

ILLUSION (what *should* have happened)

Even to a legal amateur, an elementary reading of the **2004 Staff Regulations (SRs)** – precisely **Art. 6** – promised to staff and laid upon each institution the obligation:

*"to ensure **equivalence of the average career** in the career structure before 1 May 2004 and as from 1 May 2004"* (see [here](#) + annex below).

The same provision (Art. 6.2) then, indicated a set of quota –**Annex IB** (see annex below) - as **guidelines**, for establishing the career equivalence promised by the same Art. 6:

=> thus Annex IB was clearly intended as a "means" towards establishing an "end" (career equivalence), rather than an "end" in itself!

Broadly sketched, the mechanism devised by the legislator (Art. 6 + Annex IB) included:



- a ‘roadmap’: **equivalence of career**, to be defined in detail by the Administration (Art. 6),



- a ‘steering wheel’: **indicative promotion rates** per grade, distributed over the whole scale (Art. 6.2, Annex IB),



- a ‘throttle’: **budgetary constraints** to be respected (Art. 6.4),



- a ‘dashboard’: i.e., a **periodic monitoring & reporting** system (Art. 6.3, 6.4) about career equivalence (yearly to the budgetary authority, 5-yearly to the Council).

This **legal requirement** therefore had **to be implemented through the promotion system**, steered through **Annex IB guidelines** plus **periodic monitoring and reporting** feeding back a mandated review of the guidelines.

Once entry grade had been established, a career’s evolution is basically dictated by **promotions**; thus, equivalence of career must be achieved through such promotions. It is a complex equilibrium: legally, promotions must be assigned **according to merit** and at the same time they must respect **budgetary constraints** (every promotion of an official implies a significant long-term financial commitment for the institution).



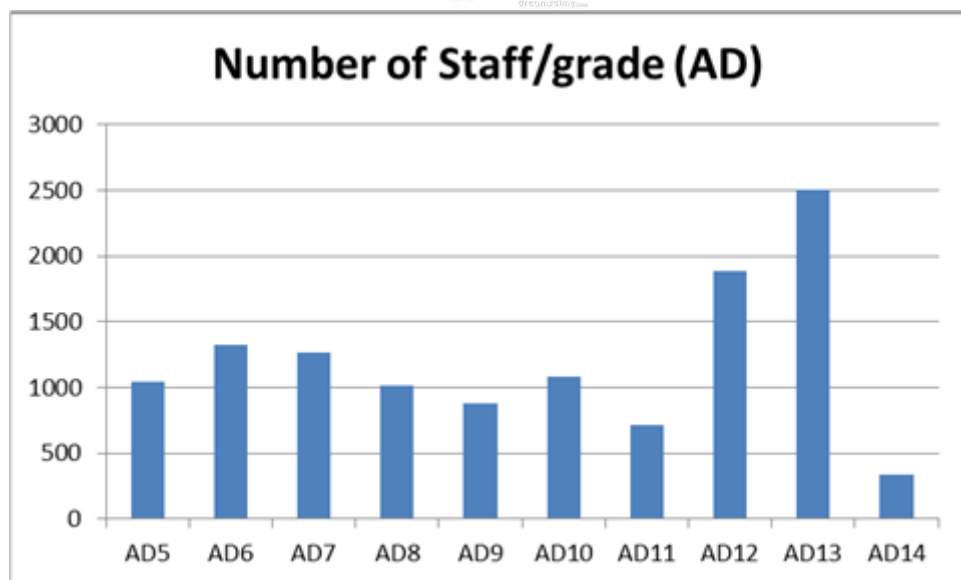
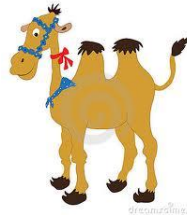
FACTS (what *really* happened)

1. Let us face it; to begin with, the **original Annex IB rates** were not exactly conducive to the "career equivalence" mandated by Art. 6. Indeed, they were **overly generous with higher grades** and **mass-produced AD12-14s** as well as (although to a lesser degree) AST 9-11s ... **to the point of over production.**
2. As far as we know (please someone correct us if we are wrong), the **Administration did not prepare any of the yearly reports to the budgetary authority** stating whether career equivalence had been respected, as requested by Art. 6; neither did it propose the ensuing “corrective safeguard measures” which the legislator had established. Sadly, the problem went on growing bigger and bigger. **No one spoke!**
3. The **due date for the first major (5-yearly) report on equivalence - 1.5.2009 - came and went without any institution meeting its legal duty** to report on pre- versus post-2004 career equivalence and without any of the other stakeholders – legislator, or staff representatives¹ - complaining about this non-compliance. **Again, no one spoke!**

¹ Although **Generation 2004** did not exist as such at the time, we had already addressed DG Souka a letter in April 2009 asking her for a meeting in order to discuss the growing post-2004 issue. Our request was refused by her services and ignored by the staff representatives.

Moreover, nobody felt the obligation to offer a hint of an explanation, at least not publicly, and we'll explain:

- As already highlighted above, rather than ensure pre/post 2004 career equivalence, the application of **Annex IB guidelines** – through the years often **misnamed as 'guarantees'** - resulted in an **explosion of promotions** for pre-2004 staff in the higher grades, many without any kind of tangible management responsibility; simply too big to contain and impossible to justify to an outside world in crisis mode: the EP, Member State governments, EU taxpayers ...
- Ah yes, meanwhile almost all **post-2004 new intakes** into the institutions were **'juniorised'** across the board and generally recruited at the **bottom-most entry levels, irrespective of their age, qualifications and experience**. This included, *de facto*, **almost all officials recruited from the newer (post 01/05/2004) Member States**.
- **A sharply divided and way too expensive EU civil service with way too many high-graded officials** was thus created, incarnating a **'camel'-shaped farcical army** which actually included more generals than soldiers (see graph below and also [here](#))!



4. The Commission did eventually publish a **first (and only) 'Equivalence Report'** in **March 2011** (see [here](#)), adding insult to injury by making a mockery of the impact of the 2004 reform in failing to compare the (always growing) gap between pre and post-2004 careers (see also [here](#), p5). 22 months late relative to its legal deadline, no justification whatsoever was offered.

- Whilst (as explained above) the career structure continued to show an ever-bigger deformity - fed with a regular stream of promotions favouring higher grades - the report chose to disregard the straightforward evidence, settling instead for an obscure and complex approach, defining 'career equivalence' as 'equivalent average earnings' over a theoretical long-term perspective.
 - Most surprisingly, although the report **did acknowledge major problems** in career equivalence, it **did not include any proposal** to the Council for reviewing Annex IB rates as requested by Art. 6.4 (where as in many other points, the legislator was simply advocating plain common sense; like if your vehicle is veering off the road, change the steering settings) !!!
 - The self-contradictory passivity of the report, acknowledging a problem with huge delay whilst **ignoring the legal obligation** to propose corrective measures, adds another relevant non-compliance and mismanagement *par excellence*. **Yet again, no stakeholder or union raised a voice of criticism!**
5. Eventually, Annex IB guidelines were reviewed, but only for the new 2014 staff regulations, **much too little and much too late!** Accordingly, the 2014 staff regulations attempt to curtail promotions towards higher grades. This is strongly resented by officials expecting soon a promotion thereto who wrongfully define it as an unjust "blockage" of their career at AD12/AST9. At long last, most **unions** suddenly raised their voice and launched a veritable **crusade against this "blockage" of carers!**

=> **Enter Generation 2004**



6. Whilst most **unions** have been protesting ever since about decreased quotas for promotion in the higher grades and the so-called "blockage of careers", over a decade, they said very little – or nothing at all about the primary and fundamental non-respect of Art. 6 and its scope – the equivalence between pre and post – 2004 careers! Indeed, this was **the very reason why Generation 2004 was born.**
7. Following **Generation 2004's electoral results in 2012, 2013** was the **first year** where our representatives participated fully in the annual promotions exercise. This in spite of a coordinated **anti-democratic stance by the unions** denying us our rightful portion and level of participation in line with our electoral representativity.
8. At the Joint Promotions Committee (JPC) plenary meeting (bringing together representatives of the staff as well as all Directors-General under the chairmanship of the DG HR) intended to approve the **2013 promotions exercise**, Generation 2004's

representatives courageously took the **unprecedented step** of calling into question the whole exercise and asking for a vote on the basis that "*the Administration has not provided to the JPC evidence of compliance with Art. 6.2 of the staff regulations, regarding the fact that average career equivalence between pre- and post-2004 careers should be ensured*". **Unfortunately we were alone to vote against the exercise. All unions voted in favour of the status quo, together with the Administration²!**

9. Owing to **2013** being our first year of full participation in the promotions exercise, this was our **first chance** to take such a step invoking Art. 6.2. **Alas**, it was **also our last** since this embarrassing requirement was conveniently removed by the Commission in its very first draft for the **2014 reform** ... much to the delight of most unions!

2014 (what is happening today?)

1. The **2014 promotions exercise** has been trudging on since the launch of appraisals in January, with Generation 2004 being involved in all stages of the process. Despite **still being denied our rightful representativity by the unions**, we have been doing our best to see that justice is done or at least limit as much as possible further damage to post-2004 colleagues mostly in the lower grades. **We are not ashamed** of this, since pre-2004 colleagues, mostly in the higher grades, have **around 7 unions** to safeguard their interests which they do with the utmost zeal.
2. Alas, since the legal requirement of career equivalence does not exist anymore we turned our attention to the remaining legal requirement of **merit**, getting seriously worried about the procedure used to assess it (as in our view it does not guarantee **objective impartiality**). We therefore presented three carefully weighted requests for clarification (see [here](#)) at both the AD and AST JPC plenaries held over last week (21-22 October).
3. At the **AST** plenary (21 October):
 - The Chair (Administration), in his wisdom, deemed our papers as "**not relevant to the 2014 promotions exercise**" and to be discussed under "**Any Other Business**" at the end of the meeting!
 - When Generation 2004 representatives, in **protest**, requested a **vote** on the promotions exercise, **again, Generation 2004 was alone in voting against the exercise**. Despite their criticism of the exercise – often in public – unions again voted in favour together with the Administration!
4. At the **AD** plenary (22 October) the story was somewhat different, as you have surely noticed from the note sent by Ms Souka (see [here](#)), on the evening of Wednesday, 22 October.

² The Administration graciously concedes that a meeting on the issue will certainly be necessary. Immediately thereafter, [Generation 2004 asks DG-HR to convoke such a meeting](#); twelve months later, we are still waiting for an answer! See also note sent *ahead* of the 2013 exercise [here](#).

- At the very beginning of the meeting, all staff representatives were unanimous (for once) in asking that there should be first and foremost a discussion on the erratic evolution of promotions over the past 10 years since 2004 and what DG HR intended to do to redress the situation.
- Faced with a reluctance from DG HR to engage in a *serious* discussion on the issue, all staff representatives (including Generation 2004) indeed decided to leave the meeting *en bloc*.
- **However**, make no mistake, since although ALL staff representatives (finally) showed a certain degree of courage in standing up and leaving the meeting, the reasons why *we* (G2004) did so **were radically different** from most of our union colleagues.
- Whilst most of the unions have the cheek to continue clamouring about the loss of more promotions for higher grades through what they see as a misapplication of Annex IB compounded with what they now deem as a tragic "blockage" of careers at AD12/AST9 under the 2014 Staff Regulations (see also [here](#), p1-4), Generation 2004 continues to clamour for a decade-old delay of justice through crass mismanagement by the Administration in the misapplication of Art. 6. **The "end" rather than the "means"** as amply explained above.

Conclusion and Appeal

- ✓ Simply asking for a ten-year report on the respect of Annex IB quotas, forgetting about career equivalence or relegating it as a secondary extra - as the unions are doing at the moment including through the Central Staff Committee - is highly myopic, to say the least. **Our joint effort should be concentrated on the main legal requirement - that is to say Art. 6 - of the staff regulations and the (as yet) undemonstrated achievement of career equivalence.** Guidelines provided as a possible "means" to achieve that major "end" (including the very same Annex IB) are secondary to that "end" and should not distract us, especially when they are **clearly obsolete** insofar as their application has clearly not managed to achieve career equivalence.
- ✓ What all serious and conscientious staff representatives should be appealing for at this point in time is: **an independent report on the respect (or otherwise) of Article 6 of the Staff Regulations over the period 2004-2014, wherein** a report about the respect of Annex IB (which we very much favour) should make a handsome and useful Annex of the main report, placed in a position which corresponds to its actual legal significance as originally intended by the legislator.
- ✓ Being a professional, data-oriented organisation, Generation 2004 confidently expects **to converge with the Administration and other *bona-fide* stakeholders on a common interpretation of the legal texts**, supported by evidence beyond any reasonable doubt. There are several possible constructive roads to reach such a convergence, and we intend to spare no effort in exploring them all.
- ✓ Irrespective of what has happened over the past decade, we consider it **our duty to involve and work with ALL legitimate stakeholders**, providing them with factual,

quantitative information about the ongoing problem and exploring with them adequate measures for redress.

- ✓ **Anything less, at this stage, will simply carry on this denial and mockery of justice into its second decade!**

We count on the new Commission, especially on **President Juncker** and **Commissioner**



Georgieva to muster the political courage for evolving beyond the 'decade of denial' and to tackle head-on this major issue, indirectly involving all policy areas, and thus crucial to the success of this Commission. It is now *your responsibility duty and moral obligation* to address these injustices and restore unity within a seriously, deeply-divided European civil service;



it is *not* too late, whilst continuing to ignore or attempting to minimise the problem is not an option – for the good of the EU civil service itself. We are willing to work with you loyally, together with many other **staff representatives who believe in justice and solidarity**; of this we continue to stand convinced.



2004 Staff Regulations

Article 6

1. The establishment plan appended to the section of the budget related to each institution shall indicate the number of posts in each grade and function group.

2. To ensure equivalence of the average career in the career structure before 1 May 2004 (hereinafter ‘old career structure’) and as from 1 May 2004 (hereinafter ‘new career structure’) and without prejudice to the principle of promotion based on merit as laid down in Article 45 of the Staff Regulations, this plan shall ensure that for each institution, the number of vacant positions at every grade of the establishment plan on 1 January of each year corresponds to the number of officials in the lower grade in active employment on 1 January of the preceding year, multiplied by the rates laid down in Annex I, point B, for that grade. These rates shall be applied on a five-year average basis as from 1 May 2004.

3. The Commission shall, on the basis of the methodology defined in paragraph 5, submit a report to the budgetary authority each year on the evolution of average careers in the two function groups in all institutions, which shall state whether the principle of equivalence has been respected and, if not, to what extent it has been breached. If it has not been respected, the budgetary authority may take such corrective safeguard measures as are appropriate to re-establish equivalence.

4. To ensure that this system remains consistent with the establishment plan, consistent with the equivalence between the old and the new career structure and consistent with budgetary discipline, the rates laid down in Annex I, point B, shall be reviewed at the end of a five-year period starting on 1 May 2004 on the basis of a report, submitted by the Commission to the Council, and a proposal by the Commission.

The Council shall decide in accordance with Article 283 of the EC Treaty.

5. Equivalence shall be assessed, as a result of promotion and seniority over a given reference period on the assumption that staff numbers remain unchanged, between the average career before 1 May 2004 and the average career of officials recruited thereafter.

Annex IB multiplication rates for guiding average career equivalence

Grade	1	2	3	4	5	6	7	8	9	10	11	12	13
Administrators AD	not applicable				33%				25%				20%
Assistants AST	33%				25%				20%		not applicable		