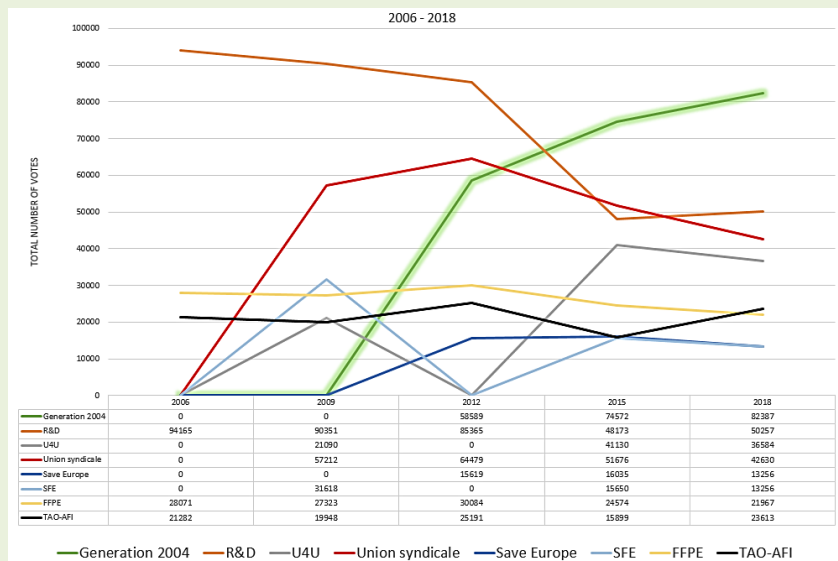




Brussels Local Staff Committee Elections



As majority of you probably noticed the Election of the new Local Staff Committee of Brussels (LSC BXL) took place at the end of October with a turn-out of 66% (14 391 votes casted out of 21 586 eligible voters). **Generation 2004** scored some 30.23% of list votes and 23.76% of the preferential votes, which translates into 7 seats out of 27 in the LSC Brussels and continuous climb on the representative charts (line in green – enlarged chart on next page).

2 **Brussels LSC Elections**

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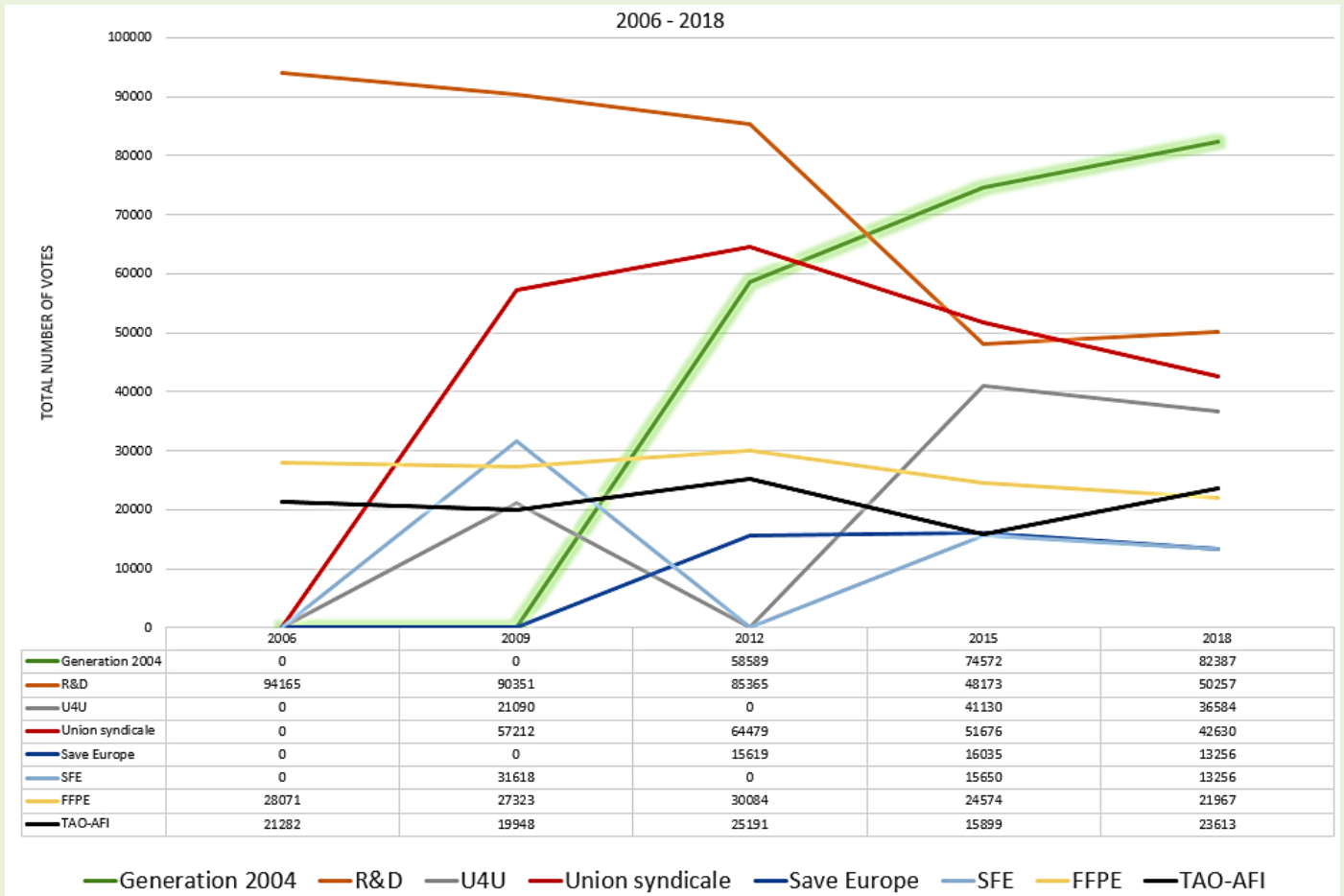
Shorter annual leave for officials posted in a third country violates their fundamental right to paid annual leave

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Elections of the Outside Union Local Staff Committee

For the first time in the short existence of **Generation 2004** the colleagues based in the EC delegations outside the EU have been able to choose **Generation 2004** candidates on their ballot. Traditionally, the delegations have been a stronghold of the established unions. Thus, many (not us!) were surprised with **Generation 2004's** good result of about 15% of the votes. This result, because of the electoral system which is different from the one in Brussels and most probably needs to be updated, translates only into 1 seat out of 12 in the Staff Committee of the delegations. Nevertheless, now that we are in the "stronghold", we are going to do our best to reform it, as we have done in Brussels for the past 3 years. *(continues on pg3)*

Brussels Local Staff Committee Elections



	list votes	preferential votes	seats
GENERATION 2004	30.23%	23.76%	5+2
R&D (Aliance)	17.40%	20.38%	3+2
UNION SYNDICALE	15.55%	12.82%	3+1
U4U	13.24%	11.61%	2+1
TAO-AFI (Aliance)	8.38%	8.40%	1+1
FFPE	7.37%	10.25%	1+1
SAVE EUROPE - BXL	4.43%	6.25%	1+1
CONF-SFE (Aliance)	3.40%	6.53%	1+1

With being the biggest independent group this will translate to bigger involvement in the work of Central Staff Committee and Joint Committees.

Generation 2004 would like to thank to all who voted for us.

Elections of the Outside Union Local Staff Committee

	Votes obtained
UNION SYNDICALE DELEGATIONS	41.62%
USHU	35.74%
GENERATION 2004	14.8%
TOGETHER FOR EU - ENSEMBLE POUR EU	7.85%

Generation 2004 would like to thank to all who voted for us and invites the others to engage with us to work in favour of the delegations' staff.

The Commission still does not believe in the intelligence of its staff!

Internal competitions should be conceived as a challenge and an opportunity, rather than as a source of problems. Obviously, it should be a tool to motivate staff at all levels and to retain the most talented and motivated employees from different categories. Internal competitions should provide an opportunity for staff to apply their skills and knowledge to areas beyond of their current jobs, should give the feeling that the institution is concerned about staff growth and at the same time provide avenues to reach individual career goals.

However, like any weapon, internal competitions need to be handled with care!

This time, again, the recently announced Internal Competitions show how the public institution treats and consequently demotivates talented and qualified staff. It seems that big EU slogans like Talent management and Career development are just empty words without any meaning.



Generation2004's critical view on the subject has been known from the beginning... after receiving many requests from colleagues in different categories, we made an analysis of the discrimination in the table below:

ONLY for FO and TA				For FO, TA and CA			
AST4	24 months of EU experience	Management of resources, Management of programmes, projects, cases, contracts Personal assistant	36 POSTS	AST/SC2	36 months of EU experience	Secretarial and clerical tasks, office <u>management</u> and other equivalent tasks requiring a certain degree of autonomy	30 POSTS
				AST2	36 months of EU experience	Administrative, technical or training activities requiring a certain degree of autonomy, in particular with regard to the implementation of rules and regulations or general instructions.	20 POSTS
AD7	24 months of EU experience	Policy development and management, programme management, project development, Law , Economics, audit, statistics, HR and budget management, coordination, communication	70 POSTS	AD6	36 months of EU experience	European public administration, Development cooperation and neighbourhood policy, Research	70 POSTS
AD8	24 months of EU experience	Policy development and management, programme management, project development, Law , Economics, audit, statistics, HR and budget management, coordination, communication	70 POSTS				

AD10	24 months of EU experience	Single market, innovation and digital issues. Cohesion and values Natural resources and the environment Migration, and world issues. Coordination, communication, HR and budget management, audit	70 POSTS				
AD12	24 months of EU experience	Single market, innovation and digital issues. Cohesion and values Natural resources and the environment Migration and world issues. Coordination, communication, human resources and budget management, audit	45 POSTS				

One obvious point evidenced in the table above is that, no matter how high their high education level and experience are, contract staff have very limited access to these Internal Competitions, the discrimination is further reinforced by the differences in the selection method. All candidates for higher AD grades (7, 8, 10 and 12) and for AST4, will be selected on the basis of a Talent Screener. However, candidates for the lower grades AST-SC, AST2 and AD6 will be invited to sit a series of meaningless but anonymous EPSO computer-based multiple-choice question (MCQ) tests. The explanation is that Cabinet Members are probably worried that they would fail the CBT test, whence the non-anonymous talent screeners for the competitions that are of interest to them.

The eligibility criteria and selection conditions in these Internal Competitions announce a big masquerade to guarantee permanent AD positions to Temporary Agents from the Cabinets. Moreover, these competitions have turned out to be no more than an enormous charade!

Promotions (Article 90)

First we would like to congratulate once again those of you who received their well-deserved promotion during the 2018 promotion exercise. If you were one of the promoted colleagues, then it means you were lucky not to be penalised by a leaving Head of unit, by a restructuring of your DG or by many other factors which have nothing to do with merit and performance but that often negatively influence the outcome of the promotion exercise.



Yet, even not considering those unexpected factors, year after year most of us feel the uncertainty and injustice of the Commission's very opaque and arbitrary promotion system and, unsurprisingly, many of you have contacted us for support on their intended Article 90 complaint concerning non-promotion. To that end, we have created an [Article 90 template](#) for you to use (deadline to submit is February 10th 2019).

However, we must remain realistic; based on our experience from the last several years, chances that your complaint will lead to a positive outcome range from very slim to none. DG HR is very consistent in defending its rotten promotion system and practices: it keeps repeating that our promotion system is fully compliant with all legal requirements, and when anyone raises their voice against it immediately lawyers-up and invites the person to file a lawsuit at the Court of Justice. Therefore, we feel that more than ever, art. 90 administrative complaint procedures have

become a mere formality whose only purpose is to follow-up with possible court cases.

But we are not giving up and we keep looking for alternative ways to achieve our goals. A few years ago, **Generation 2004** managed to pass through the Central staff committee (the official statutory body for staff representation) two notes exposing the weaknesses of the system. In addition, our representatives in the Joint Promotion Committees submitted a well-justified minority position exposing the problems of the current system, which DG HR was forced to put on display in Sysper for all colleagues seeking an appeal for non-promotion proposal to see. Even if in practical terms, it means very little, it is there to expose injustice and administrative discretion by any means possible to us.

If you are an AST that appealed, you have surely seen this text show up in your appeal file under a section called *Minority position*:

1. There is no evidence that an Institution-wide comparison of merit took place at Joint Preparatory Group and Joint Promotion Committee level.
2. An ex-ante allocation of promotion possibilities among DGs is incompatible with an Institution-wide comparison of merits.
3. The variable quality of reports does not allow for transparent and reproducible comparisons of merit.

For AD colleagues, besides all of the above there is a fourth point:

4. The exclusion of colleagues with ongoing [IDOC](#) inquiries or procedure from promotions violates the presumption of innocence and constitutes a punishment without proven guilt.

It is therefore important to understand that our members did not vote against anyone's promotion. Our vote is a vote against the structural weaknesses of the promotion exercise and a way to have our voice heard in yet another venue!

Breaking NEWS! 7-year rule for the non-permanent staff - What does it imply?

Generation 2004 has clarified the new provisions following the Social Dialogue with HR and trade unions!

The 7-year rule applies to non-permanent staff for specific tasks or for specialised tasks (if the skills are not already available within the institution):

- ⇒ temporary agents
- ⇒ contract agents
- ⇒ *intérimaires* (up to 3 years of services are not taken into account for the 7-year rule)

According to these rules the contract duration should be calculated in this way:

- ⇒ 1 month comprises 20 working days
- ⇒ 1 year comprises 220 working days
- ⇒ **for self-employed workers**, service providers and agency staff (*intérimaires*): the number of days invoiced to the Commission are taken into account
- ⇒ in the case of **part-time work**, one day worked part-time shall count as a full day; leave and sick leave shall, if the contract is not terminated, be included when calculating the services rendered.

The Commission's anti-cumulation rule of a maximum of 7 years is measured over a twelve-year period ("rolling" period of 12 years).

EXAMPLE:

The non-permanent staff's working scheme:

- ✓ 6 years as CA for the European Commission
- ✓ 1 year as TA for the same institution (CE)
- ✓ 5 years for another EU institution (ex. EP) or in the private sector (PS)

$$\underline{6y\ CA + 1y\ TA + 5y\ EP/PS = 12y^1}$$

In accordance with these rule and based on the example, the person could resume working for the Commission as a contract agent after the 12-year period.

NEW provisions: It has been decided to limit the personal scope of application of the seven-year maximum duration (7-year rule) by excluding time served as Seconded National Experts from the calculation thereof.

BE AWARE!

The total duration of engagement of a Contract Agent under Art. 3b including all tasks performed in all function groups in the European Commission remains six years (1540 days).² This rule is "cast in stone" in the Staff Regulations.



¹ According to point III of the appendix to decision C (2004) 1597, "[i]n order to know whether a contract is eligible or not, it is the end date of the desired contract and the benefits are taken into account carried out in the previous 12 years (including the contract requested). The end date of the requested contract is therefore the reference date for calculating the twelve-year period. Any benefit older than twelve years on the reference day is neutralized. If a benefit is partly older than 12 years and partly later, only the part older than 12 years is neutralized.



Shorter annual leave for officials posted in a third country violates their fundamental right to paid annual leave

Judgment Francisco Carreras Sequeros and Others v European Commission (Case T-518/16) of 4 December 2018

During the 2014 reform of the Staff Regulations, all the unions of the European Union institutions, including **Generation 2004**, established a platform in order to help the EU staff challenge the reformed measures before the General Court of the European Union (as far as annual leave, pensions, career, annual travel payment or travelling time are concerned).

One of the challenged measures was the reformed Article 6 of Annex X to the Staff Regulations, which provides for a reduced number of annual leave days (24 instead of 42 per year) of staff members posted in a third country (Judgment Francisco Carreras Sequeros and Others v European Commission ([Case T-518/16](#))). On 4 December 2018, the General Court issued a judgment, in which it declared the provision illegal.

The Court underlined that the right to annual leave of every worker is a particularly important principle of EU social law; its purpose is to improve the living and working conditions of staff, allowing them to rest, have a period of relaxation and recreation so as to protect their safety and health. The Court found that the significant reduction of the leave days of staff members posted to third countries infringed that fundamental right, and that this infringement cannot be justified by any purely economic objectives, and is not justified by any objectives of general interest. The Court explained that even though the interest of the service may in certain circumstances allow the modification of the statute in a way unfavourable for the staff, such a modification cannot affect the substance of the fundamental right. In other words, it needs to be ensured that staff posted to a third country, who are often in a particularly difficult situation, have sufficient protection of their health and safety.

In the light of these considerations, the Court declared that the provision is contrary to Article 31 (2) of the Charter of Fundamental Rights, and annulled the contested decisions of 6 applicants. As a result, in the future, all the officials posted to a third country may challenge the length of their annual leave if it is based on the contested Article 6 of Annex X.

For this reason, a template of a complaint (prepared by the lawyers who have been successful before the Court) will be available to you in case you want to contest the duration of your annual leave in 2019. This complaint must be submitted within three months from the update of your computerized personal file (which takes place on 1st January 2019).

Your representatives will remain at your disposal to help you defend your rights.

² Staff Regulation (Chapter 5, Article 88, b)

...and finally

Some songs for this festive month click [here!](#)

Got any ideas for the **Generation 2004** newsletter? [Send](#) them along (with "Newsletter" in subject), together with any letters, articles, poems, comics and any other assorted forms of expression.

MERRY CHRISTMAS AND HAPPY NEW YEAR!
AUGURI DI BUON NATALE E FELICE ANNO NUOVO
IL-MILIED U S-SENA T-TAJBA LIL KULLHADD!
БЕСЕЛА КОЛЕДА И ЧЕСТИТА НОВА ГОДИНА!
KELLEMES KARÁCSONYI ÜNNEPEKET ÉS BOLDOG ÚJ ÉVET!
FELIZ NAVIDAD Y PRÓSPERO AÑO NUEVO
ΚΑΛΑ ΧΡΙΣΤΟΥΓΕΝΝΑ ΚΑΙ ΕΥΤΥΧΙΕΜΕΝΟ ΤΟ ΝΕΟ ΕΤΟΣ
WESOLYCH ŚWIĄT I SZCZĘŚLIWEGO NOWEGO ROKU
GLÆDELIG JUL OG GODT NYTÅR
VESELÉ VIANOCE A ŠĚASTNÝ NOVÝ ROK
GOD JUL OCH GOTT NYTT ÅR
HYVÄÄ JOULUA JA ONNELLISTA UUTTA VUOTTA
FROHE WEIHNACHTEN UND EIN GUTES NEUES JAHR!
PRETTIGE KERSTDAGEN EN EEN GELUKKIG NIEUWJAAR
SRETAN BOZIC SRETNA NOVA GODINA!
FELIZ NATAL E UM PRÓSPERO ANO NOVO!
NAJLEPŠE NOVOGODIŠNJE ČESTITKE ZA 2019. GODINU
VESEL BOŽIČ IN SREČNO NOVO LETO
JOYEUX NOËL ET BONNE ANNÉE!
PRIECĪGUS ZIEMASSVĒTKUS UN LAIMĪGU JAUNO GADU
CRĂCIUN FERICIT ȘI UN AN NOU FERICIT
LINKSMŪ ŠV. KALĒDŪ IR LAIMINGŪ NAUJŪJŪ METŪ
E SCHE'NE KRÖSCHTDÂG AN E GLĚCKLECHT NEIT JAAR
HÄID JÖULE JA ÖNNELIKKU UUT AASTAT



If you identify with what you have read, and share our objectives, **please give us your support TANGIBLY by becoming a member.** [Click here](#)

Whilst **Generation 2004** is the home of **EVERYONE** who believes in equality, justice and solidarity, it is

✓ **the natural home of ALL staff recruited after 01 May 2004**

and de facto,

✓ **the natural home of ALL staff recruited from the "new" (2004+) Member States**



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If you appreciate our work, please consider [becoming a member of Generation 2004](#)