



COMMISSION EUROPEENNE

**Service Juridique**  
**Plan de Gestion Annuel**  
**2009**

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**A. Message personnel du Directeur Général**

- I. Dans l'exercice de ses différentes missions – initiateur des procédures législatives, en charge de la fonction exécutive, gardienne des traités, représentante de la Communauté sur la scène internationale – la Commission s'appuie sur la règle de droit. Elle tire toute son autorité à l'égard des Etats membres et des citoyens européens du fait que son action est reconnue comme légitime et juste, car elle s'inscrit dans le cadre des principes fondamentaux de l'ordre juridique communautaire.

Dans ce contexte, la mission du Service juridique s'avère essentielle: le Collège et les autres services de la Commission doivent pouvoir compter sur l'expertise de premier ordre du Service juridique pour veiller à la qualité et à la conformité des actes de l'institution avec les principes et les règles des traités, ainsi que pour défendre les intérêts de l'institution devant les juridictions communautaires, internationales et nationales. De par la nature même de cette mission, les objectifs du Service juridique ont vocation à rester stables dans le temps, tout comme la nature des activités accomplies dans la poursuite de ces objectifs. Le Service juridique n'a pas, par définition, la maîtrise de l'agenda et du calendrier de ses activités, car il est normalement appelé à réagir aux demandes et aux sollicitations provenant du Collège et des services ou aux recours proposés par les parties adverses.

En revanche, le volume de ses activités reflète l'expansion continue des initiatives de la Commission, tant sur le plan interne que sur la scène internationale, en conséquence des élargissements, dont les effets se font sentir de manière de plus en plus intense et surtout, des événements économiques et politiques. A cet égard, il est évident que dans la mesure où l'activité de la Commission en 2009 ne sera pas juste "plain sailing", ceci nécessairement affectera les demandes émises à l'égard du Service juridique ainsi que les initiatives qu'il sera amené à prendre. Il sera impliqué dans l'effort d'anticipation des événements, appelé à réagir avec rapidité et sollicité pour trouver les réponses inventives et appropriées à des situations nouvelles, en conformité avec le droit.

- II. Dans ce contexte, s'il est impossible pour le Service juridique de se fixer des objectifs autonomes précis pour 2009 au-delà de l'exécution des fonctions qui lui reviennent, il est clair que ses tâches s'inscriront dans le cadre des **défis** qui incomberont à la Commission en **2009: réalisation du programme de travail, réponse à la crise économique et financière, changements institutionnels à l'échelon communautaire et promotion de l'Union européenne sur la scène internationale**. En conséquence, pour le Service juridique, ceci devrait se traduire par un volume de consultations similaires à 2008 (14.000) et de contentieux peut-être un peu supérieur (autour de 1.000). Et il sera sûrement impliqué dans la définition des lignes de certains thèmes politiquement sensibles.

Je considère donc que l'enjeu essentiel pour le Service dans ce cadre consiste à toujours parfaire son mode organisationnel et ses méthodes de travail pour maintenir mais aussi améliorer sa contribution à la réponse de la Commission à ces défis.

1. Le Service juridique maintiendra **un très haut niveau de qualité de ses avis** et apportera sa contribution, même lorsque les circonstances l'exigent dans **des délais très serrés**. Les dossiers seront traités avec la précision juridique nécessaire et dans le respect des procédures, tout en recherchant et proposant **des solutions conformes au droit, mais éventuellement novatrices**, pour répondre à l'intérêt de l'Institution et aux exigences des situations. **Travail en équipe** et **cohérence** des positions demeureront un objectif de base face à des **dossiers qui souvent concernent plusieurs domaines du droit**.
2. Le Service juridique poursuivra l'objectif déjà défini en 2008, à savoir **coopérer au maximum en amont** avec les Directions générales, le Secrétariat général et les cabinets, notamment le cabinet du Président, pour assurer la prise en compte des exigences du droit dans le choix entre les différentes options ou formules de solutions, compte tenu des dimensions politiques et économiques des questions en cause. L'expérience démontre que, plus cette coopération intervient en amont de la préparation des dossiers, plus elle se révèle fructueuse: c'est pourquoi il conviendra que le Service juridique soit associé dès le début des réflexions au niveau politique et technique, **notamment dans les dossiers les plus importants et sensibles**.
3. En outre, dans le droit fil de l'objectif prioritaire "**mieux légiférer**", le Service juridique continuera à fournir son assistance aux Directions générales en matière de technique législative, pour assurer **la plus grande qualité des textes juridiques** établis par la Commission aussi sous l'angle rédactionnel. A cet effet, il importe que les propositions élaborées par les Directions générales soient fournies au Service juridique à temps pour permettre la finalisation des textes sur un plan juridique et leur mise au point légistique. En outre, le programme de codification, pratiquement finalisé, nécessitera une dernière touche. D'autres codifications ponctuelles seront élaborées en 2009.
4. La représentation de la Commission **dans le contentieux** juridictionnel constitue la **tâche propre du Service juridique** et tous ses juristes y contribuent de manière substantielle. Cette tâche exige un grand investissement et un haut professionnalisme, car elle met en jeu non seulement des questions juridiques et souvent des intérêts économiques très importants, mais plus fondamentalement la réputation même de la Commission en tant qu'institution chargée de l'intérêt général européen. Le Service juridique continuera à consentir en 2009 tous les efforts nécessaires pour assurer le plus haut niveau dans la défense en justice des intérêts de la Commission dans l'esprit déjà développé en 2008 **d'une responsabilité collective pour cette tâche fondamentale**.
5. Le Service juridique continuera de jouer un rôle central dans la mise en œuvre de la Communication **sur l'application du droit communautaire**, notamment en termes de rigueur juridique, cohérence et respect des délais.
6. Le Service juridique participera aux **réflexions et décisions sur les questions institutionnelles de l'année 2009**, dans le respect des lignes définies par le Président et le Collège, en collaboration avec le Secrétariat général.
7. Sans fausse modestie, je peux affirmer que le Service juridique a une longue tradition de résultats excellents et que la qualité de son travail est largement reconnue tant à

l'intérieur qu'à l'extérieur de l'institution. L'objectif demeure d'améliorer et de développer ensemble les instruments pour l'assurer.

A ce propos, en 2009 j'entends consolider les méthodes de travail et l'esprit promu en 2008. En outre, il conviendra d'améliorer les outils de travail qui contribuent à l'excellence du travail du Service: il s'agit en particulier d'outils qui, d'une part, puissent garantir encore davantage de **transparence** et de **cohérence** dans les positions prises au sein du Service juridique et, d'autre part, puissent fournir un **soutien et gain de temps**, à tout juriste et notamment aux nouveaux juristes, en particulier via la formation, y compris des AST, et un accès direct et immédiat à la documentation indispensable pour assurer la plus haute qualité des avis et mémoires.

8. La gestion du Service juridique continuera d'être conduite en assurant l'égalité entre hommes et femmes dans le Service, au niveau du recrutement et des promotions et dans les relations professionnelles. Des instruments concrets seront développés pour faciliter cette égalité ainsi que la conciliation de la vie privée et de la vie professionnelle, tels que le flexitime, le téléworking ou des aménagements ponctuels. Par ailleurs, l'esprit d'équipe et de travail en commun et la convivialité inspireront autant les relations professionnelles que la manière de traiter les dossiers et le contentieux.

## **B. Mission & general objectives**

### **B.1. Mission statement**

The basic mission of the Legal Service is to assist the Commission in its tasks, in particular to ensure that the provisions of the Treaties and other measures taken by the institutions are interpreted and applied in accordance with the law. For this purpose, it will give legal advice, defend the interests of the Commission and of the Communities before the courts, the national or international tribunals and other dispute settlement bodies, and strive to assure the highest quality, coherence and development of community legislation.

### **B.2. General objectives**

The Legal Service aims at meeting Commission needs for legal representation and consultations on legal issues in a cost-efficient way by offering high-quality, coherent and timely services in its field of knowledge.

The activities of the Legal Service take place before or after the activities of the Commission either through consultations or infringement procedures or court cases. The Legal Service is a service at the service of the other DG's. It operates 'on request' and it is not in a position to master its workload as its workload is not determined by the service but by the DG's, the Commission or outside bodies (Council, Parliament, citizens and commercial enterprises).

The Legal Service being a horizontal and support Service, it has neither operational activities nor global objectives linked to them.

However in performing its mission, the following main objectives have been identified:

- To provide, within the set deadlines, legal opinions on all formal and informal consultations received.
- To provide support to the DG's in the early preparation of legal texts.
- To ensure compliance with the rules covering clarity and quality of legal drafting.
- To prepare legal submissions and pleadings for the Commission, respecting the delays, the procedures and ensuring legal coherence.

## **C. Main ABB Activities**

The Legal Service being a horizontal and support Service, it has neither operational activities nor global objectives linked to them.

However in performing its mission, the following objectives have been identified:

### **C.1. Activity 25.01.07: "Quality of Legislation"**

This activity includes:

- Legal revision
- Codification
- other aspects of legislative simplification

**C.1.1. Legal Revision (SJ.DDG.K.1)**

Legal revision of draft legislative texts now takes place in 23 languages, while advice on drafting of legislation is given in the working languages of the Institution. New staff members were recruited in 2005 in preparation for the accession of Bulgaria and Romania and finalisation of the *acquis* in Bulgarian and Romanian was completed by the end of 2007.

Irish became an official and working language in 2007 following Council Regulation (EC) No 920/2005 of 13 June 2005. There are considerable recruitment difficulties in this connexion, but the Service is operational in Irish.

Maltese became a full official language in May 2007, although publication of the legislative backlog did not have to be completed until the end of 2008; there have nevertheless been difficulties with translations into Maltese and this has caused some problems for the codification programme.

The Legal Service will continue to ensure that the highest standards of quality are met in the drafting of legal texts. In this regard, it is encouraged in particular by the attitude of the European Parliament, which in its Resolution of 12 December 2007 on the Commission legislative and work programme for 2008 stated its unequivocal support for the Commission in its continuing efforts to improve the quality of EU legislation.

That Resolution further emphasises the need to ensure the correct application of the rules on legislative drafting and the coherent use of legal terminology in all the official languages, making for greater clarity and ease of understanding.

<b>25 01 07 ACTIVITY: "QUALITY OF LEGISLATION"</b>	
<b>OBJECTIVE: Legal revision</b>	
- Provide the Commission with timely and high-quality advice by intervening at an early stage in the drafting of legal texts in the DGs and Services.	
- Improve the quality of legislation through the revision of draft texts.	
<i>Result Indicators</i>	<i>Situation at year end</i>
Revision of draft legislative texts intended for publication in the OJ	90%
Number of texts revised in all languages per month	16-18

<i>Impact Indicators</i>	<i>Situation at year end</i>
The proportion of DIR K. responses to ISC's devoted to matters of legislative drafting: full compliance	Yes
Maximise the number of occasions on which DGs followed the drafting advice of the Legal Service	Done
Minimise the number of cases brought before the Court relating to the inaccessibility of the <i>acquis</i> in new languages	Done
Minimise the number of cases brought by Member States or individuals arising from a divergence in language versions of legislative acts	Done
Minimise the number of cases arising from a lack of clarity of community legislation.	Done

### C.1.2. Codification of Community law (SJ.DDG.K.001)

The codification initiative was identified by the Commission as a key part of the better regulation process. In order to address the non-availability of translations following the last accessions, measures were taken in 2006 to eliminate the effects of the delays incurred with a view to finalising the project by the end of 2008. In 2007, these measures started to produce results and they were pursued in 2008.

The completion of the programme in 2008 was to some extent determined by the availability of the texts in Bulgarian and Rumanian and to the scale of amendments proposed to the acts to be codified.

While the current contract on codification expired at the end of 2008 it is recognised that the codification efforts need to be pursued. To that end, a call for tenders was launched at the end of 2007 in order to allocate a new contract concerning codification. That contract will apply from January 2009. The new contract also provides for work by the contractor on first-stage analysis of national implementing measures. Management of both areas of activity will be part of the Directorate's work for 2009 and subsequent years.

The intended impact of codification is to simplify Community law, making it easier to understand and apply. The impact of codification can be measured by the reduction in the number of acts or pages contained in the "*acquis communautaire*".

<b>25 01 07 ACTIVITY: "QUALITY OF LEGISLATION"</b>	
<b>OBJECTIVE: Codification of the acquis.</b>	
<i>Result Indicators</i>	<i>Situation at year end</i>
All acts falling within the codification programme are to be found in Agenda Planning and adopted within the scheduled delays.	100%
The programme of codification is subject to review within the LS on a weekly basis and is reviewed formally at the end of each 4-month period with Directorates General informed of the results	done
Efficient and effective use of the external contractor	Yes, up to 2 Mio €
<i>Impact Indicators</i>	<i>Situation at year end</i>
The reduction in the number of acts contained in the "Acquis Communautaire"	~350 acts

### C.1.3. Other aspects of legislative simplification (SJ.DDG.K)

Objective 4 of Commission Communication COM (2003) 71 final of 11 February 2003 on the simplification of the Community *acquis*, subsequently refined in successive communications on the subject, recognized the fact that the *acquis* contains many acts which, for various reasons, have become obsolete, but which nevertheless formally remain in force or are applicable because they have not been expressly repealed. These acts obscure the overall picture of the active *acquis* and should be removed.

With a view to the 2004 accessions a list or inventory of generally-applicable acts to be translated into the new official languages was drawn up. This list is kept permanently updated with a view to future accessions. The Commission's operational departments are encouraged to consult that list so as to enable them not only to check the accuracy of the information given but also to ascertain which documents appear to be no longer relevant in the present Community context. Based upon that information, new simplification initiatives have been

launched and others could similarly be undertaken. The Legal Service believes that as many as 10 000 acts at present appearing in the *Directory of Community legislation in force* should not be considered to be part of the active and generally applicable *acquis*. They should be repealed, in so far as a legal basis for legislative action exists; if not they may be declared obsolete or, in appropriate cases, simply removed from the *Directory*.

The impact of these initiatives can be measured by the reduction in the number of acts contained in the *Directory*.

<b>25 01 07 ACTIVITY: "QUALITY OF LEGISLATION"</b>	
<b>OBJECTIVE: Other aspects of legislative simplification.</b> To encourage Commission departments to remove obsolete legislation that is obscuring the overall picture of the active <i>acquis</i> , by repeal or declaration of obsolescence.	
<i>Result Indicators</i>	<i>Situation at year end</i>
Maximise the willingness of Commission departments to participate in this action, following written invitation by dir K, at least 1 by operational DG	Done
The consequent reduction in the number of acts contained in the Directory of Community legislation in force.	~500 acts

**C.2. Activity 25.01.08: "Legal advice, litigation and infringements"**

The activity will contribute to the Commission's policy priorities through its three core tasks: Legal Advice, litigation and infringements.

The Legal Service contribution follows directly from the Commission's role under the Treaties, such as

- (1) proposing legislation to the Council and the European Parliament,
- (2) guardian of the Treaties,
- (3) negotiating agreements under international law,
- (4) adopting implementing legislation, and
- (5) defending the interests of the Community before the Court of Justice, the Court of First Instance, national courts, international courts and arbitration tribunals (including WTO).

**C.2.1. Legal Advice (SJ Teams A-B-C-D-E-F-G-H-I-J-L-M)**

The Legal Service will have an impact on the Commissions' policy priorities for 2009 in particular in the fields of;

- Competitiveness and Cohesion as several of the key initiatives include new or modifications of existing legislation.
- Security and European Citizenship as several of the key initiatives include new or modifications of existing legislation.

During the last 15 years, consultations have increased by approximately 6% per year. The impact of enlargement is expected to be felt to an increasing degree in the coming years. This trend is nevertheless offset by the policy promoted by Commission in 2006, aiming at a simplification of procedures and "débureaucratisation".

Currently, approximately 50% of total staff time (for lawyers) is spent on consultations.

Therefore, the impact of the Legal Service is of critical importance in ensuring the legality of the Legislation proposed by the Commission and its DG's, in view of the consequences that this legislation has on the lives of the citizens of the Union.

This impact can only really be estimated by a judicious analysis of the cases before the courts and the judgements given. By improving the Legislation, fewer cases are likely to be brought, whereas by pursuing member states to ensure the application of Community Law, more cases will be brought. By testing the limits of the application of Community Law, fewer cases will be successful, but the impact of those case won may allow for the development of Community Law into new areas of interest and competence.

<b>25 01 08 ACTIVITY: "Legal advice, litigation and infringements"</b>	
<b>OBJECTIVE:</b> To provide high quality and timely legal advice to DGs, Services, the College and the Commission.	
<i>Result Indicators</i>	<i>Situation at year end</i>
Targets will be set as a percentage rate of total consultations replied to within target date. <ul style="list-style-type: none"> <li>▪ CISNET</li> <li>▪ Infringements</li> <li>▪ Onbudsman</li> <li>▪ Pétitions</li> <li>▪ RECO (recouvrements créances)</li> </ul>	90 % within due date 90 % within 10 w.d. 90 % within 10 w.d. 80 % within 5 w.d. 90 % within 15 days
<i>Impact Indicators</i>	<i>Situation at year end</i>
This impact can only really be estimated by a judicious analysis of the cases before the courts and the judgements given. Single reports are issued for specific cases and contribution is made to the annual General Report with the analysis of the most important cases concluded during the year .	Yes

**C.2.2. Litigation (SJ Teams A-B-C-D-E-F-G-H-I-J-L-M)**

The Legal Service will have an impact on the Commissions' policy priorities for 2009 in particular in the fields of competitiveness and Cohesion as several of the key initiatives on controlling state aid in the enlarged Union will result in increased litigation over the coming years.

The implementation of the Lisbon programme, the "Den Haag" programme and a foreseen increase in national cases arising from improved follow-up of recovery orders and the expected increased in WTO cases are all expected to result in an additional work load compared to previous years.

Furthermore, the Legal Service has experienced an increased number of court cases presented firstly to the Court of Justice, which were then redirected to the CFI. As such a situation results in increased work load given that two court presentations need to be prepared and performed, and the tendency of an increased number of such events, additional resources will be needed to meet this situation. These additional resources will be made available by internal redeployment.

In order to address the additional work arising from the creation of the Public Service Tribunal, an internal re-organisation of the Legal Service will be finalised in 2009 with the

creation of a further directorate (Dir. M) dealing with Personnel and Administration matters. The staff for this team were found through internal redeployment.

The Legal Service continues to play a vital role in the area of preliminary rulings where as a rule, it participates in all hearings before the court. The impact of these hearings can be of major importance, as the decisions of the Court may determine the extent of the applicability of Community Legislation.

Again, the impact of the Legal Service in this area can only really be estimated by a judicious analysis of the cases before the courts and the judgements given.

<b>25 01 08 ACTIVITY: "Legal advice, litigation and infringements"</b>	
<b>OBJECTIVE:</b> Defend the interests of the Community and Community legislation by providing high quality and timely legal representation before the courts in litigation proceedings.	
<i>Result Indicators</i>	<i>Situation at year end</i>
providing timely legal representation before the courts	100% presentation within due date
Reporting of number of new, pending and closed cases on a regular basis.	done
<i>Impact Indicators</i>	<i>Situation at year end</i>
This impact can only really be estimated by a judicious analysis of the cases before the courts and the judgements given. Single reports are issued for specific cases and contribution is made to the annual General Report with the analysis of the most important cases concluded during the year .	yes

**C.2.3. Infringements** (SJ Teams A-B-C-D-E-F-G-H-I-J-L-M and SJ.DDG.001 unit)

The Commission, in its role as guardian of the treaties, ensures that Member States apply Community law in a correct and timely manner.

Ensuring the full application of Community Law is the aim of the Legal Service in this area, allowing the citizens to fully benefit from Community membership. Pursuing Member States to ensure that they have correctly transposed Community Legislation within the set deadlines, applied Community law correctly and implemented Court judgments correctly and in a timely manner, allows the Legal Service through its legal advice given to DG to contribute to ensuring that the full benefits of these rules are granted.

The impact of the Legal Service in this area can be judged by the number of infringement procedures currently underway in the Commission, those which are resolved without recourse to the Courts and those which are won (or lost) in Court, as the Legal service is consulted on every single step proposed to be taken by the Commission. The Communication on "A Europe of results – applying community law"<sup>1</sup> adopted on 5 September 2007, to which the Legal Service contributed in depth, attaches high priority to the application and implementation of Community law.

Some areas of activities concerning infringements should be highlighted in particular for the year 2009.

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<sup>1</sup> COM (2007) 502

- Control of the legality by the Legal Service of the various steps of procedures of all individual cases submitted by the DGs will continue to be an important part of the work.
- The Legal Service will continue to be in charge, with the Secretariat General, of the organisation of the two bi-annual infringement meetings referred to in the Communication adopted in September 2007 with the aim to ensure coherence in the treatment of all cases and help assess the implementation of the different elements of the communication. It will also draft the conclusions of these biannual meetings to be submitted to the Commission twice a year.
- The Legal Service will put into practice the decisions taken by management to shorten the time it takes to submit an application to the ECJ after the Commission has adopted a decision to refer a case to the Court. The newly introduced system, at the end of 2008, of more organised linguistic groups and the shortened internal deadlines for submissions to be sent to Court will be evaluated and conclusions will be drawn.
- It will also develop ways of making more easily accessible and transparent the decisions taken by management on certain concrete legal issues in relation to infringements in order to ensure internal coherence in the advice the Legal service gives.

<b>OBJECTIVE:</b> Pursuing Member States to ensure that they have correctly transposed Community Legislation within the set deadlines and apply Community law correctly	
<i>Result Indicators</i>	<i>Situation at year end</i>
Annual reporting on the number of cases which have been dealt with via the linguistic groups and on the newly introduced mechanism on submission to the Court within 2 months.	Yes
Submission to the Court within 2 months after the adoption of the Commission's decision to seize the Court.	90%
More visible and user-friendly access to information on infringements on the Intranet of the Legal Service.	Yes
Organisation of at least two meetings of the infringement coordinators within the Legal Service.	Yes

<i>Impact Indicators</i>	<i>Situation at year end</i>
To contribute to ensuring that the full benefits of Community rules are granted to the citizens.	Done
To ensure that decisions of the Commission related to infringement matters are based on solid legal grounds.	Done