



FOLLOW-UP TO THE OBSERVATIONS OR RECOMMENDATIONS IN THE DISCHARGE RESOLUTION OF THE EUROPEAN PARLIAMENT OF 18 APRIL 2018 CONCERNING THE 2016 DISCHARGE

Foreword

As every year, a specific chapter (chapter V) is dedicated in the Annual Activity Report (AAR) of the Court to the follow up of observations expressed by the Court of Auditors and the Discharge Authority. The 2017 AAR was no exception (see extract of this chapter in Annex).

This document aims to give useful updated information and explain the new measures implemented in response to the following specific points/paragraphs of the 2016 discharge resolution.

- 4. Notes that, according to the current discharge procedure, the CJEU submits annual activity reports to the Court of Auditors in June, the Court of Auditors then submits its report to Parliament in October, and the discharge is voted by Parliament in plenary by May; notes that, unless the discharge is postponed, at least 17 months pass between the closing of the annual accounts and the closing of the discharge procedure; points out that auditing in the private sector follows a much shorter timeline; stresses that the discharge procedure needs to be streamlined and sped up; requests that the CJEU and the Court of Auditors follow best practice in the private sector; proposes in this regard to set a deadline for the submission of annual activity reports of 31 March of the year following the accounting year and a deadline for the submission of the Court of Auditors' reports of 1 July; proposes also to review the timetable for the discharge procedure as set down in Article 5 of Annex IV to Parliament's Rules of Procedure so that the vote on the discharge would take place in Parliament's plenary part-session in November, thereby closing the discharge procedure within the year following the accounting year in question;**

The CJEU notes the European Parliament's wish to shorten the deadline for the presentation of the annual activity report, motivated by the desire to close the discharge procedure more quickly and efficiently. The CJEU, in coordination with the other institutions, will undertake the practical arrangements to achieve that objective.

- 7. Is concerned that the CJEU consistently overestimates its commitments for missions, having committed EUR 342 000 in 2016 whereas payments were only EUR 157 974; calls on the CJEU to ensure sound financial planning in order to avoid a similar discrepancy in the future;**

It is important to note that the appropriations concerned are characterised by their small amount and the difficulty of calculating them in advance.

In addition, in order to respond to the invitation of the budgetary authority, the CJEU reduced its request for appropriations for Members' missions to EUR 299 750 when drawing up its 2019 estimates.

- 10. Notes the judicial activity of the CJEU in 2016, with 1604 cases brought before the three courts and 1628 cases completed in that year, a number lower than in 2015 where 1775 cases were completed; also notes that the average duration of proceedings was 16.7 months which was slightly higher than in 2015 (16.1 months); welcomes the fact that due to reform of the CJEU the average time taken to decide a case in 2017 was 16.0 months; recalls the necessity to guarantee the quality and speed with which the CJEU delivers its decisions in order to avoid any significant costs for the parties concerned that arise from the excessive length of time taken; reiterates the importance of reducing the list of pending cases to uphold the fundamental rights of Union citizens;**

The average length of proceedings remained historically low in 2016 as a result of efforts by the courts to keep processing times within limits that guarantee the rights of individuals.

It is precisely within this perspective that the proposals for the reform of Protocol No 3 on the Statute of the CJEU (hereinafter referred to as the 'Statute of the CJEU'), such as the one that led to the reform of the Union's judicial architecture through the adoption of Regulation 2015/2422, are presented.

- 16. Notes the overall decrease in the duration of proceedings in 2016, noted by the Court of Auditors in its Special Report No 14/2017¹ by an average of 0,9 months at the Court of Justice and 1,9 months at the General Court compared to 2015; notes the organisational and procedural actions taken by the CJEU to enhance its efficiency and calls on the CJEU to pursue its effort to ensure the continuation of a downward trend so that all cases are concluded within a reasonable period of time; notes with concern that one of the most frequent factors affecting the duration of the handling of cases are judicial vacations; notes that there were 14 weeks of judicial vacations in 2016;**

A reasonable period is the period beyond which the duration of the procedure is considered to be an infringement of the right to an effective remedy, as enshrined in Article 47 of the Charter of Fundamental Rights of the European Union. The objective of the courts composing the CJEU is

¹ Court of Auditors Special Report No 14/2017 'Performance Review of case management at the Court of Justice of the European Union'.

not only to respect this right, but to deal with cases brought before them as soon as possible and ensuring the necessary quality. To that end, the two courts that make up the Institution have established different time-frames for processing cases brought before them.

The CJEU further recalls that efficiency, quality and independence are the main parameters of an effective justice system². It follows that the length of proceedings is one factor among others to be taken into consideration in the evaluation of a court system. In their quest for efficiency, the courts of the CJEU are guided by the need to strike a balance between speed on the one hand and the quality of judicial review and judicial decisions on the other, in a context marked by a general increase in their workload.

In addition, judicial vacations - which are also the practice in national courts - are intended to organise absences linked to annual leave in order to ensure the proper administration of justice. They do not correspond in any way to a period of interruption of judicial activity.

Work on files continues, in the cabinets and services alike, and preliminary reports and draft decisions are also written and distributed during the summer. In addition, if necessary, hearings and deliberations are organised during this period, in particular in the event of an application for interim measures or an urgent preliminary ruling procedure.

- 18. Requests that the CJEU introduces a more targeted performance based approach in respect of the external activities of judges for the dissemination of Union law, as the criterion used seems rather general and the effects of these activities are not clearly measured;**
- 19. Reiterates its call for a greater level of transparency with regard to the external activities of each judge; calls on the CJEU to provide information regarding other posts and paid external activities of the judges on its website and in its annual activity report, including the name of event, the venue, the role of the judges concerned, the travel and subsistence costs and whether they were paid by the CJEU or by a third party;**

In the performance of their duties, Members may be authorised to represent the Institution or the court to which they belong, at a formal or official event or occasion or to carry out an activity of European interest. Such activities are only permitted in accordance with the Code of Conduct for Members and former Members of the Court of Justice of the European Union (the 'Code of Conduct') and within the strict limits of their compatibility with the duties of judicial office. The performance of such activities forms part of the Members' mission and is of great importance in terms of communication and bringing the Union's institutions closer to its citizens, and more particularly in terms of the dissemination of Union law. Since 2018, tables listing all the external activities of CJEU Members that took place during the previous year have been published on the Institution's website.

² The EU 2018 Justice Scoreboard [COM (2018) 364 final], p. 9.

20. Urges the CJEU to publish CVs and declarations of interest for all CJEU members, listing membership of any other organisations;

The curriculum vitae of each of the Members of the Institution is published on the website of the CJEU.

With regard to the declaration of their financial interests, Article 5 of the Code of Conduct provides that, on taking up their duties, Members shall submit to the President of the Court or Tribunal of which they are a Member a declaration of their financial interests.

Furthermore, in accordance with Article 5(1) of the Code of Conduct, Members shall notify the President of the Court or Tribunal of which they are a Member if they are to hear a case in which they have an interest that might give rise to a conflict of interest.

Those provisions are intended to ensure the independence of the Members, including vis-à-vis the outside world, by allowing the Presidents to ascertain whether a Member has a personal particular interest in the outcome of the dispute in a given case.

21. Regrets the absence of rules on ‘revolving doors’ and urges the CJEU to establish and implement strict obligations in regard thereto;

With regard to Members, Article 9(1) of the Code of Conduct provides that former Members are to continue to be bound by their duty of integrity, of dignity, of loyalty and of discretion. Article 9(2) specifies the cases in which former Members may not become involved in cases.

As regards the Institution’s staff, the administration of the CJEU is currently preparing internal rules governing the exercise of external activities by staff members, including after they have ceased to hold office.

22. Is of the opinion that the CJEU should consider producing minutes of meetings held with lobbyists, professional associations and civil society actors, when this does not undermine the confidentiality of ongoing cases;

23. Asks the CJEU to publish the meetings with professional associations as well as agents representing the Member States;

Because of the nature of its mission, the CJEU has no meetings with lobbyists or representatives of civil society. The CJEU only periodically meets representatives of the legal profession as well as agents who represent the Member States and the Institutions before it to discuss matters relating to the management of cases in general in order to ensure the proper administration of justice.

The CJEU has no contact whatsoever with third parties concerning ongoing cases.

- 25. Notes that the Court of Auditors did not have access to certain documents relevant for the audit of the performance review of the CJEU³; calls on the CJEU to keep working with the Court of Auditors and to provide it with access to all the documents it needs for its audits to the extent that this does not infringe the obligation to maintain the secrecy of the deliberative process;**

The secrecy of deliberations is a principle of primary law of the European Union, enshrined in Article 35 of the Statute of the CJEU. Applicable to the Court of Justice and (under Article 53 of the same Protocol) to the General Court, this principle implies that the individual positions taken by the Members of the courts are not disclosed in any way. It aims to guarantee the independence of Judges and advocates-general by protecting them from the pressure that could result from the disclosure - or the mere risk of disclosure - of their position in a given case. This principle explains why the Court of Auditors could not have access to a limited number of documents, which are subject to the secrecy of the deliberations. That limitation does not correspond to any intention on the part of the Court of Justice or the General Court to limit access to certain documents. It is required under primary law and failure to comply with this principle would lead to a breach of the oath taken by both Judges and Advocates-General when they take up their duties, which may give rise to liability (see in this respect Title I of the above-mentioned Protocol).

The CJEU considers that the Court of Auditors was able to have access, during the performance review it carried out, to any document not covered by the secrecy of the deliberations. The CJEU will continue to provide access to all documents required by the Court of Auditors for its audits, while respecting the secrecy of deliberations.

It must be noted that the matter of the CJEU's cooperation with the auditors of the Court of Auditors in the context of the performance review referred to above had already been addressed by the European Parliament in its discharge resolution relating to the CJEU for the financial year 2015. In point 20 of that resolution, after having stated that 'at the beginning of the audit process, the [CJEU] raised obstacles to the work of the audit team', the Parliament nevertheless noted 'with satisfaction that the [CJEU] has improved its cooperation with the auditors and provided further documents to Court of Auditors', pointing out that it was 'aware' of the fact that the principle of the secrecy of deliberations is 'necessary', inter alia, 'to help preserve the independence of decision-makers'.

- 27. Notes with concern that the CJEU could not evaluate the capacity of judges and *référéndaires* managing cases because the CJEU does not collect any information on the amount of time that a judge or a *référéndaire* spends on a particular case; notes that a study will be carried out in order to evaluate the extent to which the introduction of a system for monitoring the use of resources would provide useful data; asks the CJEU to present the results of the study to the Parliament;**
- 28. Considers the answer given by the CJEU to Parliament's question (Question 50) on the costs of their cases to be unsatisfactory; asks the CJEU to consider a monitoring system to calculate the costs of each case;**

³ Court of Auditors Special Report No 14/2017 'Performance Review of case management at the Court of Justice of the European Union'.

31. Underlines the recommendation of the Court of Auditors in its Special Report No 14/2017 to measure performance on a case by case basis by reference to a tailored time-frame, taking account of the actual resources employed;

Although the Court of Justice and the General Court currently already apply specific time-frames for different types of proceedings, those courts have welcomed the Court of Auditors' recommendation to refine those time-frames by taking greater account of the specific nature of the proceedings and the complexity of the cases. Taking into account the resources actually used would require a study to be carried out to assess the extent to which the introduction of a system of accounting of the use of resources would make it possible to obtain effectively usable data without affecting the proper functioning of the courts. The development of a system for accounting for the actual use of the resources employed at each stage of each of the cases that the two courts deal with every year should take into account the significant administrative burden and the consumption of resources that such a development could generate. Such considerations need to be balanced with the practical utility of analysing the data obtained using such a system, in comparison with the existing system or complementary systems that could be considered.

In that context, the Integrated Case Management System (ICMS) project, which is a follow-up to the recommendation of the Court of Auditors set out in Special Report No 14/2017 ('Performance review of case management at the Court of Justice of the European Union') and which is currently in its needs analysis phase within the Institution, includes a component on the computerisation of performance indicators and reporting instruments, thus opening up new perspectives.

While not disputing the usefulness of introducing performance indicators, the CJEU nevertheless considers it important to recall the specific nature of its activity. It is governed by procedural rules that are binding on both courts and guarantee in particular the principle of the adversarial procedure, which is an expression of the fundamental right to effective judicial protection. That activity is also based on the principle of collegiality, which determines the legitimacy, authority and quality of decisions adopted by the Court of Justice and the General Court, whose case-law has an impact on the entire legal system of the European Union. That impact and, more generally, the importance of the issues raised before the EU Courts (which requires that certain cases be judged, as the case may be, by 5 or 15 Judges, or even by the plenary assembly) cannot be quantified, so that the usefulness of an assessment of the cost of each case, based on the accounting of the resources used, should be seen in context.

32. Notes that following the reform of the CJEU's judicial structure, the allocation of judges to the chambers is made according to the caseload in different areas; is interested to know how this allocation is made and whether specialised chambers are in place for certain areas and asks for an analysis of how the allocation affects the speed with which cases are handled;

Under Article 11(1) and (5) of the Rules of Procedure of the Court of Justice and Article 13(1) to (3) of the Rules of Procedure of the General Court, the Court of Justice and the General Court shall constitute chambers of three and five Judges from among themselves and shall decide on the assignment of Judges to them. Those decisions are to be published in the Official Journal of the European Union.

The decision to assign Judges to the chambers is adopted, for a period of three years, on the occasion of the three-year renewals of each of the two courts. It takes into account the need to ensure a balanced composition, in particular in terms of geographical representation and legal systems, within each chamber. Workload is not a relevant factor for the assignment of Judges to chambers, but it is taken into account in the allocation of cases.

There are no specialised chambers, in the sense of chambers whose purpose is to deal with the entirety of a given area of litigation. Nevertheless, the application of the connected cases criterion may in fact give rise to a partial and temporary specialisation of certain chambers or Judges in the handling of cases relating to particular matters.

33. Notes the process for assigning cases referred to the Courts; notes that in 2016, as in previous years, around 40 % of cases in General Court were assigned outside of the rota system, which puts the system itself into question; asks the CJEU to provide the rules stipulating the procedure of assignment in both Courts;

The system of assignment of the cases at the General Court is a matter pertaining to its judicial autonomy, as recognised by Article 25 of the Rules of Procedure of the General Court. On the basis of this provision, the General Court has adopted the Decision of 11 May 2016, published in the Official Journal, concerning the criteria for the assignment of cases to Chambers. According to this Decision, the President of the General Court may derogate from the rotas in order to take account of a connection between cases. This criterion for assignment of cases is therefore transparent and applied in a non-arbitrary manner. It is aimed at avoiding inefficiencies and risks of incoherence which would result from a rota-based allocation of each of the cases belonging to a group of cases directed against the same contested act or of cases raising closely linked legal issues. The percentage, mentioned by the Parliament, of cases assigned outside the rota principle refers to cases assigned on the basis of the connected cases criterion and finds its origin in the allocation of several large groups of applications directed against the same decision (for instance, when a group of 40 applications directed against the same State aid decision of the Commission is assigned to a Chamber, the first of these cases is assigned on the basis of the rota while the following 39 cases are assigned on the basis of the connected cases criterion). Thus, not only would it be inefficient to spread these cases over all the chambers, but it cannot be inferred from these mere statistics that the assignment criteria are not respected. Far from putting the system into question, the proportion of cases allocated on the basis of the connected cases criterion reflects the rationale of this system, based on a rota principle subject to transparent derogations established for purposes of efficiency.

As far as the Court of justice is concerned, the President is responsible for assignment to an individual Reporting Judge, and the First Advocate-General assigns the case to an Advocate-General. The assignment takes account of several factors, including the current workload of Judges and similarity with other cases. In addition, rules are applied to avoid allocation to Judges of the same nationality as the case and, for the appeals from the General Court, the case is not allocated to a Judge with the nationality of the original Reporting Judge. Ad hoc assignments take place when procedural decisions must be taken without delay and where expedited procedures are needed.

34. Notes that intellectual property issues are involved in a significant number of cases in both Courts; encourages the CJEU to analyse ways of simplifying the procedures for these cases and consider a pre-review by its research and documentation services;

At the General Court, intellectual property cases are already handled under a lighter and faster procedure. A specific title of the Rules of Procedure of the General Courts (title IV) provides for specific procedural rules applicable to these cases, which are characterised by the lodging of a single exchange of written pleadings (no reply and rejoinder). Furthermore, pursuant to paragraph 116 of the Practice rules for the implementation of the Rules of Procedure, the maximum length of written pleadings in intellectual property cases is significantly lower than in other cases. Finally, it must be observed that the duration of the proceedings in intellectual cases is substantially shorter (14.5 months in average, in 2017).

As far as ‘trademark’ appeal proceedings before the Court of Justice are concerned, the research and documentation service of the Court of Justice already pre-examines each case in order to assess whether the appeal could be declared manifestly inadmissible or manifestly ill-founded in an order based on Article 181 of the Rules of Procedure of the Court of Justice. The case is not notified to the other parties to the proceedings as long as this pre-examination takes place (which is concluded within a month). Obviously, the final decision is taken by the judges.

Finally, the proposal for amendments of the Statute of the CJEU presented by the latter and currently under examination by the legislative authority includes a procedure whereby the Court of Justice determines whether certain appeals should be allowed to proceed: in situations where the dispute has already been considered by an independent administrative authority, typically in trademark cases, the only appeals that will be considered by the Court of Justice will be those which raise, wholly or in part, a significant issue with respect to the development of EU law or in which the unity or consistency of EU law is at stake.

36. Notes the high rate of occupation of posts (almost 98 %) despite the high staff turnover rate; notes the difficulties stated by the CJEU with respect to recruiting permanent staff in entry-level grades; asks for an assessment by the CJEU on the reasons for the high turnover and the measures put in place or intended to put in place to improve the situation;

The CJEU has a turnover rate of $\pm 4\%$, which has been stable since 2015. In 2017, out of a total of 2063 authorised posts, there were 82 staff departures, including 24 retirements, 14 transfers, 8 resignations, 3 deaths and the ending or termination of 31 long-term temporary agent contracts (≥ 12 months). This data does not seem to suggest the existence of a significant phenomenon of staff turnover.

37. Acknowledges the CJEU’s actions taken in 2016 to improve gender balance in senior and middle-management posts but underlines the importance of maintaining the aim of improving in this matter; reiterates its concern for the geographic imbalance at middle and senior management level and, also in this regard, calls on the CJEU to aim for improvements;

The CJEU is sensitive to the particular interest of ensuring a balanced geographical representation among the holders of managerial posts and takes this into account, in strict

compliance with the rules laid down in Article 7(1) and the first paragraph of Article 27 of the Staff Regulations, in the context of its recruitment procedures.

At present, 15 of the 56 Heads of Unit of the CJEU (26.8%) and 2 of its 13 Directors (15.38%) are from Member States that have joined the Union since May 2004. More generally, 31% of the CJEU staff members come from those States (whose populations represent approximately 21.5% of the Union's population).

With regard to gender balance, the CJEU is now routinely examining the various aspects that may hinder women's access to managerial positions. The occupancy rate of managerial positions by women increased from 30% in 2013 to 36% in 2017.

38. Notes that the CJEU offered 245 traineeships in 2016; regrets that 188 traineeships in cabinets were not remunerated; calls on the CJEU to find a solution to provide a decent remuneration to all trainees working in the institution with a view to ensuring equal opportunities;

When drawing up its estimates for 2019, the CJEU requested additional appropriations (EUR 500 000) in order to be able to finance scholarships to be awarded to trainees in Members' cabinets.

42. Notes the CJEU's investment in IT tools to improve case management; asks the CJEU to provide detailed quantitative and qualitative financial information on the state of play of IT projects within the CJEU since 2014; calls on the CJEU to develop a fully integrated IT system to support case management;

First of all, it should be noted that the CJEU spends barely 5% of its total budget on IT and telecommunications expenditure⁴, while the share of this type of expenditure in the individual budget of the Union institutions, excluding the Commission, is on average more than 6%⁵. As a result, this gap compared to the other institutions results in a budget that is between EUR 5 million and EUR 6 million less per year.

Since 2014, the CJEU has continued to improve the IT applications made available to the courts, the parties to a case and the Institution's services.

Projects to introduce paperless information and document flows in the management of cases were allocated EUR 6.4 million between 2014 and 2017:

- The e-Curia application, which is now widely used,⁶ in particular for direct actions, has evolved considerably. The work in progress will, by the end of this year, allow the

⁴ 4.8% of the total budget of the CJEU was devoted to IT and telecommunications in 2017. In the 2018 budget, IT and telecommunications represent 4.7% of the total budget (i.e. EUR 9,300 per post in the establishment plan, which is well below the average for the institutions (excluding the Commission)).

⁵ Average expenditure in 2017 by the European Parliament, the Council, the CJEU, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman, the European Data Protection Supervisor and the European External Action Service.

⁶ From January to June 2018, 72% of documents lodged for cases before the Court of Justice and 85% of documents lodged for cases before the General Court were lodged with e-Curia.

systematic use of e-Curia for cases before the General Court and the creation of user accounts for national courts and non-lawyer representatives of a party for references for a preliminary ruling before the Court of Justice. Not only does e-Curia bring significant efficiency gains, but also budgetary savings, particularly in postage costs.⁷

- Further digitalisation projects have been delivered since 2014. The case-law of the Union's courts has been published exclusively in the online Reports of Cases since 2014, replacing the paper Court Reports and allowing a reduction of more than 85% in costs compared to 2013 (reduction of the annual publication budget, elimination of storage and mailing costs)⁸. The online Reports of Cases has accelerated access to case-law because, since November 2016, the official version of the texts⁹ is available in the days following delivery, and not, as before, about a year later.

- Communication between the cabinets and registries has become paperless, thereby replacing the circulation of paper signatories ('Dispatch notes'), with substantial time savings for the transmission and archiving of documents. Management charts that combine information from different computer applications facilitate the monitoring of case processing, providing real-time information on the progress of the work: Aide au suivi de la procédure (ASP) [aid to monitoring proceedings] has been operational since 2014; Argos has been available to the General Court since mid-2018.

- The Enterprise Content Management (ECM) programme makes it possible, in particular, to centralise and manage in a single system the documents necessary for the work of the courts, including compendiums relating to proceedings, as well as the data associated with those documents. Its implementation has been accompanied by an improvement in the quality of the data and document base stored in older computer systems. The developments recently made available to the CJEU services allow internal users to search case-law and procedural documents related to a case with a powerful and user-friendly search engine (EURêka) and to structure all documents related to a case in electronic files.

Between 2014 and 2017, EUR 2.7 million was spent on modernising tools to assist in the drafting and translation of court documents and scanning tools. GenDoc is a document writing tool integrated into Word, which is used daily to produce court documents in the working language or in a translated version in a well-structured format. This tool automatically generates document templates from pre-established templates and data from several computer systems, including the registry database. It also allows the online Reports of Cases to be published quickly in all languages, by almost automatic procedures, while ensuring a very high level of quality. Trados SDL allows reuse of previously translated content, reducing translation times while ensuring high quality. The redesign of the scanning chains, currently in progress, will significantly improve the quality of document scanning and enable the use of a unified solution

⁷ The Court's annual budget for postage (budget line 236) was EUR 675 000 in 2011; the request for 2019 has been reduced to EUR 127 000.

⁸ The production costs of the online Reports of Cases are in the order of EUR 120 000 per year. Until 2013, the last year of production of the paper Court Reports, production costs averaged around EUR 700 000 per year, to which an average of around EUR 280 000 per year in storage and shipping costs had to be added.

⁹ The provisional version of the text is available on the day of delivery.

The Minidoc III analytical databases, which enable the Research and Documentation Directorate to support the courts and contribute to the dissemination of EU case law, have been redesigned. Between 2014 and 2017, EUR 0.8 million was allocated to the Minidoc III project.

As regards relations with national courts, the IT Platform for the Judicial Network of the European Union¹⁰ facilitates the dissemination of comprehensive information on preliminary ruling cases. It also helps to disseminate decisions of relevance to EU law between the supreme courts of the Member States and allows, through a powerful search engine, to find information relevant to cases before the Court of Justice. EUR 0.4 million has been allocated to launch this project in 2017.

IT projects are also carried out on multimedia systems. The marking of audio recordings of hearings since 2014 has reduced the use of court transcripts. The replacement of the audiovisual systems in the courtrooms installed in 2008 is in progress, in order to reduce maintenance costs and provide high-performance equipment compatible with current standards. EUR 0.6 million was allocated to these projects between 2014 and 2017.

Adaptations of IT tools are necessary when the regulations relating to the courts evolve. This was the case when the Rules of Procedure of the General Court and the Civil Service Tribunal were recast, and then when the judicial architecture of the European Union was reformed. A tool makes it possible to publish the external activities of Members, according to the new Code of Conduct that came into force on 1 January 2017. EUR 0.5 million was allocated to those adaptations between 2014 and 2017.

In addition, it should be noted that the IT tools 'in production' regularly undergo improvements (additional functions, technological developments, bug fixes) in the course of maintenance work.

The IT projects carried out since 2014 have certainly brought efficiency gains and improved the tools available to the CJEU. However, the applications used for case management are partly based on old technologies and are not sufficiently integrated with each other. The next significant IT investments will be in the definition and implementation of a fully integrated case management system, which will replace a set of applications developed over the past 25 years.

Applications currently in production will continue to be maintained until the future integrated system is operational. Some of the applications deployed in recent years will be reused and connected to the integrated system.

¹⁰ The Judicial Network of the European Union, established at the end of the Meeting of Judges in March 2017, includes the supreme courts and constitutional courts of the Member States.

- 44. Calls on the CJEU to improve its communication activities in order to make itself more accessible to the citizens of the Union, e.g. by organising training seminars for journalists or developing communication products on its activity in accordance with a more citizen centred approach; welcomes the fact that the CJEU has taken the decision to update its website in order to be more user friendly and asks the CJEU to make efforts to improve its database by making it more focused on users; acknowledges the efforts of the CJEU with regard to online communication channels and encourages it to keep up the good work;**

The CJEU is constantly seeking to bring the Institution closer to citizens. To that effect it organises informative visits for journalists, thus giving them the opportunity to visit the CJEU and better understand its case-law and functioning. In 2017, 120 journalists visited the CJEU in that context. In addition, press officers of the CJEU routinely organise meetings with journalists both in Brussels and in the Member State capitals in order to inform them on the latest developments regarding the CJEU.

Furthermore, the CJEU continues to develop communication products relating to its activity or on specific themes relating to its case-law. For the third year in a row, a version of the CJEU's Annual Report directed to citizens has been published by the institution alongside its traditional Annual Report which is destined primarily to jurists. This simplified annual report entitled 'The Year in Review' features prominently on the CJEU's website and will further be distributed widely to all the Member States in cooperation with the Office of Publications.

As regards multimedia, 6 new animated short-films have been recently added to the CJEU's YouTube channel (<https://www.youtube.com/channel/UCTfyrAlsJRZF1nGLLgnDiMA>), which contains, in addition to the multimedia animations, videos on events organised at the CJEU. As regards social media, the CJEU continues to strengthen its presence on Twitter, where it now has almost 50 000 followers (an increase of approximately 20% since the beginning of the year) with very satisfactory average engagement rates.

- 46. Welcomes the CJEU's commitment to ambitious environmental targets and calls for these objectives to be reached in a timely manner; encourages the institution to apply the principles of green public procurement and calls for the establishment of rules and a sufficient budget for carbon offsetting;**

Promoting the integration of environmental considerations into procurement procedures is one of the environmental improvement objectives included in the CJEU's EMAS programme since 2016¹¹.

In order to help the authorising services to achieve that objective, the centralised CJEU 'Contracts' section has prepared and distributed a note which aims to clarify the possibilities offered to the authorising services with regard to the integration of environmental considerations into their calls for tenders and which refers to the Commission's Green Public Procurement (GPP) toolkit.

¹¹ The environmental policy signed by the Registrar of the Court of Justice on 19 June 2015 aims, inter alia, to encourage the integration of environmental criteria into public procurement procedures.

Moreover, specific examples of the application of environmental criteria in procurement procedures are available on a dedicated intranet page.

In order to make its procurement procedures and contracts more 'green', the CJEU has:

- set a target, over the period 2016-2018, to reduce calls for tenders incorporating 'Light green' clauses so as not to exceed 55% in number and 50% in amount of all calls for tenders with a significant environmental impact;¹²
- measured its performance: in 2017, that target was exceeded. The setting of measurable objectives will provide a benchmark against which services can measure their progress;
- signed an inter-institutional contract, called the 'GPP Helpdesk', for a support service dedicated to green public procurement, which became operational in May 2017, providing assistance to procurement staff in implementing the ecological approach, in order to contribute to reducing the environmental impact of the CJEU and to promote sustainable consumption. Each year, two presentations are organised by this Helpdesk to present good practices and innovations in certain areas; research is carried out on new ecological products/services and a Knowledge database is made available to participating institutions. This is an example of effective inter-institutional cooperation as knowledge and good practices in this area will be shared between the institutions. As green public procurement is a rapidly evolving area, both technically and legally, this helpdesk makes it possible to monitor new developments and thus align CJEU procurement with existing best practice.

The actions carried out under the EMAS scheme to date have reduced the carbon impact by 33% compared to 2010, the base year, and cover the main environmental aspects. As the priority objective of the CJEU is to reduce emissions, this specific work on the substance in relation to greenhouse gas offsetting has been given priority.

With regard to that offsetting, the administration of the CJEU is of the opinion that the management and financing of offsetting projects require, in advance, the adoption of a common interinstitutional approach covered by the budgetary authority.

Indeed, greenhouse gas offsetting is not yet the subject of clear and precise guidelines, which makes it particularly difficult to choose an offsetting programme that is appropriate for an EU institution. The various programmes offer a different quality of greenhouse gas offsetting both from an environmental and financial point of view. As a result, the risk that the budget allocated to an offsetting project will not be used effectively and properly cannot be ruled out.

¹² Calls for tenders worth more than EUR 60 000 were divided into three categories, namely 'Light green', 'Medium green' and 'Top green', depending on the scope of the environmental protection clauses included in them. 'Light green': the call for tenders includes a reference to the environmental aspects of the contract; 'Medium green': the call for tenders includes important environmental clauses in order to reduce the environmental impact of the contract; 'Top green': this last category corresponds to best environmental practices.

- 48. Notes the further experience gained as to open space offices; is concerned that advantages such as the reduction of space needs, gains in terms of easier communication and higher flexibility could be outweighed by loss of confidentiality, constraints on work on files which require high concentration and a loss of privacy; calls on the CJEU to evaluate the positive and negative effects on working conditions, taking into consideration the needs of the staff, and to inform the Parliament about the result of this evaluation;**

The CJEU is continuing the pilot actions for the development of open and semi-open office spaces and continues to assess the impact of those measures on the professional and personal lives of occupants. It considers that this assessment should continue in the medium term, taking into account other factors such as the evolution of work technologies, the extension and improvement of the teleworking system, the 'user-friendly' layout of workspaces and meeting rooms, etc.

- 49. Welcomes the CJEU's adoption of guidelines on information for and protection of whistleblowers in the beginning of 2016 and recalls that the protection of whistleblowers is an issue taken seriously within the public administration of the Union, which must always be considered carefully; calls on the CJEU to encourage its staff to familiarise itself with the 2016 guidelines, highlighting the vital role of whistleblowers in bringing wrongdoing to light; calls on the CJEU to encourage its staff to take advantage of the 2016 guidelines in appropriate cases; asks the CJEU to provide in due time details of whistleblower cases, how they were handled and brought to a close;**

The guidelines on information and protection of whistleblowers, adopted by the CJEU in February 2016, are permanently posted, with an explanatory note, on the Institution's Intranet.

There were no cases relating to whistleblowers at the CJEU in 2016 and 2017.

- 52. Notes that one of two judges for the Civil Service Tribunal who were appointed on 1 April until 31 August 2016 was paid an installation allowance (EUR 18 962,25) in accordance with Article 4 (a) of Council Regulation (EU) 2016/300¹³, travel expenses (EUR 493,10) in accordance with Article 4 (c) of that Regulation, and removal expenses (EUR 2 972,91) in accordance with its Article 4 (d); notes, moreover, that the same judge was paid a transitional allowance for six months amounting in total to EUR 47 070 at the end of the mandate; notes with regret the disproportionate costs associated with one of those judges taking up and ending his '4 month mandate' amounting to EUR 69 498,25 in addition to the salary received by the judge; calls on the CJEU to consider whether the duration of the mandate is proportionate to the above-mentioned allowances when appointing future judges; calls on the Council to reconsider the conditions and amounts of these allowances and revise Council Regulation (EU) 2016/300 accordingly; condemns such a waste of Union taxpayers' money;**

¹³ Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L 58, 4.3.2016, p.1).

In accordance with the first paragraph of Article 253 TFEU and the second paragraph of Article 254 TFEU, the Members of the Court of Justice and the General Court respectively shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255 TFEU. The CJEU is therefore not called upon to appoint the Members who sit in its two courts.

In addition, it should be noted that the two judges appointed to the Civil Service Tribunal from 1 April to 31 August 2016 participated in the settlement of 37 cases (including 10 as Judge-Rapporteur and 27 as associate judge) and 57 cases (including 12 as Judge-Rapporteur and 45 as associate judge) respectively during their terms of office.

- 53. Notes furthermore that the General Court (Appeal Chamber, judgment of 23 January 2018 in Case T-639/16 P)¹⁴ has considered a Second Chamber of the Civil Service Tribunal constituted to include one of the '4 month mandate' judges to be irregular, which invalidated the decision referred to in the said judgment as well as all further decisions of the Second Chamber in that composition; asks the CJEU which decisions of the Second Chamber in that composition are affected by the General Court ruling; demands that the Council comment on this failure and clarifies where responsibility lies for it;**

The General Court's judgment in Case T-639/16 P, *FV v Council*, only set aside the judgment of the Civil Service Tribunal at first instance in Case F-40/15. Only two other decisions of the Civil Service Tribunal were concerned by the findings in the General Court judgment *FV v Council*. These are the order of the Civil Service Tribunal (Second Chamber) of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136) and the judgment of the Civil Service Tribunal (Second Chamber) of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155). Those decisions were appealed against respectively in Case T-646/16 P, *Simpson v Council*, and in Case T-693/16 P, *HG v Commission*, and were set aside by judgments of the General Court of 19 July 2018.

¹⁴ ECLI:EU:T:2018:22.

ANNEX

Chapter V of the 2017 Annual Activity Report

**Observations made in connection with earlier discharges
or reports of the Court of Auditors**

The charter of the authorising officer's duties, as amended by the Administrative Committee of the Court on 30 June 2014, provides that the authorising officer by delegation is to include, in his annual activity report, remarks concerning the follow up to observations expressed by the Court of Auditors and/or the Discharge Authority.

✓ **Observations made by the Court of Auditors**

It is important to note that the Court of Auditors indicated in its last Annual Report on the implementation of the budget concerning the financial year 2016, in paragraph 10.14, that no specific problem concerning the Court was detected.

The results of the 2016 controls thus confirm, as they have since 2010, the absence of observations from the Court of Auditors.

Finally, it should be noted that the Court of Auditors issued a special report No 14/2017 on the *Examination of performance in the management of cases at the Court of Justice of the European Union*, published in September 2017. In that report, the Court of Auditors recognises the large-scale activities undertaken by the Court in its organisation and procedures in order to improve its efficiency in processing the cases before it and also proposes avenues for further improvements.

✓ **Observations made by the discharge authority**

As this activity report is being drawn up, the procedure of obtaining discharge in respect of the implementation of the 2016 budget has not yet been formally concluded. However, it is at a relatively advanced stage, since the discharge report, amended and voted at the meeting of the Committee on Budgetary Control of 20 March 2018, will be submitted for plenary vote in Parliament in April 2018.

At this stage, the draft resolution voted by the Committee on Budgetary Control relating to the Court concerns, first of all, the findings of the Court of Auditors for the financial year 2016, and underlines that no significant weaknesses had been identified as regards the matters audited by

the Court of Auditors, namely, human resources and public procurement and that the management of its administrative expenditure is free from material error (paragraphs 1 and 2).

The resolution also sets out a number of positive points concerning the functioning of the Court's services. This relates, in particular, to the prudent and sound financial management in 2016 budget year (paragraph 3), the very high budget implementation rate [even if slightly down on the previous year (98.2 % in 2016, as against 99% in 2015)] (paragraph 5), the Court's workforce reduction of 5% in the period 2013-2017 (paragraph 35), the very high rate of occupation of posts (98%) (paragraph 36), actions taken to encourage the presence of women in managerial positions (paragraph 37), exchanges of staff between the Court and the European Central Bank (paragraph 39), interinstitutional cooperation in the field of translation (paragraph 40), participation as a full member of the Court in the Interinstitutional Group on Interinstitutional Key Indicators of Translation Activity and Performance and the presentation of translation costs in accordance with the harmonised method adopted by that group (paragraph 41), the constant increase in the use of e-curia which is now used by all Member States (paragraph 43), efforts made with regard to online communication (paragraph 44), actions taken to rationalise car fleet management (paragraph 45), the Court's commitment to high environmental objectives (paragraph 46), detailed information provided on real estate projects (paragraph 47) and the adoption of the guidelines for the protection of whistle-blowers (paragraph 49).

With regard to other observations/recommendations relating to administrative or language activities, the Court continues to consider them with the greatest attention. As regards the reference to the high rate of staff turnover, the Court will study the question and send answers to Parliament (paragraph 36), it will also provide the information requested by the Parliament concerning its projects in the field of data processing (paragraph 42), will continue the communication efforts as requested (paragraph 44), will make an evaluation of the use of the offices in 'open space' (paragraph 48) and will study the request to bring forward the timetable for the presentation of the annual report of activities to 31 March (paragraph 4). As regards the observation relating to unpaid traineeships, the Court has already made the inclusion, in its 2019 estimates, for appropriations for remuneration of traineeships in the cabinets of the Members.

Concerning the implementation rate of the budget line for Members' missions, the Court, while noting that such expenditure is by nature difficult to estimate in advance, has already, when drawing up the 2019 estimates, reduced the amount provided for that expenditure to take account of the observation made by the European Parliament (paragraph 7).

As regards the activity of the courts (Court of Justice, the General Court and the Civil Service Tribunal), the Court notes with satisfaction the comments concerning the reduction of the average length of proceedings in 2016 (paragraph 16) it also takes note of the fact that the European Parliament believes that a review of the ten years of activity of the Civil Service Tribunal should be made (paragraph 13).

As regards the paragraphs concerning the Members of the courts (paragraphs 17, 18, 19 and 20), the Court takes note of the requests made by the Parliament. In that regard, reference is made to the entry into force of the Code of Conduct for Members and former Members (OJ 2016/C 48 3/01), which responds to Parliament's observations regarding the conditions for

carrying out external activities and the publication of financial interests (paragraph 17), activities which are already published on the institution's Internet site after the activity has taken place, in line with the provisions of the Code of Conduct (paragraph 19).

As regards the paragraphs related to the Court of Auditors' Special Report No 14/2017 (paragraphs 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 42 and 54), they will be duly taken into account in the context of the reflections that the Institution is carrying out with regard to the implementation of the recommendations made in that report. It takes note in particular of the European Parliament's request to set up an integrated case management system (paragraph 42).

In general, all the actions and measures described above demonstrate the Court's concern to implement as rapidly as possible the recommendations of the discharge authority and at the same time confirm that the Court is open-minded and determined constantly to improve the efficiency of the management of all its activities.