



EUROPEAN COMMISSION

DIRECTORATE-GENERAL JUSTICE

Annual Activity Report
2010
Directorate General
Justice

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1. POLICY ACHIEVEMENTS

In July 2010, Directorate-General Justice was created¹. This reflects the importance given to creating a **genuine European area of Justice**, promoting **Fundamental Rights as set out in the Charter** and **making European citizenship** a reality – based on Europe's values such as democracy, freedom, tolerance and the rule of law. The DG Justice portfolio also reflects the new opportunities brought by the Lisbon Treaty to improve the everyday lives of EU citizens, offering practical solutions to cross-border problems and supporting growth by tackling bottlenecks in the single market.

The **Stockholm Programme** for an area of justice, freedom and security responds to central concerns of citizens. People are at the heart of DG Justice policies, be it creating a genuine area of justice, promoting an open and secure Europe serving and protecting citizens, making fundamental rights a reality, or strengthening the internal market.

1.1. ABB Activity: 18 04 Fundamental rights and citizenship

1.1.1. *Fundamental rights and rights of the child*

With the entry into force of the Lisbon Treaty in December 2009, the Charter of Fundamental Rights became legally binding. Strengthened by this additional legal basis, DG Justice continued ensuring effective respect of fundamental rights. The Commission has also initiated infringement procedures against a Member State for breach of fundamental rights when applying EU legislation.

In order to put into practice the legally-binding Charter of Fundamental Rights, the Commission adopted a **strategy for an effective implementation of the Charter**. The Commission used all instruments at its disposal to ensure that fundamental rights are respected in the EU. It checked systematically the compatibility of its draft initiatives with the Charter, including the rights of the child and continued to deal with requests from citizens and the European Parliament on fundamental rights issues in the EU, including the situation of minorities. **Preparatory work on the first annual report on the application of the Charter**, to be presented in 2011, was launched.

The Commission also paid particular attention to the coordination of Commission policies relating to the fight against racism and to the implementation of the **Framework Decision on Racism and Xenophobia**, which Member States were obliged to transpose by 28 November 2010.

The work of the **Fundamental Rights Agency** in providing reliable and comparable data on the situation of fundamental rights in the Member States was also supported. The Commission sent to the Council in December a proposal for amending the Agency's Multi-annual Framework so as to include the areas of police cooperation and judicial cooperation in criminal matters. As requested by the JHA Council, the Commission adopted a Report on the **memory of crimes committed by totalitarian regimes**.

¹ This report covers the entire 2010, 1 January- 30 June under the former JLS and 1 July- 31 December under DG Justice.

Efforts continued for the protection of children. In the area of the rights of the child, the Commission adopted the communication "**Dial 116000: the European hotline for missing children**". It also prepared a communication on the rights of the child to be presented in 2011, in particular through the **launch of a public consultation**, the organisation of experts' groups and a consultation with children in 27 countries through focus groups. The Commission continued its efforts for the protection of the children through the **European Forum on Rights of the Child**.

1.1.2. Daphne programme

The Commission continued its efforts to **reduce the level of violence against women and domestic violence**. In 2010 in the context of the Daphne programme, a **Eurobarometer study** was commissioned on perceptions of domestic violence against women. Moreover, the Daphne programme co-financed a **summit of EU female ministers** organised by the Belgium Presidency. A **study on harmful traditional practices** was also completed, as well as a **feasibility study on possibilities to standardise national legislation on violence against women, violence against children and sexual orientation violence**. These two studies were followed by a **conference** organised by the Commission in co-operation with the Belgian Presidency in November 2010.

In 2010, the Daphne Programme funded around **40 projects** that have worked to protect from, and to prevent, various types of violence against children, young people and women, including physical assault, sexual violence, emotional and verbal abuse, exclusion, coercion and exploitation, virtual violence, psychological violence, gender-based violence and violent traditional practices (such as female genital mutilation). Daphne has also contributed via operational grants to the **functioning of important European networks and civil society organisations** to raise awareness of violence against women.

1.1.3. Citizenship

The Commission continued to ensure that EU citizens fully enjoy their rights under the Treaty. Particular efforts were put into making **Citizenship of the Union** a tangible reality and to raise awareness about the rights linked to it. Two Eurobarometers in 2010 confirmed that while the vast majority of EU citizens are familiar with the term 'Union Citizenship' and are aware of their right to move and reside freely within the EU, only one-third felt "well informed" about the meaning of their rights. A large public consultation and a conference on the development of Union Citizenship were carried out in 2010 with the participation of Member States, civil society and various stakeholders.

This fed into the **6th Citizenship Report** ("**EU Citizenship report 2010 "Dismantling the obstacles to EU citizens' rights"**"), a strategic initiative of the Commission that identified 25 key actions to eliminate obstacles citizens still face in their daily lives.

In conjunction with the Citizenship Report, the Commission adopted a **Report evaluating the 2009 EP elections** – following a study and further preparatory work – and presented ideas on developments in this field. It also evaluated compliance with EU law on elections and, by the end of 2010, 12 EU Pilot cases were launched on this subject.

Particular effort was given to improving the right to **free movement and residence**. Hereby the main priority in 2010 was enforcement of EU law - for better transposition and application of Directive 2004/38/EC. To this effect, the Commission's services carried out a dialogue with more than 20 Member States, in addition to regular meetings of the Member States' expert group. A significant number of Member States modified their law or committed to modifying it to ensure full compliance with the Free Movement Directive. In parallel, general control of application of the Free Movement Directive continued.²

Initiatives to raise awareness and develop the **right to diplomatic and consular protection** continued. In particular, an impact assessment study on financial aspects of consular protection was carried out.

1.1.4. Data protection

This initiative aims at **modernising the legal system** for the protection of personal data in the EU in order to **strengthen individual's rights**, to **enhance the internal market dimension**, to **ensure the effective application of the data protection principles**, and to **improve current data protection legislation**, in particular in the light of the challenges of globalisation, new technologies, and requirements of public authorities.

As regards the reform of the legal framework, a **Communication on a comprehensive strategy on data protection** in the EU was adopted in November 2010 and a public consultation followed on the proposals included in the Communication. Work on the evaluation and impact assessment has also been carried out, involving several stakeholders' consultations in June/July 2010. These should feed into the elaboration of legislative proposals in 2011.

As regards the **external dimension of data protection**, the Commission was mandated by the EU Council to negotiate with the US a data protection agreement for law enforcement purposes. An **adequacy decision concerning Andorra** was adopted; preparatory work in relation to other adequacy decisions (Israel, Uruguay) was also undertaken.

The Commission continued to ensure and monitor the correct **implementation of Directive 95/46/EC** in MS, through bilateral dialogues and the use of infringement procedures. The evaluation of the implementation of the Directive is conducted within the Impact Assessment of the ongoing data protection reform which has been launched in 2010. Letters have been sent to MS regarding implementation of the Framework Decision 2008/977/JHA.

The Commission continued to assist the work of the **Article 29 Working Party**, which adopted several opinions (e.g., on accountability and applicable law).

In addition, awareness-raising activities were launched in order to **promote the fundamental right to data protection and privacy** (publication of 13th Annual Report on Data Protection, leaflets, etc.) and preparatory work was started for the joint

² In 2010, 29 new cases of incorrect application were recorded (74 cases in total are currently managed, which does not include another 213 and 8 cases treated respectively under two leading cases), 17 EU Pilot cases were opened and 236 complaints were registered as falling within the scope of application of the Treaty.

conference with the European Council on the occasion of Data Protection Day (January 2011).

1.2. ABB Activity: 18 06 Justice in criminal and civil matters

In 2010 the progress towards the creation of a **genuine European area of justice** based on mutual trust and mutual recognition continued, both in the area of civil justice and of criminal justice.

Horizontal initiatives Justice in Civil and Criminal matters

1.2.1. European Judicial Network

Preparation of the entry into **application of the European Judicial Network (EJN) amending decision** (Decision 568/2009/EC) continued, especially with respect to the **association of the legal professions to the network**. New tasks were given to the contact points and various projects aimed at increasing the level of awareness of the Network with the judicial authorities, citizens and companies, and activities were carried out in individual Member States, with a view to reinforcing the role of the Network as a vital tool for the creation of a real European area of justice.

In 2010, **five contact point meetings** have been organised dealing, amongst others, with the following topics: **parental responsibility**, the **European Order for Payment Procedure**, the **European Small Claims Procedure**, the **service of documents**, **legal aid** and the migration of the **EJN website** to the **European e-Justice portal**.

A **citizens' guide to cross-border civil litigation** in the European Union has been published in 2010 on the website of the EJN.

In 2010, there were on average 302,489 page views per month and an average of 140,508 visits per month to the Network's web-site from 216 countries.

1.2.2. European judicial atlas in civil and commercial matters

In view of the 2012 objective to migrate the European Judicial Atlas in Civil and commercial matters in the European e-Justice Portal, normal business continued in 2010, but major work to restructure the website was not undertaken. The migration will contribute to streamlining and the overall positioning of the Portal as an electronic one-stop-shop for justice. It will also help to reduce costs, as maintenance and hosting costs will be payable on the Portal site only, and not on several websites.

In 2010 there were half a million visits, 4.139.046 page views and 352.392 visitors.

1.2.3. Judicial training

Significant preparatory work on judicial training was carried out in terms of information-gathering prior to the tabling of a 2011 Communication on European judicial training, so that the **Stockholm Programme** objectives can be met. This preparatory work included a public stakeholder consultation.

1.2.4. European e-Justice

Transversal work in the area of justice includes e-Justice, **aiming at ensuring better access to justice for citizens and facilitating judicial cooperation**. The first release of the European e-Justice Portal went live on **16 July 2010** with about 200.000 visitors by the end of 2010. Work was initiated on the second release of the Portal implementing dynamic forms for various judicial applications (legal aid, European Payment Order, small claims, videoconferencing). Work continued on sub-projects such as interconnection of insolvency registers, business and land registers, find a lawyer and find a notary. These sub-projects are due to go live either in 2011 or 2012.

1.2.5. Crystal Scales of Justice Prize

In order to promote innovative practices in the area of justice, Commission has organised together with the Council of Europe the "**Crystal Scales of Justice Prize**" - it is the fifth time this award was given.

Civil Justice

To make people's lives easier numerous activities were undertaken in the area of civil justice with the objective of putting the European Judicial area at the **service of citizens and businesses** and of **strengthening the internal market**, particularly by improving the conditions of cross-border trade reducing obstacles raised by different national laws and improve consumer rights throughout the Union.

1.2.6. Judicial cooperation in Civil matters

The proposal for an **amendment to Regulation (EC) n°44/2001 (Brussels I)** was adopted by the Commission on 14 December 2010. Council Decision and Council Regulation on the enhanced cooperation as regards **applicable law on divorce (Rome III)** were also adopted in 2010 on the basis of proposals submitted by the Commission at the beginning of the year.

The drafting of **proposals for Regulations on matrimonial property rights and property rights of registered partnerships** is ongoing. The Communication accompanying the proposals requested by the Cabinet was prepared. Adoption by the College of both the proposal and the communication is scheduled for 16 March.

Negotiations on the Proposal for the Regulation on **successions and wills** are also ongoing in the Council and the European Parliament.

In terms of **new policy initiatives**, the preparation of the proposal for a **Regulation on the attachment of bank accounts** is ongoing. The study and the impact assessment report were prepared in 2010. The **Green Paper on the free circulation of documents** within the European Union was adopted on 14 December 2010 and is currently open for consultation until April 2011.

As to the evaluation exercises, the Commission Report on the assignment of claims under the Rome I Regulation was contracted in 2010.

In addition, a Compendium of existing Union legislation on civil justice cooperation has been prepared and disseminated among courts and legal professionals.

1.2.7. External Competence

During 2010 negotiations concerning the proposal for a Council Decision on the signature and conclusion of the **Convention on the International Recovery of Child Support and Other Forms of Family Maintenance** continued in the Council; we are now progressing towards a definitive agreement which could be reached in the course of 2011.

Negotiations related to the Space Protocol to the **Cape Town Convention** also progressed; a diplomatic conference could be held in 2011.

The first 2 Commission decisions based on Regulations No 662 and 664/2009 were adopted: the first one, based on Regulation No 662 /2009, allowed France to conclude an agreement with Switzerland regarding the law applicable to workers on the **CERN** premises; the second one, based on Regulation No 664/2009, allowed France to open formal negotiations with Russia in order to conclude an agreement related **to parental responsibility and child abduction**.

The proposal for the negotiating mandate for an agreement between the EU and Norway, Iceland and Switzerland regarding an **additional Protocol on maintenance issues to the 2007 Lugano Convention** was postponed to 2011.

Cooperation with other international organisations (such as HCCH, Council of Europe, UNIDROIT, UNCITRAL, CIEC) has been further carried out with participation in the relevant meetings and follow-up of the Conventions in the area of civil judicial cooperation.

Monitoring of enlargement issues and contacts with European Neighbour Policy countries continued on a regular basis.

1.2.8. Contract law

To allow businesses and consumer to reap the full benefits of the internal market Commission has put strong efforts on initiatives in order to reduce obstacles for cross-border trade and to improve consumer rights, in order to reduce transaction costs for cross-border trade.

In the area of European contract law the Commission proposed options for a European contract law by adopting on 1 July the **Green paper on policy options for progress towards a European Contract Law for consumers and businesses**³, which consults stakeholders, the European Parliament and the Council on how a Union initiative in this area could contribute to economic growth in the EU.

Considering the broad range of questions raised for public consultation, the Green Paper envisaged a long consultation period which ended on 31 January 2011. Therefore, tabling a **proposal on a common frame of reference for European contract law** was considered. The Commission is currently analysing the replies to the public consultation and in the light of the ongoing impact assessment. Indeed, **the Commission Work**

³ COM(2010) 348 final

Programme for 2011 foresees as a strategic initiative a legal instrument on European Contract Law⁴.

1.2.9. Consumer and marketing law

Negotiations on the proposal for a **Consumer Rights Directive** continued in 2010. Considerable progress was achieved in the second half of the year during the Belgian Presidency. In December, a general approach was agreed among the Member States at Coreper level.

Preparatory work on a proposal for a revised **Directive on Package Travel** was carried out in 2010. This work included a public consultation of stakeholders, the organisation of a stakeholder workshop as well as the preparation of a draft impact assessment.

Two studies were launched on **consumer protection in digital services** (in cooperation with the Executive Agency for Health and Consumers). One of the studies will examine the extent of consumer problems with digital products, through stakeholder consultations and a large-scale consumer survey. The second study will analyse the current legal situation in the Member States regarding digital products.

The work on the implementation of the **Unfair Commercial Practices Directive (UCP)** continued in 2010. This included in particular the establishment of a database on national legislation, case law and administrative practice in relation to the UCP Directive.

Criminal Justice

In the area of **criminal justice** numerous activities were undertaken to strengthen the confidence in the European judicial area in criminal matters – based on mutual recognition and mutual confidence. Particular effort was put on the **protection of victims** and **safeguarding the rights of people involved in criminal procedures**. Commission focussed on progress on establishing common minimum rules concerning the definition of criminal sanctions and offences.

1.2.10. Procedural rights Roadmap

In September 2010, the European Parliament and the Council adopted the **Directive on interpretation and translation in criminal proceedings** which draws on a Commission proposal for a Framework Decision of 2009 and – due to the entry into force of the Lisbon Treaty – on a Commission proposal for a Directive of March 2010. In July 2010, the Commission adopted a Proposal for a **Directive on the right to information in criminal proceedings** as foreseen by the **Council roadmap for strengthening procedural rights of suspected and accused persons in criminal proceedings**. This proposal aims at introducing basic common standards, laying down the general principle that all suspected and accused persons in criminal proceedings should be informed about relevant rights at the earliest possible moment in the proceedings. Such information should be given in simple and accessible language, orally or in writing.

⁴ COM(2010) 623 final

1.2.11. Strengthening mutual recognition

Work continued in the field of strengthening mutual recognition. For **confiscation orders**, the Commission adopted an **implementation report** in August which confirms that the degree of implementation of the Framework Decision 2006/783/JHA is clearly not satisfactory. The first reason is the low number of national transpositions (13 in 8.2010, 17 up to now), the second are numerous inaccuracies and misinterpretations in the national laws. The report confirmed that there is need for further action in the following years.

As regards **obtaining evidence from another Member State**, the Commission commissioned a study in 2010, which confirmed that the existing instruments are not sufficiently fast and efficient and that the effective use of evidence from other Member States is problematic given the admissibility of such evidence. The Commission closely followed the negotiations of the legislative initiative tabled by Member States in this field while continuing preparation of its own legislative proposal.

1.2.12. Extradition - European Arrest Warrant

A study commissioned by the Commission in 2010 confirmed the increasing efficiency of the **European Arrest Warrant (EAW)**. In 2009, 15,827 EAWs were issued and 4,421 arrests were made compared to 14,196 EAWs issued and 2010 persons effectively surrendered in 2008. The Commission has taken on board concerns relating to the procedural rights aspects in the framework of the implementation of the EAW by starting to implement the Council Roadmap on the strengthening of procedural rights in criminal proceedings. Preparations were ongoing for the report on the implementation of the Framework Decision 2002/584/JHA on the EAW, the report will be presented in 2011.

1.2.13. Eurojust

Eurojust continued to play an effective role in terms of **judicial cooperation and contribution to the fight against terrorism and international crime**. The quantitative data on how many cases were referred to Eurojust in 2010 is not yet available but it would exceed 2009 results.

Further achievements in the area of EU criminal justice in 2010 are the launch of an array of initiatives (workshops, guidance papers for the national legislators and **handbooks for practitioners**, etc) designed to improve the implementation of EU legislation by the Member States.

Work was completed on a **study on defendants' rights in all EU Member States** providing factsheets to be published on the European e-Justice Portal and progress was made in a similar study on victims' rights.

1.2.14. Sanctions and offences

In the second half of 2010, work continued and was extended with regard to **criminal law sanctions and substantive criminal law policy** in the light of the Lisbon Treaty provisions (coordination of sanctions policy, protection of EU financial interests, etc).

The activity ensures funding of Eurojust. Projects to foster cooperation in civil and criminal justice matters are financed through the specific programmes "Civil Justice" and "Criminal Justice" as part of the General programme "Fundamental Rights and Justice".

1.2.15. European Criminal Records Information System (ECRIS)

In the area of criminal justice, work continued on preparations for the **European Criminal Records Information System (ERIS)**. The Commission led work on elaboration and finalisation of the technical specifications for ECRIS. The technical specifications were finalised by end 2010 and will be adopted in COPEN in spring 2011. Under the technical specifications contract, a gap analysis comparing the NJR Reference implementation software (RI) to the future ECRIS RI was also initiated. Reference implementation (RI) software to assist MS to connect to the pre-ECRIS NJR pilot project was put on offer and used by Belgium to exchange criminal records. Linked to ECRIS, a **feasibility study** on an **index for convicted third country nationals** was completed mid 2010, providing input for an impact assessment prior to tabling a legislative proposal.

1.3. ABB Activity: 18 07 Drugs prevention and information

1.3.1. EU Drugs Action Plan (2009-2012)

Monitoring of implementation of the **EU Drugs Action Plan (2009-2012)**⁵ was an important objective throughout 2010. The Commission adopted its Report "**2010 progress review of the EU Drugs Action Plan (2009-2012)**"⁶ which it subsequently presented to the JHA Council. The main conclusion of the report was that progress had been made on the implementation of the Action Plan, which resulted in a fall in the number of new HIV cases among drug users, increased cooperation between Member States to combat drug trafficking and a more strategic approach to drug-related research.

1.3.2. New Strategy 2013 - 2020

Preparations were launched for the new drugs strategy 2013 – 2020, the first one to be drafted by Commission.

1.3.3. New psychoactive substances

The Commission proposed to the Council to submit **mephedrone to control measures**⁷, following the procedure for assessing the risks and submitting to control new psychoactive substances set up by Council Decision 2005/387/JHA⁸. In parallel, DG

⁵ OJ 2008/C 326/07

⁶ COM(2010) 630 final

⁷ COM(2010) 583 final

⁸ Council Decision 2995/387/JHA of 10 May 2005 on the information exchange, risk assessment and control of new psychoactive substances. OJ L 127, 20.5.2005, p. 32-37

JUSTICE, has started an assessment⁹ of the functioning of the Council Decision 2005/387/JHA to see if it is still adequate for tackling the challenge posed by the rapid emergence of new psychoactive substances.

1.3.4. Drugs markets, drug-related crime, drug-supply

The Commission staff working paper on improving the **collection of data on drug markets, drug-related crime and drug-supply reduction measures** in the EU¹⁰ put forward a strategy for developing indicators that would enable a better understanding of the illicit drugs market. The paper provided the basis for discussions at the first European conference on drug supply indicators.

The Commission has played a leading role in **policy dialogues on drugs with third countries** (US, Russia, Ukraine) and regional partners (Western Balkans, West Africa, Andean Community, Latin American, Caribbean countries). It also played an active role at the UN Commission on Narcotic Drugs, whose 53rd session took place in Vienna in March.

The Commission has equally played a key role in the coordination of the implementation of the **European Pact on international drug trafficking**¹¹, adopted by the JHA Council in June 2010. It has actively participated in the work of the three project groups (cocaine, heroin and proceeds of crime).

In order to streamline the drugs policy instruments, the decision was taken to merge the planned communication on coordination between internal and external drugs policy with the future drugs strategy 2013 – 2020.

1.3.5. Civil Society Forum on Drugs

Throughout 2010, the Commission worked closely with civil society organisations active in the drugs policy field. The **4th meeting of the Civil Society Forum on Drugs** launched the work on the forum's contribution to the future EU Drugs Strategy.

European Monitoring Centre for Drugs and Drug Addiction

The Commission worked closely together with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in Lisbon. The Commission continued to support the activity of the Maritime Analysis and Operations Centre-Narcotics (MAOC-N)¹².

⁹ The assessment report is planned to be published in the 1st quarter of 2011.

¹⁰ SEC(2010) 1216 final

¹¹ 8821/10 JAI 320 COSI 20 CORDROGUE 40 CRIMORG 79 JAIEX 39

¹² MAOC-N was set up by seven Member States (France, the UK, Italy, Spain, Portugal, the Netherlands and Ireland) in 2007 to coordinate operations against drug trafficking in the Atlantic Ocean.

1.4. ABB Activity: 18 08 Policy strategy and coordination

1.4.1. Planning and programming (under 18 08 05)

The adoption of the **Action Plan implementing the Stockholm Programme** has been a major achievement in 2010.

- Important progress in several impacts assessments analysis supporting the major policy initiatives of DG Justice for 2010, 2011 and 2012, of which five were supported by studies contracted under the 18 08 05 budget line
- Definition and implementation of a strategy to tackle infringement cases which are older than three years, and thereby proceed to decisions on more files in 2011

1.4.2. Communication (under 180801)

While the core objective for communication as established in the management plan 2010 - Specific objective 2: "ensure communication and visibility to communication initiatives in the JLS area" has been observed all throughout the year, the split of JLS has triggered different communication challenges related to a new portfolio and a new DG. Therefore, starting July 2010 DG Justice concentrated on different priority projects than those foreseen initially by JLS.

Projects already started in JLS such as the "**Charter of Fundamental rights**" **publication** have been finalised.

The new projects (web revamp, in particular) were **designed to build the communication foundation for the new DG**, with a longer perspective in mind and completely integrated with the 2011 objectives and plans.

All **10 new projects** were initiated, defined, committed and successfully launched within less the four months, after the credits for DG Justice were made available in September. Some have been closed or delivered intermediary deliverables (eg: Justice new homepage) and most will be finalised in 2011.

The delay in making commitment credits available to the two new DGs (only mid September 2010) had however consequences on the consumption of credits for 2010 as the remaining short time until the end of the year did not allow for thorough preparation and commitment of other communication projects.

1.4.3. Eurobarometer surveys

At the same time and with an equally important contribution to laying the ground for communication, work continued as planned on public opinion monitoring through several Eurobarometer surveys.

Numerous studies have been published in 2010, such as a quantitative study on "**Civil justice in the European union – Access to civil justice**", "**Violence against women**", Flash Eurobarometers such as "**Citizenship of the EU**", "**Electoral rights**", and the qualitative studies "**Citizenship of the EU – Cross border mobility**" and "**The Rights of the Child**".

Several studies have been already launched in 2010 with foreseen publication in 2011, such as: the quantitative study "**eID – Data Protection**" (joint survey with DG INFSO), the flash surveys "**Business attitudes in B2B contracts towards and instrument in European contract law**", "**Consumer in the internal market**" (joint survey with DG SANCO) and "**Business attitudes in B2C contracts towards an instrument in European contract law**".

2. MANAGEMENT AND INTERNAL CONTROL

2.1. Introduction to DG Justice

2.1.1. DG Justice mission, administrative structure and organisation

The **mission** of the Directorate General Justice is to contribute to the development and consolidation of an area of freedom and justice, ensuring that citizens benefit from progress made at European level.

DG Justice was created on 1 July 2010 following the split of the former DG Justice, Freedom and Security (JLS) into two Directorates-General, Justice and Home Affairs. Following the split, DG Justice was organised in 3 directorates (Civil Justice, Criminal Justice and Fundamental Rights and Union Citizenship) and a separate unit reporting directly to the director general (Strategic and Interinstitutional matters, Communication). The activities of the operational services are supported by the Shared Resource Directorate (SRD), working for both DGs, which covers personnel and IT as well as budgetary and control matters. The internal audit capability is also shared by the two new DGs. In terms of human resources, 231 management and staff members are working for DG Justice and 109 for the Shared Resource Directorate and the Shared Internal Audit Capability.

On 1 July 2010 **Françoise Le Bail** has been appointed as **Director General** for the newly created DG Justice. In accordance with the Internal Control Standards a hand-over report was prepared by Jonathan Faull, the Director General of the former DG JLS, in order to ensure the continuity of services carried out in the area of justice.

The financial circuit applied in DG Justice follows the model already existing in the former DG JLS. For most transactions this is **model 3 "decentralised circuit with central counterweight"**, where the operational initiation and verification functions as well as the financial initiation function are executed within Directorates A and B¹³. The ex ante verification is performed by the shared Budget, Control and Ex-post audit unit (Unit SRD.01). For the first pre-financing payment of grants without a financial guarantee, model 1 "decentralised without counterweight" is used by the 2 Directorates. In such cases, payments are made without involvement of the central financial unit, and the financial verification is undertaken by the authorising officers.

The system of sub-delegations and *suppléances* in DG Justice has also been maintained similar to the one in the former JLS.

- **Sub-delegations:** Directors are Authorising Officers by Subdelegation (AOS) for commitments and Heads of financial Units are AOS for payments. In the Shared Resources Directorate financial operations are managed by each unit concerned and financially verified by Unit SRD.01.

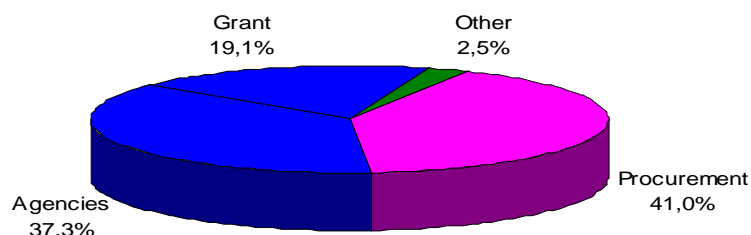
¹³ Directorate C does not have a financial unit. Financial services for Directorate C are provided by unit A4 of Directorate A. In addition unit A4 provides services to the e-justice actions of Directorate B.

- **Suppleances:** the AOS for commitments (directors) are replaced by another director. The SRD director acts as a back-up if all DG's Directors are unavailable. The AOS for payments (heads of financial units) are substituted by the AOS responsible for the corresponding commitments (directors).

2.1.2. Management mode

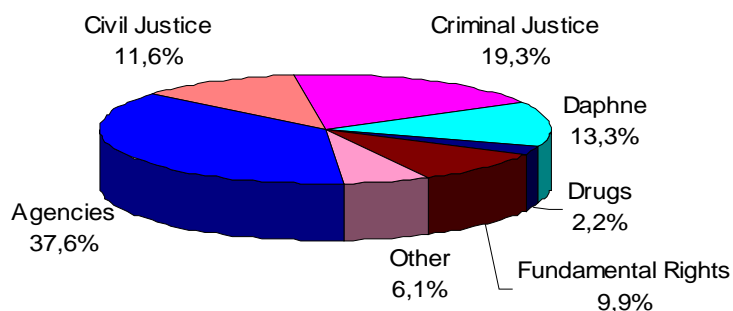
DG Justice budget is implemented through the direct centralised management mode.

Budget implementation by expenditure type (Commitment appropriations)



The general programme "Fundamental Rights and Justice" embraces five specific programmes, i.e.: Fundamental Rights and Citizenship, Prevention and combat of violence against children, young people and women and to protect victims and groups at risk (Daphne III), Drugs Prevention and Information, Civil and Criminal Justice programmes. Beneficiaries of DG Justice grants consist mainly of public authorities, NGOs and universities.

Budget 2010 by programme (Commitment appropriations)



DG Justice acts as parent DG and coordinates budget of 2 traditional EU agencies, namely: European Agency for Fundamental Rights (FRA) and Eurojust. The management of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)'s budget was crossed sub-delegated to DG Justice by DG Home.

Acronym	Seat	Management Board (total members/COM representatives)	Budget M€	Total staff
FRA	Viena (Austria)	30/2	20,14	59
EUROJUST	The Hague/ (Netherlands)	27/-	32,20	163

The Commission takes part in the governance of the agencies by participating as a member in the management board, when the governing rules allow for this, which is the case for the FRA. Membership rules are laid down by the founding regulations of each Agency. Agency's boards always include representatives from each Member State and generally one or two Commission's representative (not the case for Eurojust), with one voting right.

In addition to that DG Justice ensures the following coordination activities:

- Coordination of activities:
Units responsible for the relations with the respective agencies ensure complementarity between the work of the Commission and that of the agencies. Operational units for particular policies are involved at working level, and they are consulted on the Commission formal opinions on the agencies' annual work programmes.
- Budgetary and HR support:
The agencies have full responsibility for the implementation of their budget and staff policy plans, DG Justice being responsible for the endorsement of their annual budget plans and regular payment of the contributions established by the Budgetary Authority.

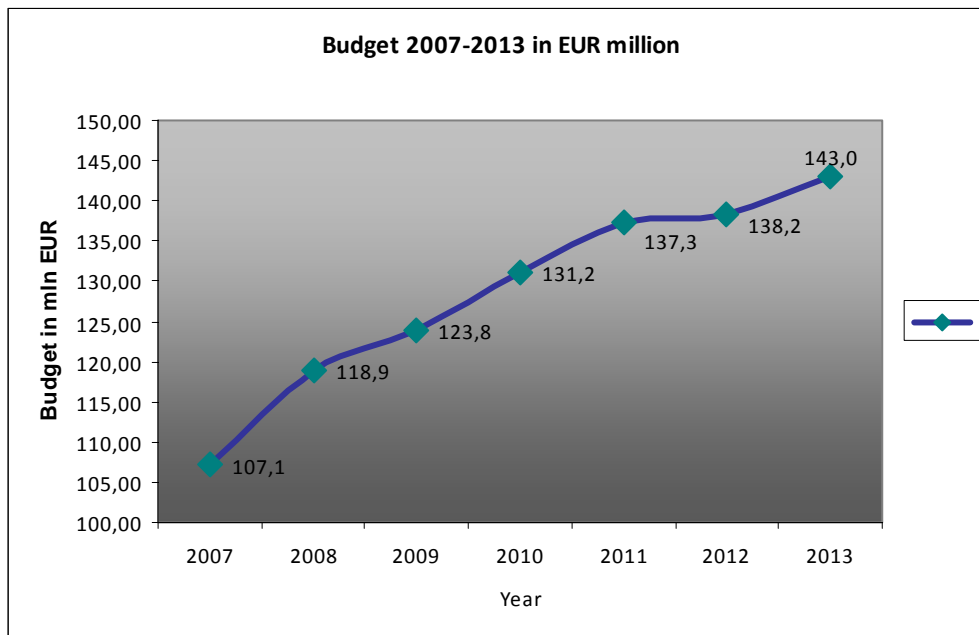
Memoranda of Understanding were signed with each agency, clarifying the conditions for the payment of the EU subsidy by the Commission.

- The Commission also provides assistance to the agencies with regard to the application of the financial regulations, but also through the use of different Commission's services (ABAC, Medical Service, recruitment via EPSO, training, PMO).

Around 1,3 % of the DG Justice 2010 budget has been **crossed sub- delegated** (i.e. appropriations were entrusted) to DG Comp, the Publication Office (OP) and DG Digit. For these activities, a work programme is required. Similarly, after the end of the year, the services must provide a report on the activities carried out.

2.1.3. General overview on the DG's budget and financial management

The budget currently managed by DG Justice (previously managed by DG JLS) has been on a steady increase over the last years and is likely to increase by 8,9% by the end of 2013 within the current Multiannual Financial Framework (2007-2013).



In 2010 DG Justice was supported by a budget of EUR 131,2 million in commitment appropriations and EUR 113,2 million in payment appropriations, which represented approximately 0,1% of the EU budget.

At the end of 2010 DG Justice represented a good consumption rate, 97% for commitments appropriations and 93% for payment appropriations. Specific programmes: Criminal Justice, Fundamental rights and citizenship and Daphne III showed particularly good consumption which was due to a significant amount of pre-financing done before the end of the year. An overview of the budgetary implementation of Justice total appropriations, commitments and payments is presented in the following table (all types of appropriations are taken into account):

	Commitment Appropriations		Payment Appropriations	
	Amount Consumed	% Consumed	Amount Consumed	% Consumed
Agencies	50,25	96,0%	52,25	96,2%
Eurojust	30,16	93,7%	30,16	93,7%
European Union Agency for Fundamental Rights	20,09	99,8%	22,09	99,8%
Civil justice	15,50	96,3%	7,70	94,7%
Criminal justice	26,00	96,5%	16,54	98,9%
Fight against violence (Daphne)	18,45	99,9%	13,81	99,5%
Drugs prevention and information	3,08	100,0%	2,16	78,7%
Fundamental rights and citizenship	13,80	99,6%	12,39	95,0%
Other	7,47	87,8%	9,62	70,0%
Total	134,56	96,6%	114,47	93,4%

2.1.4. Major events which had impact on DG Justice during 2010

Arrival of the new Commission and split of the former JLS

The **Barroso II Commission** took up office on 10 February 2010 and the former JLS portfolio was allocated to two Commission members, the Justice part to Vice- President Reding and the Home Affairs part to Commissioner Malmström. In order to ensure exploiting the synergies between the consumer protection legislative files and the development of a common frame of reference on contract law, **a legislative unit from DG Sanco, dealing with marketing and contract law, joined the former JLS** in March 2010, becoming JLS E5 (now Justice.A2&A3).

On 2 June 2010 a decision on **the split of DG JLS** into DGs Justice and Home Affairs with a Shared Resource Directorate, was taken and entered into force on 1 July 2010.

The split required an extensive work to align the systems, procedures and staff allocation to the new organisational structure. The initial transition was smooth, but actions are still carried out in 2011 to fully implement the visions of the new management.

Organisational issues and reallocation of staff to the newly created DGs and to the Shared Resource Directorate (SRD) were the first priorities in order to rebalance the workforce according to priorities. The transition was smoothed by:

- an intensive IT activity to align systems, infrastructures and procedures to the new set-up of DGs, as well as increased help desk during the transition period;
- increased internal communication and training activities;
- major involvement of the logistic sector in order to manage the installation of the newly-appointed Directors-General and related staff;
- review of the Business Impact Analyses for both DGs in order to establish new Business Continuity Plans and put in place related internal communication strategy.

The preparation of the transfer of former Directorate EMPL/G to DG Justice on 1 January 2011 was the last major organisational change in 2010. Substantial resources were dedicated to organisation of the move, notably, to modification of the organisation chart, information and communication sessions for staff as well as logistic activities.

Start up of the e-Justice portal

In order to ensure better access to justice for citizens and facilitate judicial cooperation within the EU, the Commission was mandated to deliver the European e-justice portal by December 2009. Initial difficulties linked to errors and bugs in the system caused a delay in delivery of the portal. Eventually, the **e- Justice Portal successfully went live on 16 July 2010** and has hosted about 200.000 visitors by end 2010. Work was initiated on the second release of the Portal implementing dynamic forms for various judicial applications (legal aid, European Payment Order, small claims, videoconferencing). Work continued on subprojects such as interconnection of insolvency registers, business and land registers find a lawyer and find a notary. These subprojects are due to go live either in 2011 or 2012.

2.2. The functioning of the entire internal control system

The annual evaluation of the internal control system in DG Justice is carried out through: the analysis of compliance with the internal control standards' requirements and assessment of the effectiveness of the implementation of selected Internal Control Standards (ICS) using survey questions (Internal Control Self-Assessment Tool, the so called ICAT exercise) or corresponding indicators. The main outcomes of these exercises are presented below.

2.2.1. Compliance with the requirements of the control standards

Based on the internal review of the implementation of the Internal Control Standards (ICSs), **DG Justice is fully compliant with the requirements of each of the 16 ICSs.**

By the actions taken in 2010, DG Justice consolidated the implementation of the baseline requirements considered as partially implemented at the end of 2009, especially with

regard to the validation of local accounting system by DG Budget. All the efforts taken to improve accounting quality in DG Justice have been examined by DG Budget within a follow up audit that allowed to finally lift the reserve on validation. Positive results were also achieved regarding business continuity, fraud awareness, training on ethics, and internal control (training given by the SRD and DG BUDG), as well as improvements in financial management and document management.

No derogations to the **mandatory staff mobility requirement for sensitive functions** were granted during the reporting year.

2.2.2. *Effectiveness of implementation of the prioritized internal control standards*

In the 2010 Management Plan, the former DG JLS had identified 4 priority standards (ICS 9: "Management supervision", ICS 11: "Document management", ICS 12: "Information and communication" and ICS 13: "Accounting and financial reporting"), for which it was decided to improve effectiveness.

In October 2010 the Internal Control Coordinator launched the Internal Control Self-assessment (iCAT) survey inviting randomly chosen staff members, reflecting different genders, grades and Directorates within the DG, as well as all Directors and Heads of Units to take part in the exercise. The objective of the survey was to help DG Justice to evaluate the effectiveness of the implementation of the Internal Control Standards. ICS 13 "Accounting and financial reporting" was not assessed using iCAT, (the tool was not considered relevant in this area) but corresponding indicators. The results of the self assessment exercise for the ICSs prioritised in 2010 are described below.

ICS no 9: "Management Supervision"

Management supervision was identified as a priority in 2010 with a view to ensure a close management monitoring of the former JLS risks faced in 2010, notably with regard to large scale IT projects (SIS II, VIS) that are currently managed by DG HOME.

The self-assessment survey showed a **positive appreciation on effectiveness of the implementation of this standard** (81% of respondents support this statement). Management activities are considered effective and sufficiently focused on the most critical, complex and sensitive issues (according to 81% of managers and 84% of staff). The answers showed however that improvements were needed in the communication of management's decisions.

Based on the results of the 2011 risk management exercise as well as recent organisational changes in DG Justice, it was decided **to prioritise** this standard also **for 2011**.

ICS no 11: "Document management"

Document management was identified as a priority with a view to ensure that document management is secure, efficient and complies with the applicable legislation in view of the foreseen migration to Ares.

Most of the identified risks have been eliminated through the implementation in 2010 of an e- Domec programme. The e-Domec Change Management Board was nominated to supervise the programme. As part of the programme, DG Justice migrated to Ares as from September 2010. This migration was a success. In 2011, the programme will focus on improvement of quality of registration and filling, i.a. through information, training and establishment of quality control methodologies and procedures.

The self-assessment survey showed an **overall positive evaluation** of the effectiveness of the implementation of ICS 11 (according to 78% of respondents). 63% of managers and 84% of staff perceive document management efficient and helpful in every-day work.

This is why this standard is **no longer a priority in 2011**.

ICS no 12: "Information and communication"

A number of comments given by the participants of the 2009 survey had indicated needs for improvement of organisation and accessibility of the former JLS's intranet. For this reason ICS 12 was identified as a priority for 2010.

Significant improvements have been made in 2010 regarding the local intranet, both before the split and later after the creation of DG Justice. **The new intranet went live on 14 June 2010**. Intranet correspondents were nominated for each unit, following a decentralised approach vis-à-vis the information made available on the Intranet. Training for intranet correspondents was provided before the launch of the revamped intranet.

Following the split of the former JLS, the intranet was restructured and 3 separate intranet sites were created for each new DG and the SRD.

The split of DG JLS offered an opportunity to review the information presented on intranet, to better structure it and to improve its dissemination. Current news are communicated to staff through weekly newsletters, daily intranet updates, flyers and brochures sent in targeted e-mails. In addition, daily press reviews on justice related issues are sent every morning to all the staff members.

The self-assessment survey showed an overall positive evaluation of the effectiveness of the implementation of ICS 12. According to the survey results, both management and staff seem to be **sufficiently informed about DG's activities, priorities and achievements** (100% of managers and 83% of staff members supported this statement). Similarly, the SRD's intranet was also scored as a good source of information on both operational and financial processes and procedures. Remarks on need for more regular and formalised top-down and across the entities communication flows were raised.

This is why this standard is **no longer a priority in 2011**.

ICS 13: "Accounting and Financial Reporting"

This ICS was prioritised in order to reflect efforts taken to implement recommendations resulting from the DG BUDG report on validation of local accounting systems.

DG Justice built up extensive accounting guideline and monthly reporting was strengthened by including a set of management indicators. Intangible assets are recorded, notably in relation to the e-Justice portal.

All the efforts taken to improve accounting quality in the DG have been examined by DG BUDG within the follow-up audit on validation of local accounting systems carried out in the last quarter of 2010. As a result, DG BUDG lifted its **reserve on validation**.

This is why this standard is **no longer a priority in 2011**.

2.2.3. General appreciation of the functioning of the internal control system in its entirety

The 2010 assessment of the effectiveness of the entire Internal Control System as a whole in DG Justice was carried out based on desk reviews on compliance with the baseline requirements of the Internal Control Standards (ICSs), the self assessment survey (iCAT exercise), the audits performed by the IAC, IAS and the Court of Auditors and the annual risk management exercise performed in the context of the Management Plan. In this way all the 16 ICS were covered.

The conclusion of the *desk reviews on compliance* with the baseline requirements of the Internal Control Standards (as described in 2.2.1) was that at the end of 2010 DG Justice is **generally complied with all the Internal Control Standards requirements**.

The *self assessment survey (iCAT exercise)* reviewed effectiveness of six internal control standards, namely: ICS 1 "Missions", ICS 3 "Staff allocation and mobility", ICS 7 "Operational structure", ICS 9 "Management supervision", ICS 11 "Document management" and ICS 12 "Information and communication". This selection of standards is based on DG JUSTICE 2010 priority standards (ICS 9, 11 and 12) as well as on results of the brainstorming that took place during the internal control training session in DG JUSTICE on 7 October 2010 in the result of which ICS 1 "Missions", ICS 3 "Staff allocation and mobility" and ICS 7 "Operational structure" were identified as areas where attention is needed due to the recent split of the former JLS. The results of the self assessment survey for the three ICSs prioritised in 2010 (ICSs 9, 11, 12) are described in part 2.2.2. The results of the survey in case of the ICSs 1, 3 and 7 can be summarised as follows:

- ICS 1 "Missions": DG Justice's *raison d'être* is clearly defined and understood, according to 99% of managers and 81% of staff. **The standard is considered effectively implemented.**
- ICS 3 "Staff allocation and mobility": The overall results of the self-assessment survey disclosed that 73% of participants considered the standard as **effectively implemented**. 63,7% managers consider staff allocation as aligned with priorities and

workload and mobility bringing benefits to the global output of the DG. In particular, respondents mentioned need for improvement of workload balance and more support for the newcomers to the DG. In order to address these needs and maintain a particular focus on these issues throughout the year, the **DG decided to prioritise this standard in 2011.**

- ICS 7 "Operational structure": the implementation of the ICS **is perceived as positive** (according to 80% of the overall answers). The results on the specific questions asked reflect that the operational structure's rules are clear and management and staff members agree that DG Justice operational structure supports effective decision making.

The third element taken into account for the assessment of the effectiveness of the entire Internal Control System was represented by the information obtained from audits during the reporting year. Details about the audits performed in 2010 and the follow up of previous years' audits are included in parts 3.1.2 and 3.1.3.

Finally, based on the results of the annual risk management exercise and the self-assessment survey results, DG Justice decided **to prioritise the ICS 3 " Staff allocation and mobility" and ICS 9 "Management supervision".**

Conclusion

Taking into account the above information, there is satisfactory evidence that the processes and procedures in place control the main risks by providing a reasonable assurance that the key objectives are met and that the activities are carried out as intended. Actions are underway to address the identified areas for improvement, mainly in the area of staff allocations and mobility (ICS 3) and management supervision (ICS 9). **Based on all information and the above analysis, it can be stated that DG Justice' internal control system is generally functioning well.**

2.3. Information to the Commissioner

The main elements of this report and assurance declaration have been brought to the attention of Vice- President Reding.

The **working arrangements with Vice- President Reding**, include weekly "jour fixe" meetings with Vice- President Reding and her Cabinet which are dedicated both to current and strategic issues as well as bi-annual reports on the most important financial and internal control issues.

3. BUILDING BLOCKS TOWARDS THE DECLARATION OF ASSURANCE (AND POSSIBLE RESERVATIONS TO IT)

3.1. Building blocks towards reasonable assurance

3.1.1. Building block 1: Assessment by management

As described in part 2.1.1, DG Justice budget is implemented through direct centralised management mode.

Regarding the materiality criteria, DG Justice applied the standard threshold of 2% for each ABB activity. A detailed description of the management and control framework is attached in the Internal Control Template (Annex 5).

(1) Centralised direct management: procurements and grants

For the actions implemented under the direct management mode, the assurance is based on the capacity of the control system to detect significant and/or repetitive deficiencies. This control system is composed of different building blocks: supervision of operations by the operational directorates, the ex-ante control by the Budget and Control Unit, the Internal Procurement Committee (JPC), the ex-post controls for grants and the audits from the Internal Audit Capacity and/or the Internal Audit Service.

Indicators of legality and regularity for direct management in 2010 are described below. They include transactions made by the former DG JLS until 30 June 2010 that were later attributed to DG Justice. They also include 100% of the transactions made by the SRD.

As DG Justice is a newly created DG, the key indicators for legality and regularity of the underlying transactions are not directly comparable with 2009 results of former DG JLS, as it was not possible to attribute *a posteriori* the transactions made in 2009 to each new DG.

Inputs

In 2010, 3,19 staff were dealing with ex-ante control in DG Justice. The staff dealing with ex post controls was limited to 3.5 as large part of ex post controls of grants was externalised to Moore Stephens, using the framework contract for audits managed by DG Budget. The total payments made in 2010 relating to ex post audits amount to EUR 0,19 million.

Outputs

In total 1.854 transactions were verified in 2010 with the largest share being commitments / decommitments or payments.

Grants:

201 new grant agreements have been signed in 2010 for a total value of EUR 116,2 million. 6 of these new grants were above EUR 1 million, and represented a total of EUR 58,7 million.

The auditable population is composed of the grants for which the final payment had been made in the last 5 years and that had not been audited yet. It amounts to EUR 64,9 million. The ex-post controls carried out in 2010 covered a sample of EUR 5,2 million, i.e. 8,1% of the auditable population.

Procurements:

218 new contracts have been signed following procurement procedures in 2010, for a total amount of EUR 17,4 million i.e. an average value of EUR 79.934.

7 procurement procedures were above EUR 60.000 and have been therefore analysed by the internal procurement committee (JPC), for a total value of EUR 1,6 million (an average of EUR 0,228 million per file).

Results of ex-ante controls

No transactions were subject to an unfavourable opinion from ex-ante verification, as compared to four in 2009 (for all JLS).

11 transactions¹⁴ have been registered as exceptions during 2010:

- 5 concerned prolongations of Final Date of Implementation (FDI) for grants that had expired for more than six months;
- 5 concerned the prolongation of procurement contracts after the expiration date,
- 1 was related to deviations from the Financial Regulation and Implementing Rules, concerning *a posteriori* change of the project start date and minor budget adjustment.

In general, 85% of the payments were proceeded within the time limit (against 69% for the former JLS in 2009), the average payment time being 16.55 days (in comparison to 23,08 in the former JLS) . Following the procedure put in place in March 2010 to accelerate the closure of old grant files directly managed by the Commission, 55,4 % of files pre-dating 2008 have been closed.

36 recovery orders have been issued in 2010 for a total amount of EUR 3,5 million. 25% of this amount corresponds to 2009 commitments.

The total RAL at the end of 2010 amounted to EUR 147 million, of which 54% is in relation to contracts/grants signed in 2010.

All the 7 files submitted to the Justice Procurement Committee received an avis favourable.

Results of ex-post controls and assessment of the residual risk for grants

¹⁴ It has to be noted here that discussions are currently on-going in the COM on streamlining of definitions on exceptions.

The assessment of the residual risk not detected by the control system is carried out through an analysis of the cumulative results of ex-post audits.

The main reason for ineligible costs is the lack of (adequate) supporting documentation (more than 50%), in particular for staff costs (pay slips, timesheets, etc.), as well as costs not foreseen in the budget (but linked to the project) or incurred outside of the eligibility period (10% in total). Efforts were made by the Authorizing Officers by Sub-delegations (as from January 2010) to analyse and better document requests for changes in the budget introduced by the beneficiary.

One important characteristic noted in relation to the ineligible costs is that in 50% of the cases, they related to expenditure incurred by partners. To address this issue, DG Justice has introduced in 2009 a multi-beneficiary contract model which clearly sets out the obligations of all beneficiaries. As compared to the mono-beneficiary contracts with partners used before, where obligations of partners were not set out and signed agreements between the beneficiary and its partners were often missing, the new contract model introduced should significantly decrease the risk on non eligible expenditure due to the lack of (adequate) supporting documentation.

In qualitative terms, the weaknesses identified are not significant. The nature and scope of the weakness are well known by DG Justice financial managers and as previously explained actions have been taken to correct them. The impact of such measures will be further assessed in 2011, when the ex-post controls of the multi-beneficiary grants will have started. In the meantime, the overall risk is reduced by the fact that the ex-post coverage is quite high for a given programme (between 15 and 20% as a general rule¹⁵) and thus errors are detected and corrected.

In quantitative terms, the raw result of the audits carried out and finalised in 2010 (error rate of 6,7%) cannot be directly extrapolated to the whole population of grants for which a final payment was made in 2010. Indeed, the ex-post control sector applies a "detection strategy" aimed at detecting a maximum of anomalies in view of recovering undue payments. Based on this strategy, the audits are carried out on a sample of projects selected on the basis of a risk analysis (new beneficiaries, issues identified by the AOS at closure, etc.). This is why the error rates identified during these controls are often high but are not representative of the total population.

DG Justice therefore estimated a rate of potentially undetected errors for each programme/year in the non-audited population based on ex-post audit results, audit coverage and analysis of the programme. This rate is then applied to the non-audited population, and an amount at risk is defined. When the programme will be later audited after 2010, the amount at risk will be lower than the raw amount at risk previously determined. To be coherent, the results of this detailed analysis are taken into account for the subsequent ex-post controls annual plans, as a criterion to target the projects to be audited. Finally, the amount at risk is compared to the payments made in 2010 under the same ABB activity. Further details can be found under Annex 4.

As a result, the amounts at risk by **ABB 18 04** activity are: **1.65%** of the payments made in 2010 under this ABB activity,. For **ABB 18 06**, the amount at risk represents **0.44%** of the payments made in 2010 under this ABB Activity.

¹⁵ This figure is only known once the 5 years after the final payment are over.

(2) Decentralised agencies

Information regarding the use of the assigned resources by the agencies is provided by the Court of Auditors and Internal Audit Service. The IAS acts as the internal auditor for the agencies, while the European Court of Auditors gives yearly a statement of assurance as to the reliability of the annual accounts of the agency and the legality and regularity of the transactions underlying them. Based on these, the European Parliament grants discharge directly to the agencies.

– FRA - European Union Agency for Fundamental Rights (check full name)

In the conclusion of its report on the annual accounts of the FRA for the financial year 2009, the CoA expressed a favourable opinion on the reliability of accounts and the legality and regularity of the underlying transactions in the agency. The Court also raised comments (that do not call the above mentioned Court's opinion into question) on the need for improvement in the Agency's budgetary and recruitment planning and planning and monitoring of procurement procedures.

On 8 July 2010, the Internal Audit Service issued its final follow-up audit report on Financial Management carried out in 2009. In the auditors' conclusions, one out of 3 very important recommendations was fully implemented and two were in progress of implementation (one of them was downgraded to important).

– EUROJUST - European Union's Judicial Cooperation Unit

In its report on the annual accounts of Eurojust for the financial year 2009, the Court expressed a positive opinion on the reliability of accounts and the legality and regularity of the underlying transactions in the agency. The Court commented however on the high rate of the vacant posts and the long recruitment process in the agency.

DG Justice is not a member of the agency Management Board and therefore does not have access to IAS audit reports. No issues were however brought to DG Justice's attention.

3.1.2. *Building block 2: Results from audits during the reporting year*

(1) Court of Auditors' yearly report – Discharge 2009

In the Court of Auditors' annual report for 2009, issued on 9 November 2010, the former DG JLS is referred to under the policy group "Education and Citizenship", together with DG EAC and DG COMM. Consequently, there is no specific opinion of the Court on former DG JLS. However, the elements of the report that are of relevance for DG Justice are the following:

Error rate in the DAS sample

The 2009 DAS confirms the 2008 positive results for the Chapter 7 - Education and Citizenship, with an error rate oscillating year-on-year around 2% (close to 2% in 2009 after having been below 2% in 2008). Despite a slight rise in the error rate from 2008 to 2009, the Court noted that results are not directly comparable because of the differences in the audit approach.

For JLS, even if the structure of the sample had changed significantly, the percentage of transactions tested affected by errors for DAS 2009 remained at the same level as for DAS 2008 at 17,8%, i.e. 8 transactions affected by errors among the 45 JLS transactions tested (30% of the total sample for Chapter 7). No errors were found in the advance payments checked. The following errors were relevant for DG Justice:

- 1 quantifiable errors (*Daphne file*: error rate 9,64%).
- 2 non-quantifiable errors:
 - *Daphne file*: delay in approval of report, insufficient documentation at EC level, late payment.
 - *Agis file*: late payment.

Assessment of the system

The Court's assessment of the systems was focused on systems for closures of programmes and projects made by the Commission. The overall assessment is that the supervisory and control systems were partially effective in ensuring the regularity of closures made in 2009. The same assessment was made for the 2008 systems.

Assessment of management representation

Regarding the assessment of management representations in the Annual Activity Report, the Court considers that for the whole chapter "Education and Citizenship", the directors general' declarations and the AARs give a fair assessment of financial management in relation to legality and regularity.

Important changes are expected in the 2010 discharge procedure which is currently on-going. DG Justice will share the same chapter with DG HOME, COMM, EAC, RTD, INFOS, TRADE, ENTR, COMP, MARKT, ECFIN and JRC.

(2) Internal Audit Service (IAS) and Shared Internal Audit Capability (SIAC)

The recommendations stemming from the audits carried out in 2010 are presented below.

Auditor	Audit title (date of final report)	No of very important/ all recommendations	State of play
IAS	Audit on fraud prevention and detection (22.11.2010)	1/6	Action plan to address the recommendations has been prepared and will be followed in 2011.
SIAC	Audit on criminal justice programme (5.10.2010)	2/4	The action plan to address the recommendations has been prepared and is being followed.

– IAS audits carried out in 2010

In its audit report **on fraud prevention and detection**, the IAS addressed 6 recommendations to DG Justice, of which **only one** was ranked as **very important and required** DG Justice to elaborate, in cooperation with OLAF, an anti-fraud strategy.

In 2010 the IAS carried out a horizontal audit on **IT project setup in the Commission**. Individual recommendations per IT project analysed were not issued. The IAS expressed however specific remarks identified during the audit engagement in the Management letter addressed to the Director General inviting to take them into account in the future IT projects. No follow-up audit will be performed on these issues.

– SIAC audits carried out in 2010

In its opinion delivered on 11 February 2010, as a contribution to the annual activity report, the SIAC stated that based on the results of the audits carried out by the SIAC during 2010, the internal control system in place in DG Justice **provides reasonable assurance** regarding the achievement of the business objectives set up for the processes audited. The assurance work carried out in 2010 included 1 audit and 4 follow-up audits (for follow-up audits please refer to section 3.1.3 (3)).

On 5 October 2010 the SIAC issued its audit report on **the criminal justice programme**. The report contains 4 recommendations out of which **2 ranked as very important**, were linked to improvement of budgetary implementation and information flow between policy and financial units on the outcomes of the projects.

3.1.3. *Building block 3: Follow-up of previous years' reservations and action plans for audits from previous years*

(1) Follow-up of 2009 AAR reservation

The financial risk corresponding to the residual error rate estimated at 2,15% in the non audited population of grants in the programmes under ABB activity 1804 - Fundamental rights and citizenship necessitated the classification of this issue as a **reservation in the 2009 AAR**. As a mitigating measure, DG Justice increased significantly the rate of audited projects in the population at risk and has introduced a number of measures in the field of financial management that brought improvements in procedures for direct management of grants in 2010. These corrective actions have been successfully implemented:

1. Increasing the number of projects audited

In total, 32 additional grants of DAPHNE and NGO programmes were audited in 2010. This represents (in value) 10,5% of the auditable population for DAPHNE programme and 29% of the auditable population of NGO programme (in value).

Overall, the total coverage at the end of 2010 is of 22% of projects signed in the framework of 2003-2006 programmes (in value and in volume). 8 additional audits are foreseen in the 2011 Audit Work Plan on the DAPHNE programme (to be taken from the 2007 and 2008 programmes)

The estimated amount at risk vs. payments made in 2010 on ABB 18 04 is 1.69%¹⁶, which clearly shows that there is no need to maintain the reserve on this budget line at the end of 2010. Please refer to annex 4 for further details.

2. Improvements of the procedures in the direct management:

- The development of PRIAMOS application for direct management ended on 24 November 2009, when Phase II of the project (direct grants from signature of the grant agreement until audit) went live. Since September 2010 all new calls are fully managed in PRIAMOS.
- In all new contracts for action grants a requirement for an interim report was included. Moreover, self-evaluation questionnaires have been developed, requesting beneficiaries to assess project implementation compare to their initial planning in order to identify possible bottlenecks, shortfalls and unforeseen obstacles and to provide the Commission with mitigation plan where necessary. These tools allow the Commission to identify risks at an early stage and provide guidance to beneficiaries in order to limit risk of errors.
- More attention is paid to budget reviews in collaboration with beneficiaries, in order to avoid overestimation of costs or ineligible costs.

¹⁶ The methodology used for calculation of amount at risk is presented in section 3.1.1.

- Several information actions for the beneficiaries took place in 2010 (virtual information day, kick-off meetings, new guide for project management for on-going project) in order to improve project management, financial rules and reporting requirements.
- A new cost claim model has been implemented.
- At the stage of final report an additional risk assessment was introduced. In case this verification shows possible incorrectness of costs a full sampling of supporting documents is requested.
- A steering group dedicated to the closure of old files (older than 2007) has been created: from 47 Daphne files existing in March 2010, the majority of the projects have been closed and are about to be decommitted. 16 files were still open at the end of 2010 and should be closed before end of April 2011. All NGO old files have been closed.
- A specific group has been created to harmonise the approach of ex ante and ex post controls as regards eligibility rules (type of expenditure as well as type of formalisation expected).

These improvements should reduce the risk of error within the non audited population coming from the newer programmes (2007 onwards). Therefore, they are confirming the fact that the reservation issued in 2009 is not to be maintained.

(2) Analysis of the need for potential new reservation in AAR 2010

In addition to the above information, it should be stated that there are no other factors that would require raising a reservation in the AOD's declaration for assurance for 2010. This statement is supported by the following information:

- No ABB activity demonstrated an error rate that would exceed 2%.
- No critical risks were identified in DG Justice in the annual risk management exercise.
- No significant delays have been noted in implementation of IAC/IAS very important observations.
- No critical recommendations were addressed to DG Justice in 2010.
- No significant reputational event occurred in 2010 that would require issuing a reputational reservation.

(3) Follow-up of action plans for audits from previous years

All the open audit recommendations resulting from the audits carried out before 2010 are presented in the table below.

Auditor	Audit title (date of final report)	No of very important/ all recommendations	State of play
IAS	Audit on business continuity(15.09.2009)	6/6	No IAS follow-up took place yet. Implementation in process to be finalised by the end of 2011.
SIAC	Audit on ethics	0/8	The follow-up engagement has been postponed. Actions have been taken to complete the recommendations.
DG BUDG	Audit on validation of local accounting systems	2/3	The follow-up took place in the last quarter of 2010 in result of which number of issues was closed. Implementation of the 3 outstanding recommendations is on-going.

IAS follow-up audits carried out in 2010

In 2010 the IAS carried out 2 follow-up audits, leading to the closing of 9 audit recommendations:

- In November 2010 the IAS finalised its follow-up **audit on IT Procurement**, concluding that **all the recommendations** addressed to the DG have been **successfully implemented**.
- In March 2010, the IAS concluded its follow-up audit on **AAR assurance process**, **closing all** the recommendations.

SIAC follow-up audits carried out in 2010

In 2010 the SIAC carried out 4 follow-up audits, leading to the closing of a significant number of recommendations:

- Based on the results of the follow-up exercise to the audit of **selection and award procedures for directly managed grants** (final report of 14 October 2010), the auditors assessed that all the recommendations resulting from the original audit had been adequately and effectively implemented.
- Follow-up of the audit on the management of the **financial relationship between the Commission and agencies** was concluded on 3 February 2010. In the result of this follow-up engagement the auditors assessed all recommendations from the original audit as having been adequately and effectively implemented.
- The final follow-up audit report on the **procedures for liquidation of commitments for directly managed grants** was issued on 30 April 2010. Based on the results of the

follow-up exercise, the auditors assessed all recommendations from the original audit as having been adequately and effectively implemented.

- In the conclusion of the follow-up audit on the **documentation of the financial procedures** (final report was issued on 29 March 2010), the auditors assessed the one "Very Important" recommendation as not implemented. However, they considered that acceptable alternative action was being pursued and closed the recommendation. Five other recommendations, all classed as "important", were assessed as implemented.

In addition, the follow-up of the **audit on effectiveness and efficiency of financial circuits** in DG Justice, Freedom and Security was initially scheduled for the second part of 2011. Due to the organisational changes made after the split of former DG JLS the follow-up audit has become obsolete and eventually has been cancelled. For this reason all the recommendations resulting from the audit have been closed.

DG BUDGET follow-up audit performed in 2010

The former DG JLS had not received the validation of its local system for financial transactions for 2008 and 2009. The major criticisms formulated by DG BUDG concerned the bad management of fixed assets and poor accounting quality, especially with regard to late registration and slow processing of old invoices.

The DG continued making progress throughout 2010 addressing deficiencies identified by the Accounting Officer in his 2008 and 2009 reports.

- A referencing system was built-up, identifying asset-related commitments allowing following subsequent steps in the procedure.
- Substantial resources were dedicated to build-up extensive accounting guidelines based on the Commission Accountant's instructions, e.g. cut-off manual, manuals on tangible and intangible fixed assets, manual on clearing pre-financings and an invoice manual. These guidelines are available to all financial staff.
- An accounting quality plan is now set up; regular controls on assets, pre-financings and invoices are performed and documented.
- Timely clearing of old invoices and pre-financings is ensured within the accounting quality controls. Units are directly contacted and receive assistance in processing the outstanding transactions. However, long processing time to clear pre-financings is due to specific grant agreements made by DG Justice generally requiring cost claims only at the end of the project.
- Comprehensive monitoring on invoice registration, open pre-financing, expired commitments (Final Implementation Dates), and recovery orders is carried out monthly.

All the efforts taken to improve accounting quality in the DG have been examined by DG Budget within the follow-up audit on validation of local accounting systems carried out in the last quarter of 2010. As a result, **DG BUDG lifted its reserve on validation**. The

remaining recommendations (2 very important, 1 important) concern late registration of invoices and clearing old invoices and open pre-financings.

3.1.4. Building block 4: Assurance received from other Authorising Officers in cases of crossed sub-delegation

In 2010 JUSTICE cross sub-delegated appropriations to the following services:

DG COMP for the budget line 18.06.07/Civil justice.

DG COMP's report was received on 2 February 2011. No special issues were raised in the report. The subdelegated credits amounted to EUR 800.000 for the training of judges.

The total amount committed in 2010 was EUR 800.000. The total amount paid in 2010 was EUR 466.855,42, i.e. a consumption rate of 92,81% of the payment appropriations (total payment appropriations available: EUR 503.000,00) .

DG DIGIT- for the budget line 18.04.06/ Fundamental Rights and Citizenship and 18.06.07/ Civil justice

DG DIGIT report was received on 4 February 2010. No issues were raised in the report. The subdelegated credits amounted to EUR 323.349,50 for the hosting requirements of the website for the rights of a child, consular protection website, European e-Justice portal and civil justice website.

The total amount committed in 2010 was EUR 321.769,4. No payments were done on that budget line last year.

DG OP for the budget line 18.0801/Prince

Publication Office report was received on 14 February 2010. No significant risks were reported. The credits subdelegated in 2010 amounted to EUR 600.000 for the management of the Transjai project.

In 2010, 9 commitments were done of a total of EUR 598.545,09. No payments were done on that budget line last year.

3.1.5. Completeness and reliability of the information reported in the building blocks

The information reported in the building blocks (3.1.1 – 3.1.4) cover the entire budget delegated to the AOD and is based on the most reliable information available as at 31 March 2011.

3.2. Reservations

N/A

3.3. Overall conclusions on the combined impact of the reservations on the declaration as a whole

N/A

DECLARATION OF ASSURANCE

I, the undersigned,

Director-General of DG Justice

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view ¹⁷.

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

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the shared internal audit capability, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

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

Brussels, 29 March 2011

/signed/

Françoise LE BAIL

¹⁷ *True and fair in this context means a reliable, complete and correct view on the state of affairs in the service.*