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ANNEXES 1 to 6

ANNEXES

to the REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN COURT OF AUDITORS

2015 Annual Managment and Performance Report for the EU Budget

Annex 1: Scope and amount at risk of the reservations

Summary of 2015 reservations (EUR million) reported in the Annual Activity Reports[1]

Policy Area	Description of reservation	Dept.[2]	Impact on Legality and Regularity	Scope - Payments concerned	Amount at risk at reporting - exposure	
Agriculture	EAGF market measures for 4 aid schemes in 7 Member States	AGRI	Quantified	591	71	
	EAGF direct support for 10 paying agencies in 6 Member States	AGRI	Quantified	10 437	265	
	EAFRD expenditure for rural development measures for 24 paying agencies in 18 Member States and reservation on public procurement in 2 Member States	AGRI	Quantified	8 894	425	
Cohesion	2007-2013 ERDF/ Cohesion Fund for 68 operational programmes in 13 Member States, 5 European Territorial Cooperation programmes and 1 IPA-CBC programme	REGIO	Quantified	2 310	231	
	2000-2006 ERDF/ Cohesion Fund for 2 operational programmes and 2 sectors in 3 Member States	REGIO	Non-quantified	-	-	
	2007-2013 ESF for 23 operational programmes in 11Member States and for IPA in FYROM	EMPL	Quantified	1 314	50	
	2014-2020 FEAD one operational programme in France	EMPL	Quantified	34	0	New
	2000-2006 ESF for 3 operational programmes in Italy	EMPL	Non-quantified	-	-	
	European Fisheries Fund (EFF)	MARE	Quantified	571	7	
	2007-2013 European Refugee Fund and European Fund for the integration of third-country nationals in Germany (up to year 2011)	HOME	Non-quantified	-	-	New
External Relations	Direct management grants and indirect management with International Organisations and Member States Agencies	DEVCO	Quantified	2 280	70	
	African Peace Facility	DEVCO	Quantified	307	18	New
	Common Foreign and Security Policy (CFSP) and the Instrument for Cooperation with Industrialised Countries (ICI)	FPI	Quantified	308	10	

1 'Scope' or 'payments concerned' and 'amount at risk at reporting' or 'exposure of the reservations' are reported in the reservation templates of the Annual Activity Reports.

2 In the context of this report, the term 'Commission departments' groups all Directorates-General, Services and Executive Agencies but excludes the College.

Policy Area	Description of reservation	Dept.[3]	Impact on Legality and Regularity	Scope - Payments concerned	Amount at risk at reporting - exposure	
Research Family	Research FP7	RTD	Quantified	1 472	90	
	Research FP7 - incl. funds paid to Active and Assisted Living Joint Programme (AAL), ECSEL Joint Undertaking	CNECT	Quantified	703	34	
	Research FP7 - incl. FP7 funds paid to GSA Agency	GROW	Quantified	3	0	
	Research FP7	HOME	Quantified	44	5	New
	Research FP7	ENER	Quantified	97	5	
	Research FP7	MOVE	Quantified	5	1	
	Research FP7 - Space and Security	REA	Quantified	126	9	
	Research FP7 - SMEs	REA	Quantified	77	12	
	CIP ICT Policy Support Programme (PSP)	CNECT	Quantified	54	5	
	CIP Intelligent Energy Europe (IEE II)	EASME	Quantified	51	2	New
	CIP Competitiveness and Innovation	GROW	Quantified	16	1	New
	Coal and Steel Research Fund (CSRF)	RTD	Quantified	45	1	New
Other internal policies	2007-2013 Lifelong Learning Programme (LLP)	EACEA	Quantified	47	5	
	2007-2013 Culture Programme	EACEA	Quantified	18	3	New
	2007-2013 Youth Programme	EACEA	Quantified	2	0	New
	Non-research grant programmes	HOME	Quantified	32	3	New
	Non-research grant programmes	JUST	Quantified	12	2	New
	EU Registry Emissions Trading System (EU ETS) - significant security weakness remaining	CLIMA	Non-quantified	-	-	
	Nuclear Decommissioning Assistance Programme (NDAP)	ENER	Non-quantified	-	-	New
Administration	Accountability in European Schools	HR	Non-quantified	-	-	
				29 849	**1 324**	

[3] In the context of this report, the term 'Commission departments' groups all Directorates-General, Services and Executive Agencies but excludes the College.

2015 Overall amount at risk and corrective capacity (EUR million) reported in the Annual Activity Reports

Policy Area	Department	Total payments	Estimated amount at risk at payment		Estimated Future Corrections
			Lowest value	Highest value	
Agriculture	AGRI	56 946	1 152		1 066
Cohesion	EMPL	10 679	235	284	160
	HOME	1 203	25	32	23
	MARE	913	20	27	29
	REGIO	41 026	1 022	1 938	662
External Relations	DEVCO	5 944	174		50
	ECHO	1 296	23		7
	FPI	563	23		2
	NEAR	2 408	26		4
	TRADE	19	0		0
Research	CNECT	1 716	35	37	22
	EASME	618	13		1
	ENER	1 140	13		9
	ERCEA	1 246	19		2
	GROW	1 710	8	21	22
	INEA	2 021	4		4
	MOVE	396	6		4
	REA	1 418	13		15
	RTD	3 812	68	80	46
Other internal policies	CHAFEA	66	1		2
	CLIMA	32	0		0
	COMM	125	1		1
	EAC	1 950	15		0
	EACEA	570	11		2
	ECFIN	354	0	3	0
	ENV	298	2		1
	JUST	138	2	3	3
	SANTE	395	3	4	2
	TAXUD	101	0		0
Administration	BUDG	12	0		0
	COMP	6	0		0
	DGT	17	0		0
	DIGIT	171	0		0
	EPSC	0	0		0
	EPSO/EUSA	27	0		0
	ESTAT	49	0		0
	FISMA	51	0	1	0
	HR	259	0		0
	IAS	0	0		0
	JRC	527	0		0
	OIB	424	0	2	0
	OIL	96	0		0
	OLAF	73	0		0
	OP	111	0		0
	PMO	3 788	18		1
	SCIC	49	0		0
	SG	11	0		0
	SJ	4	0		0
Total		**144 781**	**2 932**	**3 948**	**2 141**

Annex 2: Definition of the amount at risk

The Commission measures the **level of error** for assessing whether financial operations have been implemented in compliance with the applicable regulatory and contractual provisions. The level of error is defined as the **best estimation** by the authorising officer, taking into account **all relevant information** available and using **professional judgement**, of the expenditure or revenue found to be in breach of applicable regulatory and contractual provisions at the time the financial operations were authorised.

The Commission uses three indicators to measure the level of error:

- **Amount at risk** is the level of error expressed as an absolute amount, in value.
- **Error rate** is the level of error expressed as a percentage.
- **Residual error rate** is the level of error after corrective measures have been implemented, expressed as a percentage.

The level of error is measured at various moments in time:

- At the **time of the payment;** when no corrective measures have been yet implemented.
- At the **time of reporting;** when some corrective measures have been implemented but others will be implemented in successive years.
- At the **time of closure**, when all corrective measures have been implemented. For multiannual programmes this refers to the end of programme implementation; for annual programmes this is calculated at the end of a multiannual period covering the implementation of corrective measures, depending on the programme.

The term **corrective measures** refers to the various controls implemented after the payment is authorised, aimed to identify and correct errors through financial corrections and recoveries.

The **estimated future corrections** is the amount of expenditure in breach of applicable regulatory and contractual provisions that the DG conservatively estimates it will identify and correct through controls implemented after the payment is authorised, i.e. not only including corrections implemented at the time of reporting but also those that will be implemented in successive years. The estimates are based on the average amount of financial corrections and recoveries in past years, and adjusted when necessary in particular to neutralise (i) elements which are no longer valid under the new legal framework and (ii) one-off events.

Annex 3: Assurance provided by the Internal Audit Service

The Commission also based its assurance on the work done by the Internal Audit Service (IAS), its principal findings and recommendations, and information from the Audit Progress Committee (APC). The APC supports the Commission in ensuring the independence of the internal auditor and that audit recommendations are properly taken into account and receive appropriate follow-up.

The IAS has provided in its 2015 Internal Audit Report according to Article 99 (3) of the Financial Regulation conclusions on performance audits completed in 2015, made reference to the overall opinion on financial management for the year 2015 and reported on progress in implementing its audit recommendations.

The IAS concluded that 91 % of the recommendations followed up during 2011-2015 had been effectively implemented by the auditees.[4] Of the 455 recommendations (26 %) still in progress, one is classified as critical and 162 as very important (to this figure, one further outstanding very important recommendation should be added from an audit report issued in 2010). Out of these 164 recommendations rated critical and very important, 32 very important (none critical) were overdue by more than six months at the end of 2015, representing 1.9 % of the total number of accepted recommendations of the past five years. The IAS's follow-up work confirmed that, overall, recommendations are being implemented satisfactorily and the control systems in the audited services are improving.

In response to the Commission's move towards a performance-based culture and greater focus on value for money, the IAS continued to carry out performance audits in 2015. The IAS conclusions on these audits related to:

- the performance of horizontal processes in Commission DGs, Services and Executive Agencies (human resources, IT, strategic planning, anti-fraud strategies and common business processes shared between DGs). Although positive developments have been noted (e.g. robust framework in the area of strategic planning and programming at corporate level), further steps are deemed necessary at both corporate and DG levels in order to improve the quality of the indicators and objectives, as well as their measurement and monitoring. In addition, while the IAS acknowledged the positive steps already taken by OLAF and the sampled DGs to set up and implement the anti-fraud actions, it noted that the anti-fraud strategy should be effectively integrated in the internal control systems of the DGs and Services;
- the performance in implementing budget operational appropriations (through direct, indirect and shared management modes), where governance processes and Commission's monitoring frameworks in place (as regards the management and control systems of Member States and implementing partners, such as International Organisations and beneficiary countries) should be strengthened;
- the performance in non-spending policy areas, where the IAS drew positive conclusions on trade instruments and 'European statistics'.

In addition, following the centralisation of the internal audit function in 2015,[5] the IAS issued for the first time a conclusion on the state of internal control to every DG and Service in February 2016. These conclusions were intended to contribute to the 2015 Annual Activity Reports of the DGs and Services concerned and replaced the former IAC opinion on the state of control. The conclusions draw particular attention to all open recommendations rated 'critical' or the combined effect of a number of recommendations rated 'very important' and in four cases the IAS stated that they may require the issuance of a reservation in the Annual Activity Report of the DG/Service concerned.[6]

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[4] This represents a decrease as compared to 2014 but is explained by the fact that the IAS performed several follow-up audits in 2015 which also included a review of ongoing recommendations (i.e. not yet assessed as implemented by management). When neutralising this effect and considering only recommendations assessed as implemented by management, the overall percentage of recommendations assessed as 'in progress' after a follow up audit is of 4 % , which is in line with previous years.

[5] Following a Commission decision, the internal audit function was centralised in 2015 in the IAS. The former Internal Audit Capabilities of the Commission's DGs and services ceased to exist on 15 February 2015.

[6] Particular attention, possibly requiring a reservation in the Annual Activity Report of the DG concerned, was drawn in the limited conclusions of four DGs DG DEVCO, DG ENER, DG CLIMA and JRC.

As required by its Mission Charter, the Commission's internal auditor also submitted an Overall Opinion, based both on its own work (2013-2015) and that of the former Internal Audit Capabilities (2013-2014), and focusing on financial management. It considered that, in 2015, the Commission had put in place governance, risk management and internal control procedures which, taken as a whole, are adequate to give reasonable assurance on the achievement of its financial objectives. However, the overall opinion is qualified with regard to the reservations made in the Authorising Officers' by Delegation Declarations of Assurance and issued in their respective Annual Activity Reports.

In arriving at this opinion, the IAS considered the combined impact of amounts estimated to be at risk as disclosed in the Annual Activity Reports in the light of the corrective capacity as evidenced by financial corrections and recoveries of the past. Given the magnitude of financial corrections and recoveries of the past and assuming that corrections on 2015 payments will be made at a comparable level, the IAS considered that the EU Budget is adequately protected as a whole (not necessarily individual policy areas) and over time (sometimes several years later).

Without further qualifying the opinion, the internal auditor added three 'emphases of matter' highlighting issues that require particular attention as follows:

1) Control strategies in the Research area for the 2014-2020 programmes

In implementing a new generation of EU programmes for the period 2014-2020, the Commission has introduced new legal frameworks with simplified rules governing EU funding. The mandates of existing Executive Agencies were expanded with the delegation of a significant number of activities/instruments under the Horizon 2020 framework programme from their parent DGs. This has resulted in a significant increase of the budgets managed by them and exposing them to new risks and challenges. In addition, the Research family of DGs has moved towards harmonising the grant management business processes and streamlining the supporting IT systems through the creation of the Common Support Centre (CSC).

Given the nature and scale of the changes introduced, the IAS conducted a series of audits in the CSC and in a number of implementing bodies (DG RTD, DG CONNECT, ERCEA, EASME and INEA) to assess the preparedness of the management and control systems for the implementation of the new H2020 programme. The IAS concluded that the current decision-making set-up at the corporate level (i.e. the CSC) needs to be improved in order to implement the strategic and operational decisions affecting all the H2020 implementing bodies in a timely manner. At the operational level, the existing controls need to be incorporated into a comprehensive and formalised control strategy covering all the stages of the grant management process. Defining how, individually and collectively, the controls contribute to building assurance on the legality and regularity of the underlying transactions and the sound management of resources, would help to avoid gaps or overlaps and ultimately improve the efficiency and effectiveness of the process.

2) Supervision strategies regarding third parties implementing policies and programmes

The Commission is increasingly relying on third parties, i.e. third countries or international organisations, to implement its programmes. In some cases, core parts of the policies are implemented and financed by third parties (Member States, private investors) on which the EC has no direct control. In its audits, the IAS concluded that, in fulfilling their supervisory responsibilities, DGs should properly reflect their priorities and needs in terms of the assurance to be provided in their supervision strategy and the corresponding activities should be effectively and efficiently deployed.

In particular, DG NEAR calculated for 2015 a residual error rate (RER) for the IPA programme (implemented via indirect management with beneficiary countries – IMBC), which the IAS considers as non-representative and non-reliable because it was only based on data reported by the Audit Authorities of the three beneficiary countries concerned and the DG had not adequately supervised this.

In its audits, the IAS concluded that, in fulfilling their supervisory responsibilities, DGs should properly reflect their priorities and needs in terms of the assurance to be provided in their supervision strategy and the corresponding activities should be effectively and efficiently deployed.

3) Nuclear Decommissioning and Waste Management Programme in JRC

The Joint Research Centre (JRC) is in charge of managing the *Nuclear Decommissioning and Waste Management Programme* (NDWMP) which aims at dismantling Euratom nuclear installations (those that are already obsolete as well as, in the long term, those are currently still in use) and ensuring the proper treatment of nuclear waste.

An audit conducted by the former IAC of JRC in 2015 concluded that the current operational set-up provides reasonable assurance for the achievement of the short term objectives of the programme (dismantling the obsolete installations) while for the longer term (related to the installations currently in use, which will have to be dismantled in the future), some very important areas for improvement exist which could prevent the Commission from successfully implementing the programme.

The areas of concern which expose the JRC to a high risk mainly relate to improving the current estimates and securing the budget allocated to the programme, defining a mid-term staffing strategy to mitigate the structural problems of recruiting and training specialised staff, and building an effective relationship with the Italian authorities in order to minimize the impact of regulatory changes. If not properly and timely addressed, these weaknesses may result in further delaying the implementation of the programme (which is currently estimated at four years), with operational consequences (effective and safe nuclear decommissioning and waste treatment) and reputational implications for the JRC and the Commission.

Annex 4: Compliance with payment time limits (Article 111.5 RAP)

Since 2013, the **statutory time limits** for payments have been laid down in the main body of the Financial Regulation.[7] There are also some exceptionally applied time limits which are detailed in sector-specific regulations. The entry into force of the new Financial Regulation and its rules of application brought with it changes to payment limits. The Commission's standard contracts have been redrafted to take on board the new regulatory requirements.

Article 92 of the Financial Regulation foresees that payments to creditors must be made within deadlines of 30, 60 or 90 days, depending on how demanding and complex it is to test the deliverables against the contractual obligations. For contracts and grant agreements for which payment depends on the approval of a report or a certificate, the time limit for the purposes of the payment periods is no longer automatically suspended until the report or certificate in question has been approved.

The period of two months remains valid for payments under Article 87 of the Regulation of the European Parliament and the Council[8] laying down the general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund.

Compliance with payment time limits has been reported by the Services in their Annual Activity Reports since 2007.[9] In accordance with the applicable rules, the payment times reported in this Annex have been calculated as follows:

For payments related to contracts and grant agreements signed before 2013 the time limits specified in the Financial Regulation of 2007 are applied.

- where the payment is contingent upon the approval of a report, the time from approval of the report until payment;
- where no report is required, the time from reception of the payment request until payment;
- for payments related to contracts and grant agreements signed as from 2013, the Financial Regulation of 2012 is applied;
- where no report is required and where the payment is contingent upon the approval of a report, the time from reception of the payment request until payment.

The Commission's global average payment time is monitored by the Accounting Officer. It has evolved as follows in recent years:

	2013	2014	2015
Global average payment time	24.5 days	28.2 days	24.9 days

The data shows that the global average payment time of the Commission services is below 30 days and it has steadily decreased in 2015. There is clearly scope for reducing payment times further. Thus services are encouraged to continue their efforts in this regard and to implement follow up measures whenever payment time problems are identified.

7 Commission Delegated Regulation (EU) N° 1268/2012 of 29 October 2012 (OJ L 362, 312.12.2012, p.1).

8 Regulation (EC) No 1083/2006 of the European Parliament and of the Council laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

9 Based on available data in ABAC as of end of the financial year 2007.

The table below illustrates the evolution of the "***late payments***" i.e. *payments made after expiry of the statutory time limit in recent* years. The data used has been extracted from the ABAC accounting system:

	2013	2014	2015
Late payments in number	17.0 %	19.8 %	17.9 %
Late payments in value	18.5 %	23.3 %	17.5 %
Average number of overdue days[10]	37.5	52.1	39.5

The number of late payments and the amounts associated with them have decreased significantly in 2015. This result is believed to be linked to the more stringent requirements associated with the FR 2012. Another reason is associated with the lack of payment appropriations which has adversely affected several DGs' ability to pay on time.

The new multiannual financial framework (MFF) 2014-2020 entails for the first time a reduction in the budgetary means available compared to the previous MFF. Pressure on the payment ceilings has been much higher since 2014 than in previous years, mainly because of the weight of the unpaid commitments from the 2007-2013 programmes. Moreover, the reduction in the payments ceilings is particularly sharp during the first two years of the new framework.

Concerning the ***interest paid for late payments***[11] (see figures in the table below) **the total amount paid by the Commission in 2015 decreases sharply when compared to 2014.** The abnormally high amount of interest paid in 2014 is mainly due to the lack of payment appropriations.

	2013	2014	2015
Interest paid for late payments	659 342.16 €	3 027 123.88 €	2 064 949.02 €

In such a budgetary framework, payments delays and interest paid increased as a consequence of payment shortages. For that reason DG BUDG has summarised some possible measures which could be applied by the Authorising Officer to actively manage payment appropriations.

The other **causes of late payments** include the complexities of evaluating the supporting documents that are a prerequisite for payment. This is particularly onerous when the supporting documents are reports of a technical nature that sometimes have to be assessed by external experts. Other causes are associated with difficulties in coordinating the financial and operational checks of payment requests, and issues with the management of payment suspensions.

The 2009 Communication establishing Commission-internal payment targets provided a clear incentive to services to reduce their payment times. Significant improvements were noted in particular considering that from 2009 to 2011 the global average payment time fell from 34 to 26 days. However improvements in recent time have been less marked with current payment times fixed at around 30 days. There is scope for reducing payment times further especially since both volume and value of late payments rose substantially in 2014. When setting up action plans in this area, services' should focus on further reducing late payments from their current levels of 17.9 % of payments in terms of their number, 17.5 % of their value. **The aim should be to meet the statutory payment time for every payment.**

10 i.e. above the statutory time limit.

11 I.e. no longer conditional upon the presentation of a request for payment (with the exception of amounts below 200 euros).

The table that follows gives a detailed overview of the suspensions of payment.

	2013	2014	2015
Total number of suspensions	25 208	27 004	27 254

Suspensions are a tool that allows the responsible authorising officer to withhold temporarily the execution of a payment because the amount is not due, because of the absence of appropriate supporting documentation or because there are doubts on the eligibility of the expenditure concerned. It is a basic tool for the authorising officer in the payment process towards avoiding irregular or erroneous payments and fundamental towards ensuring sound financial management and protecting the Union's financial interest.

Annex 5: Summary of Waivers of recoveries of established amounts receivable in 2015 (Article 91.5 RAP)

In accordance with Article 91(5) of the Rules of Application, the Commission is required to report each year to the budgetary authority, in an annex to the summary of the Annual Activity Reports, on the waivers of recovery involving 100.000 € or more.

The following table shows the total amount and the number of waivers above 100.000 € per Directorate-General/Service for the EU budget and the European Development Fund for the financial year 2015.

EC budget:

Department	Amount of waivers in €	Number of waivers
CNECT	985 485.19	3
COMP	7 100 014.80	2
DEVCO	730 266.00	1
EASME	196 187.10	1
ECHO	1 136 748.80	3
EMPL	115 177.40	1
ENV	162 695.57	1
RTD	2 031 037.95	7
Total:	**12 457 612.81**	**19**

European Development Fund:

Department	Amount of waivers in €	Number of waivers
EDF	1 372 816.90	4

Guarantee Fund:

Department	Amount of waivers in €	Number of waivers
GF (FP7)	1 519 553.06	10

Annex 6: Report on negotiated procedures 2015

1. Legal basis

Article 53 of the Rules of application of the Financial Regulation requires authorising officers by delegation to record contracts concluded under negotiated procedures. Furthermore, the Commission is required to annex a report on negotiated procedures to the summary of the Annual Activity Reports referred to in Article 66.9 of the Financial Regulation.

2. Methodology

A distinction has been made between the 45 Directorates-General, services, offices and executive agencies which normally do not provide external aid, and those three Directorates-general (DEVCO, NEAR and FPI) which conclude procurement contracts in the area of external relations (different legal basis: Chapter 3 of Title IV of Part Two of the Financial Regulation) or award contracts on their own account, but outside of the territory of the European Union.

These three Directorates-general have special characteristics as regards data collection (decentralised services, …), the total number of contracts concluded, thresholds to be applied for the recording of negotiated procedures (€ 20 000), as well as the possibility to have recourse to negotiated procedures in the framework of the rapid reaction mechanism (extreme urgency). For these reasons, a separate approach has been used for procurement contracts of these three Directorates-general.

3. Overall results of negotiated procedures recorded

The 45 Directorates-general, services or offices, excluding the three "external relations" Directorates-general

On the basis of the data received, the following statistics were registered: 117 negotiated procedures with a total value of EUR 183 million were processed out of a total of 665 procurement procedures (negotiated, restricted or open) for contracts over EUR 60 000 with a total value of EUR 2 619 million.

For the Commission, the average proportion of negotiated procedures in relation to all procedures amounts to **17.6 %** in number (16.3 % in 2014), which represents some **7 %** of all procedures in value (**9.5 %** in 2014).

An authorising service shall report to the institution if the proportion of negotiated procedures awarded in relation to the number of the contracts is "distinctly higher than the average recorded for the Institution" i.e. if it exceeds the average proportion by 50%, or if the increase from one year to the next is over 10% in the proportion.

Thus, the reference threshold for this year is fixed at **26.4 %** (24.4 % in 2014).

Some 11 Directorates-General or services out of the 45 exceeded the reference threshold and 10 increased in addition, their number of negotiated procedures by more than 10 % in the proportion of the negotiated procedures launched last year (7 Directorates-general or services exceeded both indicators). Among these 14 DGs or services, it should be noted that 7 Directorates-General concluded only one to four negotiated procedures, but the low number of procedures conducted by each of them (up to 8), makes their average high. Consequently their results are to be considered as non-significant.

To be noted that, 19 out of 45 Directorates-general have not used any negotiated procedure, including 6 services that awarded no contract at all.

The assessment of negotiated procedures compared with the previous year shows an increase in the order of **1.3** percentage points in terms of relative number and a decrease of **2.5** percentage points in terms of relative value.

The three "external relations" Directorates-general

On the basis of the data received, the following statistics were registered: 127 negotiated procedures for a total value of contracts of € 114 million were processed out of a total of 443 procedures for contracts over € 20 000 with a total value of about € 567 million.

For the three "external relations" Directorates-General, the average proportion of negotiated procedures in relation to all procedures amounts to **28.7 %** in number (26.5 % in 2014), which represents some **20.2 %** of all procedures in value (16.4 % in 2014).

Thus the reference threshold for this year is fixed at **43 %** (39.7 % in 2014) which represents an increase of 50 % the average proportion of 2014. Only one Directorate-General exceeds the reference threshold of **43.0 %**.

If compared with previous year, these Directorates-General have registered an increase of **2.2** percentage points in number of negotiated procedures in relation to all procedures and an increase of **3.8** percentage points in terms of relative value.

4. Analysis of the justifications and corrective measures

The number of negotiated procedures in 2015 compared to 2014 has slightly increased (from 108 to 117), while the overall number of procurement procedures has stagnated (from 663 to 665).

The following categories of justifications to call for a negotiated procedure have been presented by those Directorates-general who exceeded the thresholds:

Statistical deviations due to the low number of contracts awarded under all procedures. Indeed 9 out of these DGs have carried out less than 15 procurement procedures as a whole.

Objective situations of the economic activity sector, where the number of operators may be very limited or in a monopoly situation (for reasons of intellectual property, specific technical expertise, medical services, confidential information, etc.). Monopoly situations based on technical reasons are met inter alia, in the Nuclear and in the Space domain, for instance the need of license agreements with CNES or DSTL regarding patents related to GNSS or the specific access to the Defence Procurement and Defence Industry databases. Situations of technical captivity may also arise especially in the IT domain (owner of software, electronic databases licences or maintenance of complex servers hosting critical information systems).

Situations of emergency or crisis that cannot be foreseen in advance by the contracting authority, as is the case of Radicalisation Awareness Network which works on prevention of the radicalisation, fighting the terrorism and violent extremism, as well as when arises the need to ensure business continuity when confronted to extreme urgency of unforeseeable events.

Similar services/works as provided for in the initial tender specifications. Some services in charge of large inter-institutional procurement procedures realise during the implementation of the contract (most likely in Framework contract procedures) that the needs initially foreseen do not often match with the consumption trend during the execution of the contract. Therefore, the leading service must start a negotiated procedure on behalf of all Institutions to increase the ceiling of the framework contract in question.

Additional services not included in the initial contract which become necessary, due to unforeseen circumstances.

Unsuccessful open or restricted procedure, leading to a negotiated procedure.

Regular available measures are proposed or implemented by the Central Financial Service and Directorates-general concerned to redress the use of negotiated procedures when other alternatives could be available:

- An **improved programming** of procurement procedures.
- **Improvement of the system of evaluation of needs**. The Commission's horizontal services will continue their active communication and consultation policy with the other DGs, institutions, agencies and other bodies along the following axes:
    - permanent exchange of information via regular meetings with user services and agencies in appropriate fora;

- ad-hoc surveys prior to the initiation of (inter-institutional) procurement procedures for the evaluation of needs;
- better estimate of needs of inter-institutional framework contracts and better monitoring with semester consumption reports from user services or agencies;

- **Training and improved inter-service communication**. The Central Financial Service provides regular practical training sessions on procurement.

Regular update of standard model documents and guidance documents on procurement.