



FOLLOW-UP TO THE OBSERVATIONS OR RECOMMENDATIONS IN THE RESOLUTION OF THE EUROPEAN PARLIAMENT OF 13 MAY 2020 CONCERNING THE 2018 DISCHARGE

Foreword

As every year, a specific chapter (chapter VIII) of the 2019 management report (annual activity report by the authorising officer by delegation) drawn up in accordance with Article 74(9) of Regulation 2018/1046 on the financial rules applicable to the general budget of the Union (‘the Financial Regulation’) is dedicated to the follow-up of the recommendations and observations issued by the Court of Auditors and the Discharge Authority in relation to the 2018 exercise (see extract of this chapter in Annex).

This document aims to give useful updated information and explain the new measures implemented by the Court of Justice of the European Union (hereinafter the “CJEU” or the “Institution”) in response to the following specific points of the 2018 discharge resolution.

- 9. Regrets, however, the increase in expenditure of 11,81 % between 2017 and 2018 in respect of budget item 2022 ‘Cleaning and maintenance’ arising from a new building maintenance contract and other factors, in respect of which an estimate had not been made and which resulted in an increase in this budgetary line during 2018; calls on the CJEU to continue its efforts to prepare sound budget estimates;**

As indicated in its reply to the 2018 Discharge Questionnaire, the increase of 11.81% in cleaning and maintenance expenses between 2017 and 2018 was mainly due to unexpected, urgent or exceptional factors. The CJEU has drawn valuable insights from this situation and will do its best to ensure that such underestimation of the cleaning and maintenance budget item does not occur again, by continuing to apply, in a spirit of continuous improvement, the principle of sound financial management.

- 11. Welcomes the CJEU's effort to publish its annual activity report on 29 April; notes that the CJEU continues to explore, in cooperation with other institutions, the possibility of bringing forward further its calendar, which would provide the discharge authority with more time to go into greater depth and to conduct the discharge procedure;**

By means of the rationalisation of procedures, in 2019 it was possible to advance the publication of the 2018 annual activity report (AAR) by 2 months (it was published in French on 29 April 2019 and in English on 30 May 2019).

In 2020, the Institution has been able to respect the same timetable, which is quite advanced compared with the one imposed by the Financial Regulation. This satisfying result should be emphasized, given the fact, on the one hand, that the format of the AAR has been substantially revised (its content now being presented in a transversal and thematic manner), and, on the other hand, that this task had to be accomplished in the difficult context of the pandemic crisis, with all the Institution's staff working at home. The French version of the 2019 AAR was published on 30 April 2020 and the English version on 28 May 2020.

It should be noted that the 2017 AAR had been published in those two language versions by 1 July 2018 as provided for in article 77 (9) of the Financial regulation.

The CJEU will continue to explore, in cooperation with other institutions, the possibility of further moving forward this timetable.

- 12. Acknowledges the CJEU's commitment to work towards the implementation of the recommendations of the Court of Auditors, in particular with regard to proactive case management with timetables adapted according to the nature and complexity of the different cases; recognises the CJEU's careful planning and monitoring to ensure a smooth continuity of judicial activity; notes that the average duration of proceedings in 2018 at the Court of Justice was 15,7 months (compared to 16,4 months in 2017) and at the General Court was 20 months (compared to 20,6 months in 2015 and 16 months in 2017); encourages the CJEU to continue its efforts to shorten the duration of proceedings whenever possible ;**
- 13. Recognises that the main priorities of the CJEU are to ensure a reasonable period of time for the handling of cases brought before the two Courts together with the preservation of the quality of decisions; notes that, due to a rigorous control system and a high level of vigilance, it was possible to achieve a reduction in the average duration of proceedings over recent years; notes, however, that this demands continual attention, in particular in the context of an increasing workload;**

15. **Takes into account the fact that further organisational and procedural measures are needed to enable the CJEU to cope with an ever-increasing workload while still respecting its objectives; notes that, on 26 March 2018, the CJEU (on the basis of the second paragraph of Article 281 of the Treaty on the Functioning of the European Union (TFEU)) made a request to amend Protocol No 3 on the statute of the Court of Justice of the European Union and that this legislative procedure came to an end with the adoption and entering into force of Regulation (EU, Euratom) 2019/629¹;**

The continuous monitoring of the duration of proceedings, by reference to internal procedural timeframes collectively agreed by the Members and updated on a regular basis, is the responsibility, in each Court, of both the President and the Meeting of the Presidents of Chamber. The continuous monitoring efforts undertaken in recent years have resulted in lower average durations of proceedings before each Court, as further evidenced by the 2019 statistics.

At the Court of Justice, the average duration of preliminary ruling proceedings – representing more or less 75 % of all cases brought before it – was 15.5 months in 2019 compared to 16 months in 2018, while the average duration of appeals was 11.1 months in 2019 compared to 13.4 months in 2018.

Those figures are largely due to the constant efforts made by the Court to ensure the swiftness of justice, which include an efficient use of the tools at the Court's disposal under its rules of procedure.

These tools include the possibility of closing cases by means of a court order, which the Court has made an increasing use of during the year under review².

First, with respect to preliminary ruling proceedings, the Court of Justice made greater use of Article 99 of its Rules of Procedure, which allows it to give, by reasoned order, a rapid response to a question that is identical to a question on which the Court has already ruled or where the reply to such a question may be clearly deduced from the case-law or where the answer admits of no reasonable doubt. No fewer than 57 cases were closed on the basis of that provision in 2019. Second, with respect to appeals, 27 cases were dismissed by order in 2019 on the basis of the new Article 58a of the Statute of the Court of Justice of the European Union. Regulation (EU, Euratom) 2019/629, which entered into force on 1 May 2019, inserted that provision into the Statute and introduced in certain areas – notably in the field of intellectual and industrial property – a mechanism for determining whether appeals should be allowed to proceed.

The growing number of decisions delivered by chambers of three judges is also worthy of note. In 2019, chambers of the Court of Justice composed of three judges closed no fewer than 351 cases by way of judgment or order, compared to 251 cases in 2018. This sharp increase, which came at a time of a heavy and increasing workload, was due, in part, to the Court of Justice's policy of making greater use of those smaller court formations, thereby freeing up judicial time to deal with other cases.

At the General Court, 2019 was a year when the statistical monitoring of chambers' performance underwent a substantial modernization. On a quarterly and semi-quarterly basis, the Meeting of the Presidents of Chamber decides, on the basis of a proposal made by the

¹ Regulation (EU, Euratom) 2019/629 of the European Parliament and of the Council of 17 April 2019 amending Protocol No 3 on the Statute of the Court of Justice of the European Union (OJ L 111, 25.4.2019, p. 1).

² The Court of Justice issued 218 orders in 2018; that number rose to 293 in 2019.

President of the General Court, on the action to be taken in order to avoid unreasonable delays in the treatment of cases, discusses the volume of suspended cases and the possible reassignment of cases with a view to optimising the use of judicial resources. It should be noted that case reassignment is an integral part of a proactive case management system. Monitoring on a quasi-continuous basis the workload of each judge's cabinet and of each chamber in order to enhance the General Court's overall performance is a priority and will remain so in the future. Another priority is now the mid-term planning of the General Court's activity. Each chamber now regularly produces output forecasts covering periods of 6 weeks, 3 months and 6 months, which provide an additional tool for monitoring performance, for ensuring that the General Court fulfils its objectives and for enabling the support services (Registry, etc.) to plan their activities.

As far as the length of proceedings is concerned, the average duration of proceedings for cases closed by judgment and reasoned order was 16.9 months in 2019 compared to 20 months in 2018 (19.7 months in 2019 compared to 23.3 months in 2018 for cases closed by judgment).

14. **Welcomes the satisfaction expressed by users of the e-Curia application (which has become compulsory for the exchange of procedural documents between lawyers and the General Court as of 1 December 2018); notes that the use of e-Curia has not been made compulsory by the Court of Justice; encourages the Court of Justice to follow the good example of the General Court and to consider the compulsory introduction of e-Curia; commends the fact that this development has contributed both to the security and the speediness of such exchanges and to the improvement of the environment (through the reduced use of paper) and to the reduction of postal costs; encourages the CJEU to continue its efforts to achieve widespread digitalisation of all stages of the judicial process;**

The Court fully shares the view of the European Parliament concerning the benefits of e-Curia and its contribution both to the security and the speediness in exchanging procedural documents and to the improvement of the environment (through the reduced use of paper) and to the reduction of postal costs.

In contrast with the General Court, the use of e-Curia is not compulsory at the Court of Justice. The reason for this lies mainly in the difference between the types of actions that can be brought before the two courts. Whereas the General Court only deals with direct actions, in which the parties must always be represented by an agent or a lawyer, the Court of Justice deals with various types of actions (references for a preliminary ruling, direct actions, appeals...) involving different kinds of actors: agents and lawyers, but also national courts and tribunals, university teachers, persons authorised under national rules of procedure to represent the parties to the main proceedings and, in some cases, the latter parties themselves. Imposing the use of e-Curia in all circumstances would be disproportionate and lead to a possible restriction in the access to justice as some of the actors mentioned before do not necessarily possess a computer (or do not have access to Internet) and appear often only once before the Court.

This being said, the Court encourages and actively promotes the use of e-Curia and important efforts have been made in 2018 and 2019, both on the regulatory and technical levels, in order to allow national courts and tribunals to open an e-Curia account. As it appears from the most recent figures concerning the use of e-Curia, these efforts have been successful. Where the documents lodged before the Court of Justice through e-Curia amounted to 69 % in 2015, that

number reached 75 % in 2018 and 80 % in 2019 (compared with respectively 72 %, 85 % and 93 % at the General Court).

The recent health crisis has led to a further increase in the number of requests for opening new e-Curia accounts and to an increased digitalisation of all stages of the judicial process. This crisis also confirms the relevance of the ongoing process concerning the establishment of an integrated case management system, a process in which the registries and the services of the institution are fully engaged.

18. Reiterates that, in the context of the continued increase in the number of cases, a flexible allocation of resources, in particular of existing legal secretaries, could increase the effectivity of the CJEU; calls on the CJEU to report on concrete measures taken

At the Court of Justice, each Member has four Legal Secretaries within his/her chambers. Given the high number of cases pending before the Court, a team of four Legal Secretaries is essential for the Members to be able to cope with their workload.

It is true that the long term absence of a Legal Secretary, e.g. due to illness, inevitably has an effect on the handling of cases within the cabinet of the Member concerned.

This is why the President of the Court of Justice, when attributing cases to a Reporting Judge, always takes into account the workload of the cabinet of the Judge concerned and in particular, where relevant, the fact that one of the Legal Secretaries of that Judge is absent. Furthermore, a Legal Secretary who is absent for a longer period is often temporarily replaced by a civil servant from another service of the Court (Translation or the Research and Documentation service) or by an externally recruited auxiliary agent.

Overall, the General Court implements the following set of measures to optimise the use of internal resources:

- taking into account the workload of chambers when attributing cases ;
- reassigning cases in accordance with the Rules of Procedure on a regular basis ;
- applying the same measures as the Court of justice when it comes to coping with the illness or long-term absence of a Legal Secretary.

19. Expresses concerns that while 274 trainees worked at the CJEU in 2018, only 87 trainees were entitled to a monthly stipend of EUR 1 120; welcomes the fact that the CJEU adopted new rules regarding trainees and requested additional appropriations in order to be able to finance internship for trainees in members' cabinets from 2019 onwards; notes, however, that it remains the case that not all traineeships offered will be accompanied by a fair remuneration; instructs (with due regard to non-discrimination practices and fair remuneration) the CJEU to swiftly accept the decision to start paying all trainees; calls on the CJEU to ensure fair remuneration for all of its working staff;

The situation has changed radically since the adoption of the CJEU's decision of 3 December 2018, providing for the possibility of taking on trainees paid by the institution within the Members' cabinets,

While, in 2018, 24.1% of the trainees in the Institution were paid by the latter, the proportion rose to 46% in 2019, even though it was a transition year towards the gradual introduction of the new regime (bearing in mind that internships are usually requested many months in advance).

For the year 2020, according to the figures available at present (i.e. June 2020), the CJEU has remunerated or will remunerate 75% of internees that were, are or will be offered places up to December 2020. It is also worth mentioning that all internships cancelled in the context of the pandemic crisis were unpaid internships.

For the future, the CJEU is contemplating the possibility to increase even further the number of paid trainees. Nonetheless, the CJEU considers that it is also in the general interest to maintain the possibility to host other trainees, in particular those who receive payment from other sources in accordance with the regime they are subject to under their national law.

- 24. Notes a steady increase in the number of women in management positions which was 37,7 % in 2018, 35 % in 2016 and 30 % in 2013; notes that there are 27 female managers (21 posts in middle management and 6 posts in higher management) compared to 45 male managers in 2018; welcomes the CJEU's efforts to strengthen its policy on equal opportunities and diversity by setting up a special entity introducing and following-up concrete programmes, measures and awareness-raising meetings; calls on the CJEU to continue its efforts;**

The CJEU makes every effort to remove all obstacles hindering the appointment of women to senior and middle management positions and continues to prioritise its policy on equal opportunities and diversity through training, mentoring, coaching, communication and job shadowing. In addition, a dedicated entity within the Directorate for Human Resources and Personnel Administration advises members of staff seeking clarification on career development, communicates generally on questions relating to equal opportunities and collaborates with other institutions and professional female networks, through regular exchanges and joint actions.

We are pleased to report that the figures have continued to improve, with 41 % of middle management posts and 40 % of senior management posts now occupied by women (situation on the 5 of June 2020).

- 26. Reiterates that the geographical balance of staff, in particular in management positions, should be closely monitored; notes that only 15 of 57 heads of unit at the CJEU and 2 of its 13 directors are from Member States that have joined the Union since May 2004; encourages the CJEU once more to develop a policy to improve the geographical balance and to report back to the discharge authority in this regard;**

The CJEU remains sensitive to the particular interest of ensuring a balanced geographical representation among the holders of managerial posts and takes this carefully into account for its recruitment procedures, in strict compliance with the rules laid down in Article 7(1) of the Staff Regulations, which stipulate that the Appointing Authority shall act solely in the interest of the service and without regard to nationality, when assigning each official by appointment or transfer to a post, and in Article 27, first paragraph, which provides that recruitment shall be directed to securing for the institution the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the Union and that no posts shall be reserved for nationals of any specific Member State.

At present, 15 out of 58 Heads of Unit (25.8 %) and 2 out of 15 Directors (13.3 %) come from Member States that have joined the EU since May 2004. These figures have to be seen in the

context of the percentage of CJEU's staff coming from those Member States (29 %), the proportion of the EU13 population compared to the total EU population (23 %) and the limited number of administrative entities in the institution.

- 28. Expresses concern at the number of cases of burnout at the CJEU, which totalled 12 cases both in 2017 and 2018; asks the CJEU, therefore, to assess whether the workload is distributed proportionally across the different teams and members of staff;**

The CJEU attaches the highest importance to the management of psychosocial risks in general and the prevention of burnout in particular. Measures taken to this end in 2019 include the hiring of a psychologist, on a part-time basis, within the CJEU's medical service.

Moreover, since 2019, the CJEU is organizing, in addition to seminars and training for staff, an obligatory training program for managers. This program includes a significant wellbeing component, which addresses, inter alia, issues related to the management of a steadily increasing workload in the context of staff reductions.

We are confident that this program provides managers with the necessary tools to ensure an ever more appropriate distribution of workload among their staff despite of the challenges faced by the CJEU's services in that context.

- 29. Calls on the CJEU to publish on an annual basis a table with detailed data on its interinstitutional cooperation agreements with respect to fees, services and related matters; repeats the importance of interinstitutional cooperation through service level agreements for different domains, such as HR, security and IT; agrees with the recommendations of the internal audit service to increase the exchange of good practices with other institutions and to explore the possibilities of enhanced cooperation for contract preparation and contract management, such as an IT matters; regrets the lack of information given in response to Parliament's question relating to the cooperation of the CJEU with the European Anti-Fraud Office; encourages the CJEU to seek ways to increase its cooperation with the European Anti-Fraud Office;**

One of the common policies of the CJEU's services is to derive maximum benefit from interinstitutional calls for tenders, whether as a partner or leader, in order to benefit from better prices and to reduce the associated management costs. In addition, the CJEU participates in interinstitutional groups or networks with a view to better apply the Staff Regulations and further harmonize policies and practices in various areas.

The 2019 AAR includes a new chapter V, entitled "Cooperation with other institutions and bodies of the Member States", directly related to interinstitutional cooperation. A detailed table with the key information requested (institution concerned, nature of the service, budget line and amount involved) is included. In addition, detailed information concerning the main activities covered by these service level agreements (SLA) is also included.

In the field of public procurement, participation in the interinstitutional working groups has been effective and fruitful, particularly in the area of "green public procurement". Since 2017, the CJEU has been using the 'interinstitutional GPP (Green Public Procurement) Helpdesk'. The GPP Helpdesk provides fast, efficient, direct and practical assistance, with the objective of assisting the EU institutions in integrating environmental criteria into procurement procedures, in order to help reduce their environmental impact and thus promote sustainable consumption. This service has become well known to the services of the CJEU responsible for procurement

and its consultation has increased since its launch. The use of the GPP Helpdesk by any service of the CJEU preparing a public procurement procedure is systematically encouraged.

Concerning the cooperation with OLAF: the questions asked by Parliament during the discharge 2018 in relation to cooperation with OLAF were understood as referring to concrete instances of cooperation during OLAF investigations. No further details could be given in reply to these questions because of the confidentiality of OLAF investigations (Article 4(5) of Reg No 883/2013) as well as for reasons of personal data protection.

However, it should be stressed that the CJEU has always fully cooperated with OLAF in all instances where the latter requested such cooperation and that the CJEU is committed to maintaining this good cooperation. In that context and for reasons of transparency, OLAF has for example been informed of the internal organizational measures taken by the CJEU in case OLAF's inspectors should carry out an inspection on the CJEU's premises.

- 38. Notes with interest that the staff committee of the CJEU in 2017 organised a survey about open spaces and presented the findings to the directors-general on 30 January 2018; welcomes the initiative of the CJEU in creating a working group featuring the director of buildings and security, the president of the staff committee and members of staff working in open spaces; notes that, following the recommendations of this working group, the information technology directorate converted part of its office space into individual offices; calls on the CJEU to share its insights from this experience with other institutions and with the Commission in particular;**

The CJEU confirms that changes carried out in the office layouts, following the survey about open spaces, have proven satisfactory and allowed the institution to provide the most appropriate solution depending on the needs of the services and staff members. The CJEU is of course prepared to share its experience with any institution that so wishes.

- 42. Encourages the CJEU to broadcast its public hearings and to make the recordings available online; believes that this enhanced transparency would be in line with Article 15 TFEU and would benefit all who work or study in the legal field in the Union;**

Article 15 TFEU is not applicable to the judicial activities of the CJEU. Nevertheless, the Court of Justice recently decided to live stream the delivery of the judgments of its Grand Chamber. The live streaming of the hearings themselves would be an extremely complex and costly matter. Indeed, the Court of Justice is not comparable to a national court in this regard since it operates in 24 languages. Often several of those languages are used in the course of a single hearing so the streaming of such a hearing without access to simultaneous interpretation would be meaningless for the vast majority of EU citizens.

The CJEU is constantly working to enhance transparency. In November 2019, a considerable number of procedural and analytical documents were made available to the general public on the Curia website. More specifically, as from November 2019, the CJEU publishes requests for a preliminary ruling from national courts, internal research notes prepared by the CJEU's Research and Documentation Service and national judicial decisions which have been uploaded by the Constitutional and Supreme Courts of the Member States to the website of the Judicial Network of the European Union.

44. Welcomes the fact that a list of missions (representation of the CJEU at a ceremony or an official event) carried out by members, in line with the revised code of conduct of the CJEU, is published on the CJEU's website and contains information such as the participating member's name and the purpose, the venue and the organiser of the event; calls on the CJEU to publish also the related costs (as is done by other Union institutions); reiterates its call on the CJEU to publish more detailed information concerning the external activities of members, including the purpose, date, venue and travel and subsistence costs of the listed events and whether they were paid by the CJEU or by a third party;

The CJEU continues to carry out the technical work necessary to publish additional information on those activities.

45. Welcomes the fact that members of the CJEU are subject to a code of conduct governing their independence, impartiality, integrity, commitment, collegiality, responsibilities and obligations; notes that the CJEU considers the declarations of financial interests of its members as an internal means to ensure impartiality and independence; calls on the CJEU to consider publication in the interest of public scrutiny;
46. Notes that the declarations of financial interests are necessarily of a self-declaratory nature and, given the current legal framework, the CJEU has no investigatory powers to ensure the veracity and the exhaustiveness of the declared data; calls on the CJEU to improve the system in cooperation with other Union institutions;
47. Reiterates its call on the CJEU to publish CVs and declarations of interest for all its members on its website; notes that short biographies of each member are published on the website (which do not, however, contain information on membership of any other organisations); notes that members are required to submit a declaration of their financial interests to the President of the Court of the CJEU of which they are members on taking up their duties in line with the new code of conduct for members; calls on the CJEU to publish those declarations on its website;

The CJEU takes note of these concerns and will examine how greater transparency can be ensured, in particular as regards the CVs of the Members.

48. Recognises the internal procedures to verify, before attributing a case to a member, on the basis of the declarations of interests, whether that member has a financial interest in the case; notes that the members contact the President of the court of the CJEU of which they are members whenever an issue relating to the interpretation of the code of conduct may arise and that the consultative committee is only convened in exceptional cases, e.g. when a complaint has been lodged against a member; asks the CJEU to advise Parliament's Committee on Budgetary Control as to the robustness of this mechanism ;

It is clear from Article 18 of the Statute of the CJEU that the Members of the Court of Justice and the General Court are obliged to recuse themselves when they have an interest in the case. Given the requirement, set out in Articles 253 and 254 TFEU, for Members of both Courts to be 'chosen from persons whose independence is beyond doubt' and in light of the mechanism established in Article 255 TFEU for ensuring, *inter alia*, that this is indeed the case, that

obligation for Members to recuse themselves provides a sufficiently robust guarantee that conflicts of interest will be avoided.

The declaration of financial interests is an additional mechanism, introduced by the 2016 Code of Conduct (Article 5(3)), which allows the President to identify any possible interest of one of the Judges who is a Member of the relevant Court in a case before attributing it to a Reporting Judge.

It is an efficient mechanism since it operates *ex ante* and thus obviates the need for a Judge Rapporteur to recuse him- or herself after having been appointed to deal with a particular case. It thus enables the Presidents of the two Courts to avoid any situation where a question might even arise as to the existence of a conflict of interest for the Reporting Judge who is handling a case.

The declaration also allows the President of the Court concerned to verify whether the other judges than the Judge Rapporteur sitting in a case have a financial interest in its outcome. It should, however, be stressed that Members must, in addition, notify their President on their own initiative if they are scheduled to hear a case in which they have an interest that might give rise to a conflict of interest (Code of Conduct, Article 5(1)). Under Article 10(1) of the Code of Conduct, it is the President of the Court of Justice who is responsible for ensuring its proper application. Members and former Members informally consult the President when an issue concerning the interpretation of the Code of Conduct arises. This generally concerns a former Member who seeks guidance regarding his/her understanding of the duties that remain applicable after ceasing to hold office under Article 9(1) of the Code of Conduct. In case of doubt, the President will refer the matter to the Consultative Committee.

- 49 Regrets the fact that it has not received information on the progress achieved relating to the internal procedures on ‘revolving doors’ for senior members of staff; reminds the CJEU of the strategic initiative conducted by the European Ombudsman in 2018 on how to implement the provisions laid down in the Staff Regulations on ‘revolving door moves’ of senior members of staff; calls on the CJEU to establish and to publish strict rules in this regard without delay;**

The CJEU applies directly, and in a strict manner, the obligations set out in the Staff Regulations and the Conditions of Employment of other servants concerning occupational activities after leaving the service in the institution.

Nevertheless, the CJEU’s administration is also continuing to work to establish more detailed rules regarding occupational activities after leaving service, as part of a general package of measures. These future rules will lay down detailed provisions on individual obligations related to conflicts of interest, outside activities, occupational activities after leaving service, gainful employment of the spouse, public offices, and publications.

- 50. Notes the procedure related to the pre-recruitment declaration on the absence of conflicts of interests for new members of staff; notes further that the recruitment process has been modified to ensure that such declarations are assessed and that, if necessary particular measures are proposed to the appointing authority; notes also that the CJEU is working on rules governing the exercise of external activities by staff; calls on the CJEU to report on this to Parliament’s Committee on Budgetary Control;**

See the answer to question 49.

- 53. Deplores the fact that it was not informed by the CJEU of plans to enhance the control system related to the use of official cars; underlines the requirement that drivers should only accompany members to their home countries in exceptional and justified cases; urges the CJEU to rapidly adopt measures to avoid situations in which drivers are going to members' home countries without having the member on board; underlines the high reputational and ethical risks these practices may carry for the CJEU; call on the CJEU to report back to the discharge authority on progress achieved in this regard by June 2020;**

In November 2017 and December 2018, the CJEU made significant changes to the rules governing Members' travel arrangements, especially in relation with the use of official cars and drivers.

From then on, the use of a driver is only possible in two specific cases.

The first one concerns business trips carried out by Members for the purpose of external activities (which are subject to prior authorization by the Court of Justice or the General Court, in accordance with the Code of Conduct). The rules governing the carrying out of such business trips do not provide for any situation, unless there are exceptional circumstances, in which a driver could be asked to travel to the Member's country of origin (or to any other) without transporting him aboard the vehicle.

The second, considered an exception, concerns trips dictated by special circumstances, such as health or medical reasons, safety or security grounds, cases of force majeure (severe weather conditions, strikes...) or attendance at exceptional events (such as funerals). In view of the exceptional nature of these cases, their number remains extremely limited. In 2019, only one authorization to transport a Member to his/her home country for special circumstances was granted.

- 54. Notes that more than 40 % of the translation workload has been outsourced with the cost of an outsourced translated page in 2018 amounting to EUR 103,10 (compared to EUR 111,30 in 2017); notes that the cost of an in-house translated page in 2018 amounted to EUR 128,07 (compared to EUR 136,70 in 2017); notes that the internal cost includes all necessary sub-costs, such as IT, office space and similar; notes that under the current conditions the CJEU does not consider a further increase of the outsourcing rate advisable and that, due to the sensitive nature of the information handled by this institution, a part of the translation workload should remain in-house; asks the CJEU to explain to the Parliament's Committee on Budgetary Control the reasoning for this view;**

Since 2015, the CJEU has invested heavily in its project for the 'Optimisation of the input of external translation'. This project aims: to reinforce the pool of freelance translators available for legal translation through increased outreach measures; to improve the quality of such translations through adequate and systematic feedback; to upgrade the tasks of in-house lawyer-linguists so that they translate only confidential or particularly difficult legal texts and dedicate more of their time to the revision and accompaniment of freelance translators.

In relation to this initiative, the CJEU has, in 2019, continued to consider possible lines of action aimed, in particular, at increasing gradually the contribution of external translation in order to take greater advantage of the multilingual and multicultural reality of the European Union and the diversity of its legal systems and market conditions for this niche service. The

CJEU thus aims to get closer to the Member States and develop a pool of external expertise, in order to cope with the structural increase in the volumes to be translated and the language combinations to be covered. The profession of lawyer-linguist is also enhanced by the concentration of internal resources on the management and revision of external resources, although lawyer-linguists continue to translate a significant number of sensitive or important texts.

During this period, the overall rate of externalisation of legal translations rose from 31.2% in 2015 to 40.6% in 2019, partly due to the increased availability of competent and duly-trained freelancers. The Optimisation project became a permanent activity for the Directorate-General that aims to enrich further the reservoir of external talent. There are, however, limits to what can be externalised, both for reasons of confidentiality and of insufficient supply.

First, as regards confidentiality, it must be recalled that the majority of documents translated at the CJEU are highly confidential. Judgments and orders, which alone represent 38.8% of the total workload of the translation service, cannot be divulged before they are handed down. Outside knowledge of an upcoming decision would jeopardise the smooth running of the proceedings, disrupt equal treatment of parties, and undermine gravely the image of the CJEU and of European justice. The CJEU's mission is to make available such documents in all languages for the day of their delivery. Accordingly, judgments and orders are translated in-house, unless, due to particular circumstances, it has not been possible to translate them into certain languages before they have been handed down in the language of the case. Only in such circumstances can they be externalised. Other documents can be externalised due to a lower level of sensitivity.

Second, the other limitation is the availability of an adequate supply of freelance legal translators. Indeed, all CJEU translations are technical, legal, and of a high level of difficulty. This means that freelance translators for the CJEU must, insofar as possible, be lawyers or otherwise possess experience in legal translation. Not any translator will be able to comply with the CJEU's high quality needs for the translation of legal documents. Further, the translation service of the CJEU manages a total of 552 language combinations, of which the 213 most needed combinations are open to competition by way of Contract Notices published in the Official Journal. For 24 of them, no acceptable offer was received since 2017; for many others, too few offers received meant an inability to meet adequately the needs of the CJEU.

Therefore, the CJEU posits that it is inadvisable to externalise the most confidential of its documents; but also that, for some language combinations, it is not even materially possible to externalise as much as it would wish.

- 56. Highlights all the work achieved in recent years, in areas such as performance-based budgeting, the ethical framework with its many related rules and procedures, enhanced communication activities and the increasing number of measures to improve transparency; welcomes the substantial number of interinstitutional service and cooperation agreements; underlines the importance of collaboration and of sharing of experience among Union institutions and bodies; suggests that an analysis be made of the possibility of formalised networking activities in different domains in order to share best practises and to develop common solutions.**

The CJEU already participates in inter-institutional networks with a view to better application of the statutory rules and increased harmonisation of policies and practices in various areas, such as buildings and security (GIS, GICIL), environmental protection (ECONET, GIME), IT (CII, CERT-EU Steering Committee and the Publications Office's FORMATS group), legal

informatics (GIL, e-Law, e-Justice, EUR-Lex), vocational training, library (EUROLIB), information and communication (CEIII, Interinstitutional Online Communication Committee (IOCC), Web Preservation Group and Interinstitutional Archives Group (IIAG)), human resources (EPSO), equal opportunities and diversity (Intercopec, LUXX EU women's network).

It could also be added that in 2019 the CJEU has started a series of inter-institutional contacts and networking activities (in particular with the Council, the Court of auditors and the Parliament) in the field of internal control. This has been done in the context of the implementation of the new Internal Control Framework, based on the COSO 2013 model, adopted by the CJEU in January 2019 (see chapter VII "Functioning of the internal control system" of the 2019 AAR).

ANNEX

Chapter VIII of the 2019 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 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.

A. OBSERVATIONS MADE BY THE COURT OF AUDITORS

It is important to note that the Court of Auditors indicated, in paragraph 10.7 of its last Annual Report on the implementation of the budget concerning the financial year 2018, that no specific problem concerning the Court was detected.

The results of the 2018 controls thus confirm, as they have since 2010, the absence of observations from the Court of Auditors.

B. 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 2018 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 19 February 2020, will be submitted for plenary vote in Parliament in May.

At this stage, the draft resolution voted by the Committee on Budgetary Control relating to the Court refers, first of all, to the findings of the Court of Auditors for the financial year 2018, underlining that no significant weaknesses had been identified as regards the matters audited by the Court of Auditors, namely, human resources and public procurement, that the management of its administrative expenditure is free from material error and that the control systems in place are effective (paragraphs 1 and 2).

The draft resolution also sets out a great number of positive points concerning the functioning and activities of the Court's Services. These are, in particular, sound financial management and the very high rate of budget implementation in 2018 (99.18% in 2018, compared with 98.69% in 2017) (paragraphs 6 and 7), regular monitoring of budget implementation through monthly tables (paragraph 8), setting objectives and performance indicators for its administrative services when the budget is drawn up (paragraph 9), the efforts made by the Court to publish its annual activity report by 29 April (paragraph 12), the satisfaction expressed by users of the e-Curia application, which became mandatory for the General Court on 1 December 2018 (paragraph 15), and the very high level of job occupancy (97%) (paragraph 18), the steady increase in the presence of women in management posts (37.7% in 2018 compared with 30% in 2013) and the Court's efforts to strengthen its equal opportunities policy through the creation of a dedicated entity and the introduction and monitoring of specific programs (paragraph 25), the adoption of measures facilitating the

reconciliation of a work-home balance, such as the adoption of a decision allowing occasional teleworking in addition to the possibilities of structural teleworking and the hiring of a part-time psychologist to support staff (paragraph 28), the implementation of a system for reporting possible violations of personal data (paragraph 31), the efforts made to improve the Institution's IT security (paragraph 32), the internal audit concerning the proper functioning of recruitment procedures and the favourable closure of the reports by the internal auditor (paragraphs 33 and 34), the Court's commitment to ambitious environmental objectives and to concrete projects such as those relating to the reduction in the use of single-use plastic or the number of individual printers (paragraph 36), and the completion, on time and within budget, of the Court's fifth extension, the savings that will be made as a result of having favoured an acquisition policy rather than a rental policy for this project and the very positive remarks of the Court of Auditors in its Special Report No 34/2018 on the management of the office space of the EU institutions (paragraphs 37 and 38), the communication efforts undertaken to clarify and simplify the information addressed to the public with a view to bringing the Court closer to citizens (paragraphs 41 and 42), the intensive training given to trusted persons who can be contacted by any member of staff who feels that they are being harassed and the information disseminated on the formal or informal procedures to be followed in the event of inappropriate behaviour (paragraphs 52 and 53).

With regard to other observations/recommendations relating to administrative or linguistic activities, the Court continues to consider them with the greatest attention. With regard to the increase in maintenance expenditure between 2017 and 2018, the Court will continue its efforts to further improve the process of preparing budget estimates (paragraph 10). In addition, it will examine the possibilities for further expanding the number of e-Curia users at the Court of Justice (paragraph 15), ensure a further reduction in the number of unpaid traineeships (paragraph 20), take measures to promote well-being in order to limit, as far as possible, the occurrence of burn-out among its staff (paragraph 29), is available to share its experiences of open spaces with the other institutions as requested by the European Parliament (paragraph 39), will establish new rules for staff members concerning 'revolving doors' (public-to-private sector crossover) (paragraph 50) and will inform Parliament of the reasons why an increase in the rate of externalisation in the field of translation is not advisable (paragraph 55). As for the request for annual publication of the agreements concluded with the other EU institutions, a list with the agreements in force in 2019 can already be found under heading 'V. Interinstitutional cooperation' of that report.

As regards the activity of the courts (Court of Justice and General Court), the Institution notes with satisfaction, in the draft resolution, the positive comments concerning the adaptation of the internal timetables according to the nature and complexity of cases (paragraph 13) and the reduction in the average duration of proceedings in 2018 for the Court of Justice (15.7 months, compared with 16.4 months in 2017) (paragraph 17). Parliament also welcomes the reform of the General Court, which has led to a 12% reduction in the number of cases pending before it compared with 2017 (paragraph 21), and the fact that in 2018 the two courts closed a total of 1 769 cases, which is an all-time record for the Institution (paragraph 22).

The draft resolution also congratulates the Court on having been included by the European Ombudsman among the three shortlisted finalists for the Prize for Good Administration (category 'excellence through cooperation') with the creation of the Judicial Network of the European Union aimed at strengthening cooperation between the Court and national courts (paragraph 40).

The Court will carefully consider the recommendations made concerning the need to continue efforts to reduce further average case processing times (paragraph 13), to consider a more flexible allocation of resources, in particular of 'Référéndaires' (Legal Secretaries) (paragraph 19) and the possibility of broadcasting its public hearings online (paragraph 43).

As for the paragraphs concerning the Members of the courts (paragraphs 45, 46, 47, 48, 49 and 54), the Court takes note of the requests made therein. As indicated in paragraph 46, a new code of conduct for Members and former Members (OJ 2016/C 48 3/01), which responds to comments previously made by the Parliament on the exercise of external activities and the declaration of financial interests, has been in force since 2017. With regard to the request for more detailed information on external activities carried out by its Members, the Court is continuing the necessary technical work in order to supplement the list of those activities.

In general, the Court is committed to implementing the recommendations of the Discharge Authority as quickly as possible and confirms both its openness and its determination to improve constantly the efficiency of the management of all its activities.