of the different European funds is internally coordinated in a consistent way in order to constitute the real growth and job strategy of the Union?

How many meeting of each Commissioners working group (set up by president Barroso in February 2010) have taken place in 2012?

DG SANCO Annual Activity Report

76. In its annual activity report for 2012 the Director General of DG SANCO stated that two events were worth mentioning as they could bear a high reputational risk for DG SANCO and for the Commission as a whole.

As regards the so called resignation of former Commissioner Dalli no reservation has been noted to the Director-General's declaration since OLAF clearly stated that the European Commission's decision making process and the position of the Services concerned have not been affected at all by matters under investigation.

How can this statement be conciliated with the emails that the Director General of SANCO, Paola Testori Coggi, sent to the Secretary-General of the European Commission, Catherine Day, and the Director-General of the Legal Service, Luis Romero Requena, on September 7 highlighting the changes that weakened the directive?

77. Did the horse meat scandal not justify to introduce a reputational reservation as according to *Regulation EC 82:2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare* the Commission has the specific duty to check the "food safety" control systems of the Member States and in particular to audit the quality and verify the implementation of the multi annual national control plan (if needed by on the spot inspections), to verify the functioning and organisation of competent authorities and to investigate recurring problems in Member States and emergency situations.
78. Does the horse meat scandal not justify that the IAS performs a specific audit on the activities of the Food and Veterinary Office?