



Generation 2004

Newsletter no.17

June 2016

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Promotions! Promotions! "And the loser is...the Commission!"

The Directorates Generals have published their proposals for promotions for the 2016 exercise. It is always an exciting time. A bit like when you are playing at lotto and you are anxiously waiting to see the numbers being pulled out. We are not being original here, we know. We are not the first ones to talk about the "promotions lottery". And yet, it is an unfair comparison.

As opposed to the lottery, there is still a fair degree of certainty in Commission's promotion system. Colleagues that would have 2.00 and 3.00 years seniority in the grade at 1 January 2016 know that there is certain probability that their names appear on the list. They also know that this probability is not very high, unless they have been well heeled by the hierarchy. While, though varying a bit depending on the grade, colleagues with 3.00 or more years of seniority in the grade know that the probability of their names being on the list is rather good.

We'd say all this is normal: clear eligibility criteria, normal distribution curves (we've all heard about the Bell curve, right?), including some subjectivity/luck factor here and there and the uncertainty as to the final line-up on the list. The Oscars, the Nobel Prize, the Eurovision Song Festival winners – there is always uncertainty until the end in any competition. And actually, we are not complaining about that.

The uncertainty of the results is not the issue. After all, where we stand, we have a limited and inherently subjective view-point as regards the comparison of our own merits when performing our duty in the service of the Institution against those of our colleagues. That is why we need to trust that the Institution runs the "comparison of merits carefully and impartially, in the interest of the service and in compliance with the principle of equal treatment."

The problem is: **we cannot trust**. First of all, nothing in the way promotion exercises were handled recently ever aimed at building such trust, quite the opposite. And the justifications provided by the Commission as the Appointing Authority to the appeals made by our colleagues against their non-promotion during the 2015 exercise, pursuant to Art. 90.2 of the Staff Regulation, lay glaringly bare the reasons for distrust:

First of all, we are plainly told that "the administration has a broad discretion in promotion matters [...] includ[ing in] the consideration of comparative merits when taking promotion decisions under Article 45 of the SR [...]. In particular, the administration enjoys a large discretionary power concerning the respective importance which it attaches to each of the three criteria mentioned in Article 45(1) of the SR." Furthermore, "neither Article 45 of the SR nor the GIP require the administration to establish [a] ranking when performing the comparative analysis of merits".

In other words, the Institution can promote whoever they want (bar the 2 year seniority in the grade eligibility criteria). And yes, there are criteria for assessment that should be taken into account. But how that is done is at the large discretion of the Institution. "Ranking?! Bah, who needs it!" And, to top it up, "the administration is not obliged to give reasons for its promotion decisions to staff who have not been promoted, at the time (sic) when the promotion decision is taken." Well, as it turns out, after the decision is taken, the administration cannot provide the reasons for its decision either.

And yet, "the Civil Service Tribunal explicitly confirmed that the system established and managed by the Commission is characterized by careful assessment, which is structured around the same criteria and parameters against which all the officials concerned are uniformly assessed." Really?!

Fortunately, the officials can appeal. With a minor caveat: "[a]ccording to settled case-law it is the complainant who has to advance arguments which could sustain a manifest error of assessment in the comparison of merits". Well, you may wonder alongside us, how could the complainant bring (counter-)arguments if s/he does not know the arguments against which s/he is purported to bring evidence against in the first place.

The answer comes from lawyers of the Institution themselves – s/he, like the instances of appeal, cannot:

"As confirmed by case-law, the exercise of the discretionary power is not, by nature, subject to an objective revision by the Court. The same applies to the Appointing Authority, which -like the Court - does not necessarily know the precise situation of each official."

In plain words, any complaint made against the decision taken by the Institution is doomed, since neither the Court nor the in-house legal services have the means to objectively assess the decision. And the reason for that is fundamental, it is ontological: it is the "nature" of the current system, which is inherently opaque to any objective scrutiny of the exercise of discretionary power by the Institution.

The logical conclusion from a lawyers' perspective is however not surprising: the Institution acted within the boundaries of what the legal framework prescribes (or rather allows). But even the lawyers could not live with the image of the Institution that they had drawn – an entity with large discretionary powers, accountable ultimately to no one for its decisions. So they had to give it an ethical soul at least:

"The exercise of discretion is limited by the necessity (sic!) to consider the comparative merits of candidates for promotion carefully and impartially, in the interest of the service and in compliance with the principle of equal treatment."

Well, we agree with the necessity. But we certainly do not agree with the fact that this is necessarily the reality. And as long as the Institution hides behind the fact that the current legal base (and jurisprudence) does not oblige it to give clear evidence that this is the case, we have hardly any reason to trust that it does as it claims.

And this is why our own conclusion is, regrettably, that those who lost are not so much the officials who complained and saw their complaint rebutted, but the Commission. And as long as the current promotion system remains in place, the Commission will continue to lose:

(a) An incredible amount of time and energy – both on the side of the officials complaining against its non-promotion decisions and of the trade unions and staff associations supporting them, but also on the side of its lawyers that are trying to defend these decisions' shaky grounds. This time and energy could be better spent on other, more pressing and/or constructive issues.

(b) Motivation of its staff. As long as the officials do not trust that their efforts and comparative merits are carefully and impartially considered, they may conclude that there is no point in going the extra mile. A good enough job will surely bring a promotion after having completed the average seniority in the grade.

(c) The trust of its employees. Too often lately we come across the image of the aloft Institution, where the hierarchy takes decisions without carrying about consulting and/or justifying the reasons for its decisions to the staff concerned. Take the recent examples of the decision to place certain services in open space offices, or the Talent Management Strategy, etc.

Apart from the fact that the lack of trust gets translated in turn in further time and energy spent contesting these decisions and further loss of motivation, we worry, fundamentally, that a European Institution that continues to consider itself above its own employees is hardly fit to reassure the increasing number of disenfranchised European citizens that it is there to protect and promote *their* interests.

Yet we do not despair. The fact that we are criticising means that we have not given up on our Institution. Here, at Generation 2004, we are willing to continue **to challenge the currently prevailing organisational culture**, and help **build instead a strong culture of accountability and transparency**, both towards its staff and towards the European citizens.

ⁱ Quote from the standard part of the Appointing Authority Decision as regards the "Art.90.2" appeals in the framework of the 2015 promotion exercise.

Promotions exercise 2016 – Appeals: Tips and Tricks

The 2016 promotions exercise is in full swing as we speak. Between 29 April and 10 June the Directors General and their HR teams met staff representatives to discuss the promotion proposals for their respective DGs.

On **20 June** (yesterday) promotion proposals were published via Sysper2. So by now you already know if you were proposed for promotion by your DG.

Congratulations if you are amongst the lucky ones! For those, who were disappointed and did not see their names on the list, you should be aware that this is not the end. You have five working days to lodge an appeal against non-promotion starting from the date of communication of the promotion proposals (justified absences are excluded).

In early **September** the Appeals Committee will review all appeals, one by one. The ("appeals") Promotions Committee is a Joint Committee which includes Staff Representatives together with Admin (HR) representatives. The Appeals Committee distributes +/- 5% of all promotions for the year. Appeals can be justified for a variety of reasons, inter alia:

Your merit: the annual appraisal report has to be good and factual. The report is the only thing we have to compare within the grade. If it has negative or doubtful elements we need to know what they mean in order to be able to defend the merit.

Be aware: according to the most recent interpretation by the HR services (inspired by the desperate need to demonstrate a difference between the promotions systems of the EEAS and the Commission once the former was condemned by the Civil Service Tribunal) the merit comparison is performed at **two stages**. First, the merit is assessed within your DG and only after that – in practice for those who appeal – the comparison is extended at cross-DG level by the Appeals Committee.

Your responsibilities/achievements have not been given due recognition (for example you are AD5 and supervised staff or coordinated the supervision of a directive or you are AST1 coordinating a big budget or a project).

Your seniority in your grade is equal or above the statutory average (for example AD5 or AST1 not promoted after 3 years in the grade). You have to have the average seniority in grade on the 1st of January 2016; you have been penalized by parental leave or mobility (when on parental leave, you are still considered to be "employed", even if not physically present in the office).

Do not be afraid to file an appeal!!! We are here to help and will give you an honest advice.

As in previous years, our *Generation 2004* legal team has drafted an appeal template which we would be happy to share with you.

You may contact us via our functional mailboxes REP-PERS-OSP-GENERATION-2004@ec.europa.eu and REP-PERS-OSP-GENERATION-2004-LUX@ec.europa.eu or by simply contacting any member of our team.

Luxembourg matters...? Luxembourg matters!

Some months ago DG HR gave a presentation in Luxembourg, which assertively claimed that 'Luxembourg matters'. While the presentation focused largely on the planned new HR policy valid for all DGs, there were indeed some slides that reflected on the Luxembourg initiatives of the Commission. The most important part of these initiatives was the agreement between the Luxembourgish authorities (Jean Asselborn, Minister of Foreign Affairs) and the Commission (VP Kristalina Georgieva) about the construction of new office buildings and about transferring around 250 FTE (full time equivalent) staff from Brussels to Luxembourg by 2022. The reallocation of staff shall increase the share of Commission staff located in Luxembourg from 11.7% to 12.5%.

Commission presence in Luxembourg should be reinforced around 3 poles: 1. legal (European Procurist (EPPO) along with 90 FTE staff), 2. financial (8 FTE staff at DG ECFIN, additionally to the increase of staff by 300-400 at the EIB resulting from the Strategic Investment Fund) and 3. digital (at least 150 FTE staff from DGs DIGIT and CNECT). In case the legal pole is not created in Luxembourg, the digital pole shall be extended by additional 100 FTE staff.

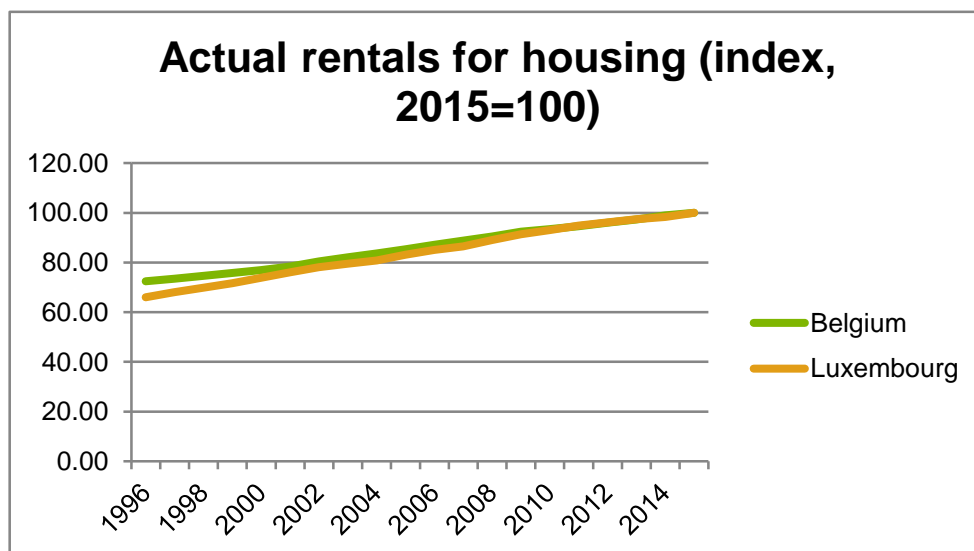
Fully in line with the current unfortunate practice, staff or their representatives were not really consulted about these developments in advance. But guess what – not less than **three** information sessions were held after the agreement became a fact: two separate meetings in Luxembourg (for staff and for staff representatives) and another one for staff representatives in Brussels.

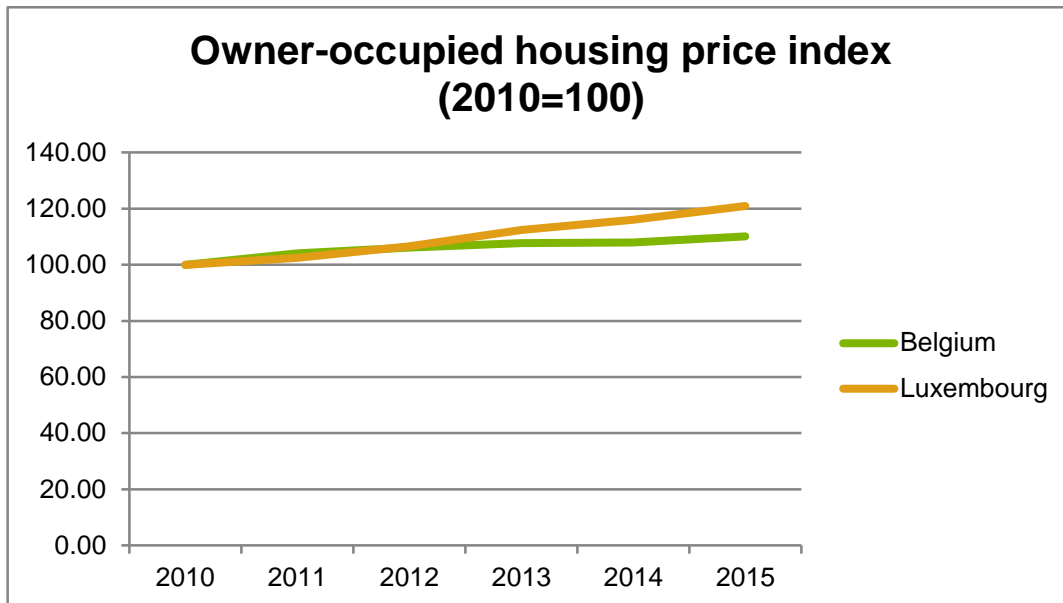
Generation 2004 used all the three opportunities to draw the attention to the existing specifics for the Luxembourg site, like the tension on the housing market, the insufficiency of infrastructure such as public transport, roads and parking space. Regrettably, none of these was even touched in the agreement with the Luxembourgish authorities.

To be or not to be a correction coefficient for Luxembourg

There is much complaint about the living conditions of European officials in Luxembourg resulting from the fact that there is no correction coefficient for Luxembourg and therefore salaries are the same as in Brussels. At the same time, it is felt that the cost of living is somewhat higher in Luxembourg. On average the difference is referenced to be around 10%, while most recent calculations of Eurostat should figure this to around 8%.

Put aside the discussion on the exact figure, let us try to investigate why the cost of living has deteriorated so much between the two locations. Certainly, there are differences in average prices of some products, but most of them will not necessarily gain much attention. However, the expenditure on housing will have a high share in the budget of households and receives much attention. It is difficult to show reliable and comparable data underlining the differences. The below charts (source: Eurostat database) tell only part of the story since they show index figures and not absolute price levels.



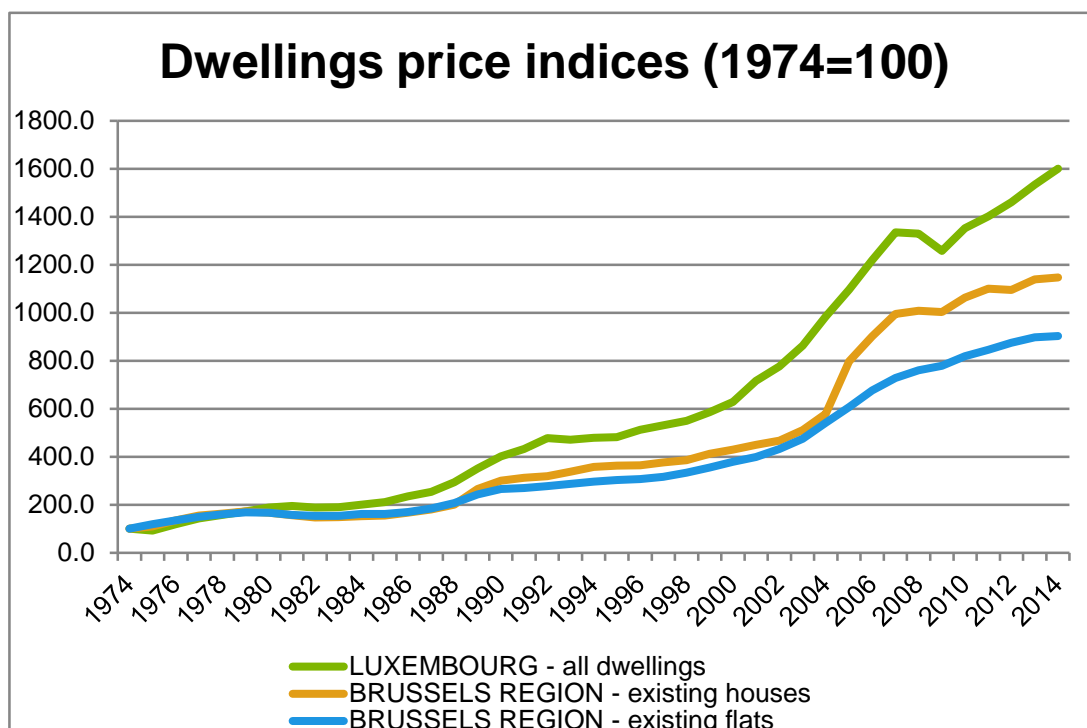


The average rental in 2015 was in Brussels 1240€ while it was 1970€ in Luxembourg (in 2012 it was 960€ and 1400€, respectively) (source: UBS).

But what if a correction coefficient for Luxembourg in terms of a percentage shall be installed?

1. First of all, it needs a change of the Staff Regulations, since there it stands: Brussels = Luxembourg = 100. Just recall, that every change of the Staff Regulation so far has deteriorated working conditions.
2. Some OSPs argue that such a measure would save money compared to the present situation. Yes this can be the case, since price levels and developments in Luxembourg have an impact on the value of the 100%. Which means that the our colleagues working in Brussels benefit from price increases in Luxembourg in the same way as do colleagues working in Luxembourg et vice versa.
3. As any percentage change on your income, the impact will increase with the salary level. The correction coefficient (as long as it is above 100) will benefit the higher grades. Most of them having started working before 2004. Roughly speaking a 10% salary increase would mean additional 1,000€ for you if your basic salary is 10,000€ per month (~AD12), but only 200€ if your basic salary is 2,000€. For the latter, the difference in average rentals between Brussels and Luxembourg (presently around 730€) will not be covered. (Admittedly, the higher grades will have also the highest adverse effect, should the average price level in Luxembourg drop in future, in case they do not get retired before this happens.)

It is also interesting to have a look at history. The below chart (source: BIS) shows considerable price increases for dwellings both in Brussels and Luxembourg. In Luxembourg prices multiplied by 16 since 1974. Those who arrived to Luxembourg before around 2000 still had the possibility to buy dwellings to more or less reasonable prices and could luckily observe an increase in their value. To pay to them an extra compensation for the increase in their own wealth could not be defended in front of the European taxpayer.



Therefore, if any financial recognition of the high housing costs could be organized only based on actual costs faced by the officials. Our requests addressed to DG HR to install some kind of housing allowance have so far been rejected with the argument that this would also not be allowed by the Staff Regulations.

At the same time also many Luxembourgish nationals are moving to the other sides of the borders and commute, since they cannot afford living in their own country themselves. There is simply not enough living space. It is straightforward to assume that any additional payment to European officials could give way to further price increases and shift more European taxpayer's money to Luxembourgish property owners and real estate agents.

The problem is real and it looks like things will not change in the near future. It is also rather questionable if a correction coefficient for Luxembourg would appear as a viable solution.

At the same time, the recent agreement between the Luxembourgish authorities and the Commission offered a unique opportunity to discuss some targeted measures accompanying the allocation of more Commission officials to the Luxembourg site. That opportunity was completely lost, not even considered, as far as we are aware. So no wonder why we ask the bitter question: where exactly is the place of EU civil service and EU staff on the list of priorities for the ones at power?

Luxembourg in figures

...or a Luxembourg guide for the 'chosen' ones

Surface: 2,586 km²

Population (2015): 562,958 (out of which around 46% are foreigners). (The Luxembourgish may soon become a minority in their own country.)

Official language(s): French, Luxembourgish, German (in order of importance)

Luxembourgish is no official language of the European Union, therefore, no training is offered by the Commission.

Renting a home:

Average rental (2015): 1,970€ per month (The Brussels average rental was 1,240€) (Source: UBS)

For comparison: Saarland (neighbouring Federal State of Germany) hosts double the inhabitants on the same surface (size), still average rental amounts to around one half.

Good news: You can choose to live in Saarland (or Rhine Palatinate) and work in Luxembourg in case you are good in German and not afraid of spending around one hour one way on the road. Depending on your language preferences, you may also choose to live in France or Belgium with more or less the same impact on your commuting time. Around 40% of those employed in Luxembourg live outside the country and are commuting across borders on a daily basis.

Rental law: The law is rather landlord-friendly. Landlords are basically free to set the conditions of the contract. In most cases, repairs have to be paid by the tenant. However, the yearly rental shall not exceed 5 % of the value of the dwelling. This means for an apartment valued to 200,000 €, the monthly rental must not exceed ~830€. The restriction does not apply to luxury dwellings.

Real estate agents' fee: one month's rental (in some cases incl. charges)

Bad news: It is nearly impossible to rent an apartment or house without involving a real estate agent.

Buying a home:

An example of a dwelling currently on sale:



296 308 € 1 d
Appartement 1 Chambre - Luxembourg-
Rollingergrund
+/- 50 m²
NOUVELLE RÉSIDENCE EN ÉTAT FUTURE ACHÈVEMENT, APPARTEMENT à
1 CHAMBRE À APPARTEMENT à 1 CHAMBRE À COUCHER, +/- 50,18 m²,
SALLE... voir l'annonce

Ajouter aux favoris Voir n° téléphone Envoyer un email

A short quotation by Mr Asselborn, Minister of Foreign Affairs, from his participation in a talk-show on German public television back in 2014 should be sufficient to explain why housing is that expensive: “We have no space for houses, only for mailboxes”.

Fuel: The price for motor fuel is 20-30 ct/Liter cheaper than in the neighbouring countries.

Roads: Roads are saturated in all directions during rush hours. Motorways do not have more than 2 lines in any direction. Every morning, when you try to drive slalom amongst lorries or queue in a traffic jam, you will have sufficient time to reflect on what would be the amount of traffic less the lorries that only cross the country in order to fill their tanks with cheap fuel. As an economist you may also reflect on the price elasticity of their demand for fuel and also what additional amount of tax revenue on the fuel sales could be made available for the construction of roads if the fuel tax would be increased and how much fuel you could save if not standing in a traffic jam instead

of driving at constant speed. As a rough guess you may compare the number of lorries on the road on a normal day with the number of lorries on a public holiday in one of the neighbouring countries when lorries are banned from their roads. In the latter case lorries will get blocked before entering Luxembourg since they will not be able to leave the country on that day.

Doctors and dentists: There is an agreement among the Commission and the medical authorities that prices invoiced to European servants can be at a maximum 15% higher(!) than invoiced to Luxembourgish patients. Hospitals charge additional fees for each exam on top of the invoiced service.

Bad news: *Not all doctors and dentists have signed up to the above agreement, and so charge even more.*

Children:

Luxembourg is regarded to be a good place to live for young families. You will easily find a place in a crèche, especially in case you are able to pay for a private crèche (>1,000€ per month), but there is also a 'Cheque Service' offered by the Luxembourgish government which you can use to pay the crèche at least partly. Starting from the nursery school the offer of local schools will become even better. All children will learn German, French as well as Luxembourgish and many of them also English. And, of course, there are the two European schools as an option.

Salaries:

The minimum gross salary for a skilled worker amounts to 2,307.56€ (last adjustment: January 2016). This is the highest in the EU reflected in Big Macs. But this is also more than some contract agents working for the Commission get paid.

Also the high income level benefits spouses who find employment outside the European Institutions as they can earn a competitive salary once they can fulfil the high language requirements prevailing at all working places in Luxembourg. Also as a result of high salary levels, Luxembourgish colleagues working for the European Commission in Luxembourg are a very rare species. The salary of an AD5 without expatriation allowance is not able to compete with the starting salary of a public servant coming directly from university.

Periphery in the heart of Europe:

Those who are newly arrived from Brussels should not expect to keep the direct access by air to all those exotic destinations for the weekend trip. There is an airport that offers direct flights only to some international hubs like London, Frankfurt, Munich, Vienna, etc. The travel to Paris with the TGV takes around 2 hours but the train to Brussels takes 3 hours if at all on time, which rarely happens.

Concerning career, Luxembourg offers very limited opportunities for mobility to a European official due to the limited number of Commission DGs. Only two of them are based only here: Eurostat and OIL, not taking the Publications Office into account. Officials working for other DGs will have little chances to meet their Directors General in the corridor or in the canteen. Hierarchies are located in Brussels and make their decisions – including the ones regarding career of staff – in Brussels.



Black Humour Corner

Commissions Safety Procedures

From: EC-SECURITY@ec.europa.eu [mailto:EC-SECURITY@ec.europa.eu]

Sent: Thursday, June 02, 2016 1:42 PM


Subject: EC SECURITY - Security Message - error message. No evacuation performed in LX 46. **27154**

Importance: High

Information au personnel / Communication to staff / Mitteilung an das Personal


Would you please disregard the previous message about evacuation in LX 46. It took place in LX 40. Staff was informed in the meantime.
Please accept our apologies.

DG HR - Security Directorate

 2 22 22

(calls are recorded - les appels sont enregistrés - Anrufe werden aufgezeichnet)

..... *and finally*

G2004 message song of the month (with kind permission) – now click [here](#)  sit back, turn up the volume and listen well...

Got any ideas for the G2004 newsletter? [Send](#) them along (with "Newsletter" in subject), together with any letters, articles, poems and other assorted forms of expression.

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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