



## Generation 2004

### Implementing Rule 3

and

### Related modifications of the By-laws

(Adopted by GA 2015 on December 1<sup>st</sup> 2015)

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#### *Implementing Rule 3: Disciplinary Procedure and Guarantees*

##### 1. Scope

Having regard to article 12 of the by-laws of Generation 2004 *association de fait*, this Implementing Rule is devoted to the disciplinary procedure and guarantees. It formalizes among other issues:

- a) the types of disciplinary actions that can be imposed,
- b) the procedure to be followed by the Board to propose a disciplinary action to the Assembly and for its approval,
- c) the right to be heard by the Board of any member under disciplinary action,
- d) the special provisions to be followed for members of the Board who are under disciplinary action.

This Implementing Rule also takes account of articles 7.3, 14.2 and 21.8 no. h) of the by-laws.

##### 2. Definitions

(1) *Disciplinary action* is the procedure initiated by the Board in relation to a case of misconduct or action as defined in article 3.

(2) *Disciplinary sanction* is a measure that, as a result of a disciplinary action, can be imposed on a member.

(3) *Disciplinary measure* is a disciplinary sanction.

(4) *Written reprimand* is a disciplinary sanction in the form of a written document (letter or similar) that formally criticises the misconduct or action of the member under disciplinary action and that may also mention possible further disciplinary action in case of continuation or repetition of the misconduct or action in question.

(5) *Suspension* is the temporary withdrawal of certain or all membership rights or the temporary exclusion from office or from electoral registers. A comprehensive list of possible suspensions is given in article 4. Suspension of membership is restricted to the case described in article 8.

(6) *Exclusion* means the exclusion from membership. As a consequence, the person affected will be deleted from the register of members as stipulated in article 10.5 of the by-laws.



(7) *Complainant* is a person (member or not of *Generation2004*) who officially informs the Board about a situation that triggers a disciplinary action.

(8) *Defendant* is a member who is subjected to a disciplinary action.

(9) *Notification*: Whenever this Implementing Rule stipulates a “*notification/communication in writing*” this, by default, will be in the form of an electronic mail sent from *Generation2004*’s official account to the address that the respective member has provided. A notification is considered effectively sent, if within 48 hours no error message or other indication of failure of delivery is received back. In case electronic mail delivery fails, a printed version of the original e-mail will be sent in a closed envelope marked “private/confidential” to the latest supplied private or office address. In this case, the valid date is determined by the postmark.

### **3. Situations that may trigger disciplinary actions**

A disciplinary action can be initiated against a member or a group of members, including Board or Steering Committee members, who violate systematically the rules or by-laws or who would enter through their actions or declarations

- a) in a situation of
  - i. conflict of interest,
  - ii. breaching the ethics and conduct rules,
  - iii. impairing the independence of the association, or
- b) in open contradiction to the aims and principles of the association.

### **4. Disciplinary sanctions**

(1) Depending on the severity of the misconduct or breach of rules, the following disciplinary actions can be imposed:

- a) written reprimand,
- b) suspension of voting rights,
- c) suspension from office and/or suspension of eligibility rights,
- d) non-permission or, if applicable, withdrawal of earlier given permission to join an electoral register of *Generation2004*,
- e) suspension of membership,
- f) exclusion from membership.

(2) Generally, the least drastic disciplinary sanction appropriate to the misconduct should be imposed as a first step, while exclusion from membership should be applied as a last resort for severe cases of repeated misconduct or breach of rules, which could not be stopped by milder measures.

(3) The measures according to paragraph (1) no. b), c) and d) must be restricted in time for a suitable period between 3 and 36 months. Alternatively, in the case of no. b) or c), the restriction can also be set for a certain number of elections (normally one).

(4) The measure according to paragraph (1) no. c) applies to functions within *Generation2004* only. Functions outside the organisation (e.g. elected member of an Institution's staff representation) are not affected.



(5) The measure according to paragraph (1) no. e) can only be imposed according to the procedure described in article 9.

(6) In case a disciplinary procedure results in the exclusion of a member, the same person can only validly apply for membership again after 12 months following the date on which the exclusion took effect. If the application arrives earlier, it is routinely rejected.

(7) In case of exclusion the membership fee will not be refunded, unless the exclusion is proposed to the General Assembly within the first thirty days of membership. In the latter case, there will be a restitution of the annual membership fee (article 7.6, no. b of the by-laws).

(8) If a member, who received a secondment/detachment for the purpose of working for *Generation2004*, is affected by a suspension from this office, the Board requests the cancellation of the secondment/detachment and submits again a request for secondment/detachment, once the suspension period is elapsed, unless the member in the meantime decides to resign from his/her office. A cancellation of a secondment shall have a minimum duration of 6 months.

## 5. Procedure

(1) Unless explicitly permitted otherwise by this Implementing Rule, the decision to impose one of the disciplinary sanctions is taken according to the procedure stipulated in this article. The process is depicted in the annex.

(2) A disciplinary procedure is initiated upon a decision of the Board. The request must be supported by suitable material on the case. Upon motivated request of the Steering Committee the Board is obliged to initiate a disciplinary action.

(3) The initiation of a disciplinary action is communicated within 5 working days in writing together with all supporting material to the defendant.

(4) The defendant is given the opportunity to present her/his point of view on the above matters in writing and to request a hearing. If the defendant does not react within 20 working days after the communication according to sentence 1, it is assumed that he/she neither wants to comment at this stage nor desires a hearing.

(5) Upon request of the defendant, the Board convokes a hearing with the aim to discuss all aspects of the case and to investigate possibilities of reconciliation. The hearing should take place within 20 working days after the delay for the defendant's reply according to paragraph (4) has elapsed. The defendant will be invited together with a counsellor of her/his choice. The counsellor needs to be member of *Generation2004* and commits to keeping all information exchanged during the hearing confidential.

(6) In light of the defendant's written reply (if any) and the outcomes of the hearing (if any), the Board can adopt a proposal for a disciplinary measure. Should the Board decide not to propose a disciplinary measure, then the action is closed and will be kept confidential unless the defendant explicitly requests to make it public.



(7) After adoption by the Board, the proposal for a disciplinary measure is brought before the General Assembly for approval, modification or rejection in its ordinary annual meeting taking place directly after the decision of the Board. For the purpose of this decision, in order not to keep a case pending for undue long time, the Board can decide to call an extraordinary General Assembly

(8) The defendant has the right to present her/his point of view on the case in front of the General Assembly, before a decision is taken.

(9) After hearing the Board and the defendant the General Assembly decides with simple majority, according to article 21.7 of the by-laws, about the adoption, modification or rejection of the disciplinary measure proposed by the Board.

(10) Within 5 working days after the decision by the General Assembly the Board notifies the defendant in writing about the decision taken.

(11) In case the defendant pre-empts the decision of the General Assembly or the proposal of the Board on a disciplinary measure by resigning from office, leaving the organisation or taking any other relevant action, the Board reassesses the case and considers whether the disciplinary procedure can be closed immediately.

## **6. Disciplinary Committee**

(1) The General Assembly can appoint a Disciplinary Committee. Its members are elected by simple majority according to the rules stipulated in Implementing Rule 6 on internal electoral rules. Eligible are all full members of *Generation2004*, whose eligibility rights have not been suspended. Members of the Board must not be members of the Disciplinary Committee. Preferably, at least one of the Committee's members has a legal background.

(2) Each time a Disciplinary Committee is appointed, the General Assembly also votes on the Committee's

- a) mandate, including a description of its purpose and tasks;
- b) term, with begin and end;
- c) rules of procedure, including the roles (e.g. chair and vice-chair, as appropriate), working method(s), modalities for taking decisions (if any) and reporting to the General Assembly or/and other bodies of *Generation 2004*, as appropriate.

(3) The Disciplinary Committee is bound to confidentiality on all issues in relation to a disciplinary action.

## **7. Special provisions for members of the Board**

(1) In case a member of the Board is involved in the case as defendant or complainant, the Board must discuss the disciplinary case and take the decision on a proposal for a disciplinary measure in the absence of that Board member. The right to be heard according to paragraph (4) of article 5 remains unaffected.



#### **8. Special provisions in case of unpaid membership fee**

(1) In case a member has not paid the membership fee, he/she will receive a written notification with a reminder to pay the fee making him/her aware of the consequences stipulated by this paragraph. If the member does not pay the fee within 20 working days following the notification, his/her membership is automatically suspended, about which the member will be notified in writing. The suspension according to this paragraph is unlimited. The member can request the withdrawal of the suspension by delivering to the Treasurer a proof of payment of the full membership fee applicable to the running year.

(2) In case a member has not paid the membership fee for more than one year, a written notification with an ultimate reminder will be sent to the member making him/her aware of the consequences stipulated by this paragraph. If the member does not deliver to the Treasurer a proof of payment of all membership fees due within 20 working days following the notification, the Board can decide, with 2/3 majority, to terminate the membership. A decision of the General Assembly is not needed in this special case. The member shall be informed about her/his exclusion.

#### **9. Transitory provisions**

A disciplinary case initiated by the Board before this Implementing Rule enters into force, can still be brought before the General Assembly, as appropriate according to these Implementing Rule, if the provisions as stipulated in article 12 of the by-laws concerning disciplinary measures have been respected. Paragraphs (8), (9) and (10) of article 5 apply in any case.

#### **10. Entering into force**

This Implementing Rule was adopted by the General Assembly on 01/12/2015 and enters into force the following day.



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## Related modifications of the By-laws:

- 7.3 Voting and eligibility rights of full members can only be suspended in the following cases: [...]
- c) ~~in case of suspension of membership,~~ due to a disciplinary procedure (art. 12), including the case of delayed payment of annual membership fees (art. 9.3).
- 7.6 Full membership can be terminated either by resignation, through personal initiative of a member, or exclusion, through the initiative of the governing bodies.
- a) [...]
- b) [...]
- c) If a full or adherent member has not paid the membership fee for more than one year, the Board can decide, following a series of reminders as determined by Implementing rule 3 devoted to disciplinary procedure and guarantees, with 2/3 majority, to exclude the member from membership. In this special case a decision of the General Assembly is not necessary.