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Contractual Agents say



to any further delay !

Preamble

Since, ten years ago, the new category of contractual agents (CA) was created, the contractual agents have step by step replaced the auxiliary staff in the general directions and they also started to occupy posts in the services in order to execute the tasks which have been done by officials up to then.

Even if the opportunity was given (at least to some of them) to obtain unlimited contracts, their status does not cover correctly certain important aspects such as the career, mobility, their social coverage and the access to internal competitions.

In order to mitigate these weak points, the CA got at several occasions in contact with the administration. They always got the same reply: "we cannot change anything, it is written in the statute."

The CAs waited very confidentially during the negotiations for the right moment to express their wishes. Only two points, which already appeared in the initial proposal if the, Commission, were retained: internal competitions for CA (except for FGI) and the duration of the contract changed from three to six years for 3b contracts (limited contract). For the rest the CA were listened but not heard.

The final result of the reform confirmed the principal wish of the member states to reduce the social benefits of the staff. To make economies is a pretext to hide the direct attacks against the public function.

Making economies was an excuse to hide the direct attacks against the European public function.

The requests from the trade unions have even not been taken into consideration.

Even if it is the role of the trade unions to negotiate with their bosses, it was the policy of the member states which controlled the whole process and obliged everybody to accept their rules.

During the discussions the counterpart of the administration realized that the requests, of the CA and the trade unions made sense, but the political decisions were more important. The social dialogue turned out to be mere fake.

Following the requests of ACs

Following the mobilization of the staff in the European institutions and the strike of 5th June 2013, the "Front Common" of different trade unions published a tract about the different requests of the contractual agents. (Dated 18/06/2013)



Here the list of their requests:

INTERNAL COMPETITIONS

Request of the "Front Commun":

« Access to internal competitions for all contractual agents recruited on the same basis, now only reserved to temporary agents and European civil servants »

This request was part of the list of the original proposal of the Commission and it has **finally been accepted!**

The CA often showed their interest in various groups to get access to the internal competitions in the same way than for TA.

➔ the organisation of these competitions is only done on exceptional occasions! No guarantee concerning the regular organisation of these competitions. The number of laureates is also very limited!

➔ The CA who are admitted to participate in these internal competitions will be limited in their choice of the grade of the competition. They can only participate in the competition which is linked to their CA contract. (Function group)

Function group	Competition			
	SC1 or SC2	AST1-or AST2	AST3 - AST4	AD5 or AD6
I (ex-D)	NO	NO	NO	NO
II	YES	NO	NO	NO
III		YES	NO	NO
IV		YES	YES	YES

In the initial proposal of the Commission, the internal competitions were foreseen for All CA, but in the end the colleagues have been let out.

As a matter of fact, the CA of FGI and the CA of other institutions such as the executive agencies are excluded from these competitions. What about equal treatment?

CONCERNING CA FGI:

CA FGI is the only CA FG who can work everywhere in the Commission and all over all Institutions (agencies, offices...). They keep an indefinite contract, but they are excluded from internal competitions. No evolution throughout their whole career? What a paradox situation!

In the future, the posts of the former "D" category, which are for the time being occupied by officials, will no longer be occupied by officials. (e.g.: building manager). Other job profiles are also downgraded. The political line is to hire only CA. There is no surprise; economies are always made on the bottom of the pyramid!

CONCERNING CA IN THE EXECUTIVE AGENCIES:

With a particular legal basis, the situation of the six executive agencies which count around 2000 staff member for the time being, is quite complicated. The staff number will increase to almost 3000 people by 2020. Even though they are "emanations" of the Commission, since they are under the supervision of their mother DGs, the EA¹ are not considered as being services belonging to the Commission.

The biggest part of staff (TA and CA) of the EA is covered by the staff regulation. Unluckily they have no access to internal competitions² of the Commission.

The request of the CA of the EA to be admitted to participate in the internal competitions on Commission level is more than justified. In addition please note that the CA in the EA have passed the same selection procedures (CAST) than those hired in the Commission.

Here are some details concerning the agencies:

- In the "tableau des effectifs" of the agencies there are no posts of « officials ».
- Around 25% are TA posts, including the management posts, which are exclusively occupied by seconded officials of the Commission and \pm 75% of the posts are occupied by CA.
- The non-seconded TA from the Commission as well as the CA are all considered as external staff.

External staff?

During the meetings between DG HR and the trade unions on the attractiveness of the EA, in 2013, the missing experience of the status quo in the EA was felt.

In order to improve the attractiveness of the EA, the Commission improved the situation of the seconded officials. They have now only one single career in both the Commission and the Agency. This link between the Ea and the Commission is clear for the officials. On the contrary nothing has been foreseen or seems to be possible from a legal point of view for the other categories of staff within the EA (namely TA and CA).

On the one hand staff obtained a single career whereas the others are excluded from all advantages, which could create a big motivation, in the Commission, such as: internal competitions, mobility, access to the central mediation service, access to the elections of the central staff committee (take part in the elections and possibility of being elected at the central level. This would create the same recognition in the trade unions and in the social dialogue...) etc.

The vicinity between the EA and the Commission is so big that some tasks done on Commission level up to now have been transferred to the EA together with the staff who did the tasks. In order to be able to do so, the Commission respected the directive on "transfer d'entreprise". This

¹ List of agencies : http://europa.eu/about-eu/agencies/index_en.htm

² Ghiba judgement, case number F-10/11

directive foresees that in case of transfer of one activity to another company, staff is allowed to follow the enterprise which becomes its new employer. On the contrary it is impossible to transfer staff from the executive agencies to the Commission!

In the IT sector tasks are transferred from the EA to the Commission. The tasks of staff working in this sector, is reducing every day. Other activities seem also be concerned by this trend: Audit, legal service etc. For this staff uncertainty is now reality: if their tasks disappear in the EA, they will be obliged to perform other tasks which are no longer linked to their job profile. This staff cannot move to other EA since the tasks go back to the Commission.

CONTRACTS FROM 3 TO 6 YEARS

Request of the Front commun:

« Extension of contracts from 3 to 6 years for fixed term contract staff (AC3b)»

Obtaining Access to the internal competitions was also a request in the initial proposal of the Commission.

Contract Agents having worked 3 years as CA and with a contract ending in 2013, obtained a prolongation in the interest of the service, for more than 3 years, but with a contract as interim staff.

In the meanwhile the Commission published a call for interests for profiles in function group II, III and IV.

A determined contract 3 ter (3b) of the RAA under the new statute will be proposed to Successful candidates.

To be in an EPSO CAST LIST can be an advantage, but not necessarily. To be in an EPSO CAST LIST may be an advantage but not necessarily. *Will it be an asset to access internal competitions?*

FINANCIAL REVALUATION

Request of the Front commun:

« The revaluation for contract staff with the lowest incomes »

No financial revaluation for contract staff has been discussed during the reform.

Since economies and attacks are made, the staff received at several occasions. First the reduction of the salary indexation for 2011(from 1, 7 à 0, 9%, reduced to 0%) and 2012 (from 1, 7 to 0, 9% reduced to 0, 8%). In addition the working time increased from 37, 5 hours to 40 hours, followed by the blocking of the salaries for 2013 and 2014.

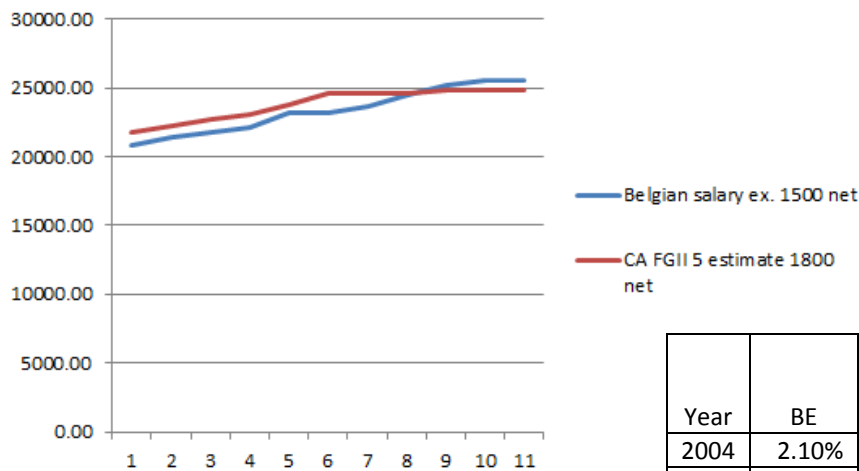
Number of weeks/year	52
Bank holidays (+- 20 working days)	(-) 4
Annual holiday (+- 30 working days)	(-) 6
	42
Overtime/week	2.5
42*2.5=	105
Total overtime/year	105
Total in days (105/8)	13

This reduces considerably the purchase power if all staff and this especially true for CA who have lower salaries. They will have to reduce their lifestyle in the coming years.

In the table below you can see the difference between indexation for Commission staff (e.g. CA) and for Belgian worker. Knowing that in this calculation, the annual salary of a person working in the private sector is based on 13,6 months per year.



Years	CA COM	BE
2004	0.007	0.021
2005	0.022	0.0278
2006	0.023	0.0179
2007	0.014	0.0182
2008	0.03	0.0449
2009	0.037	-0.0004
2010	0.001	0.0219
2011	0	0.0353
2012	0.008	0.0285
2013	0	0.0113
2014	0	0
Total	0.142	0.2264



Year	BE	COM CA	Belgian salary ex. 1500 net	CA FGII 5 estimate 1800 net
2004	2.10%	0.70%	20828.40	21751.20
2005	2.78%	2.20%	21407.43	22229.73
2006	1.79%	2.30%	21790.62	22741.01
2007	1.82%	1.40%	22187.21	23059.38
2008	4.49%	3.00%	23183.42	23751.17
2009	-0.04%	3.70%	23174.14	24629.96
2010	2.19%	0.10%	23681.66	24654.59
2011	3.53%	0.00%	24517.62	24654.59
2012	2.85%	0.80%	25216.37	24851.83
2013	1.13%	0.00%	25501.32	24851.83
2014		0.00%	25501.32	24851.83

CA of Luxembourg

Concerning the CA of Luxembourg, Mrs Lulling (Deputy of the European Parliament) tried to find out why numerous CA have a lower salary than the social minimum salary of Luxembourg (GF1 (1847, 76 euros) and GF2 (1919, 18 euros))³.

³ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2014-000173+0+DOC+XML+V0//EN>

The Commission replied to Mrs Lulling that these figures do not take into account the effects of the taxes and the contributions to the social security which are taken away in both regimes. The net monthly salary for a 40hours work week of a contractual agent are 1616,60€ in the first grade of FG1 and 1678,79€ in initial grade of FG2. In comparison the net salary of a non-qualified employee is 1563,45€ and 1823,94€ for a qualified employee in Luxembourg. In addition EU staff benefits of an indemnity of depaysement. These types of conditions also apply to seconded employees. This raises the net salary of FG1 and FG2 up to 2121,99€ and 2184,18€.

This would suppose that there exists no CA of Luxembourg in Luxembourg and that all CA receive an allocation which helps them to have a salary which is significantly over the minimum salary. The Ca of Luxembourg, such as the staff of the Commission and the Agencies, awaited an important help from the administration in this concern. This help never arrived!

PROMOTIONS

United Front demand:

“A promotion rate equivalent to that of officials”

The promotion rate is not only lower than that of officials, but the period spent in a grade can be as long as 10 years.

MOBILITY

United Front demand:

“The organisation of mobility for contract agents between the Commission and the various institutions, agencies, offices and delegations in order to sustain employment”

In order to promote staff well-being, and in the institution's interests, it is essential to establish mobility for all contract agents, in order to offer them the option to move within the same function group from one institution to another, while retaining their contract of indeterminate duration, and therefore without a probationary period or any change of rights, including pension rights.

This mobility would avoid all extreme situations (harassment, burn-out*, demotivation, etc.) which very often lead to tensions (stress at work) and contract terminations.

** The number of participants in conferences on burn-out is a striking illustration of the extent of this problem. We must not wait until people are at the end of their tether before acting. The problem needs to be eliminated at source!*

THE OFFICES (OIB, OIL, PMO, ETC.)

The offices have opened a dedicated page on the Intracomm⁴ where they publish details of vacant positions intended exclusively for CA 3a staff in place in an administrative office (OIB/PMO/OIL). This offers these agents the possibility of transferring with their same function group for the advertised role.

No other mobility offers are currently published.

THE DELEGATIONS

The staff satisfaction survey conducted by the Commission in 2013 confirmed that many CAs have been calling for several years for a mobility scheme to be implemented as quickly as possible. At last, a mobility scheme will be implemented shortly for CAs in delegations, including the possibility of a transfer to the Commission's headquarters for a limited period.

Negotiations are currently ongoing between the SEAE, DG HR and the trade unions/staff representatives with a view to launching the first mobility exercise on a voluntary basis in 2014,

⁴ [http://myintracomm.ec.testa.eu/dg/oib/NewsPortal/Pages/Possibilité-de-mobilité-pour-agents-contractuels---AC-3a\)-.aspx](http://myintracomm.ec.testa.eu/dg/oib/NewsPortal/Pages/Possibilité-de-mobilité-pour-agents-contractuels---AC-3a)-.aspx).

and therefore on a limited basis. However, it is expected to become compulsory subsequently. If all the technical aspects are settled swiftly, and if the parties to the negotiations reach an agreement, the transfers are scheduled to be implemented between September and December 2014, depending on the regions. This is a step forward, especially for CAs blocked for several years in difficult delegations.

THE EXECUTIVE AGENCIES

No negotiations are taking place on mobility, either inter-agency or with other administrative offices.

When CAs working in an executive office are interested in a vacant position in an office or an agency, they must apply to the agency in question, pass before a selection panel again and, if they are selected, they must resign from their agency and sign a new contract with their new office/agency. Signing a new contract is not without consequences, since the new rules adopted in the new Staff Regulations will apply (pensionable age, etc.).

Among other things, there are fewer and fewer mobility opportunities for staff in the executive agencies, given that in the offices the positions are first offered to current staff.

REOPENING OF NEGOTIATIONS ON THE GIP

United Front demand:

“The re-opening of negotiations on the GIP for contract agents ...”

Not all the general implementing provisions (GIP) for contract agents were negotiated in 2013, before the entry into force of the new Staff Regulations on 1st January 2014. Once again, they have been postponed indefinitely! Even if the GIP are negotiated, the room for manoeuvre is limited by the legal framework of the Staff Regulations.

Before the reform, it was impossible to improve certain rules because the Staff Regulations blocked any changes, and during the 2013 negotiations our demands were not taken into consideration. At the present time, we are once again restricted by the Staff Regulations.

It is becoming clear from the administration's dithering that CAs expectations are far from a priority.

For many people, contract agents are there on a temporary basis and are only used to make savings in the European budget. They should therefore be grateful, in most cases, to have a contract of indeterminate duration, without having the right to a career. Even if they spend their professional life working for the institutions this does not mean that one day they will become a permanent official.

PARTICIPATION OF A CA REPRESENTATION IN THE NEGOTIATIONS

United Front demand:

“... and the participation of a CA representation in these negotiations”

CA REPRESENTATION IN SOCIAL DIALOGUE MEETINGS

When the CA status was created, the procedures were negotiated by parties that, in practice, were unaware of the impact that this would have on the individuals concerned. Since then, the necessary representation of contract agents in social dialogue meetings has been very low. Moreover, political ideology is also not in their favour. The invitations to these meetings are sent via their trade union, which in turn invites them to participate.

At the present time, most of the contract agents who participate in such meetings are elected staff representatives (either at the Commission, the EEAS or the executive agencies). For some CAs, including those from agencies, they must first be satisfied that their departments will not be

adversely affected by such multi-tasking. For others, who come from the Commission or the EEAS, they are entitled to secondment for trade union duties or an inter-regulations secondment and are therefore able to devote all or part of their time to staff representation duties.

Secondment can be activated in agreement with the services. To date, that has not always been easy for officials ... but is even less so for contract agents who are not included in their DG's headcount. Among other things, they must find a new position once the mandate expires. The red carpet will certainly not be rolled out for them!

That does not mean that this commitment should be abandoned. More than ever, the presence of contract agents in the meetings must be ensured on a continuous basis since, over the last decade, their status has stagnated. Not only is it still incomplete, but it has suffered, in the same way as all staff, from a deterioration in working conditions since the reform. In addition, the number of contract staff working in services has increased.

Their status has become increasingly complex to defend because of the diversity of:

- the sites: in the various delegations, services and offices of the Commission, executive agencies, etc.
- the job profiles: in day nurseries, kitchens, ushers, building managers, drivers, etc.
- the different places of employment: Luxembourg CA, etc.
- between CA 3a: contracts of indeterminate duration are a reality for some agents whereas others have an expiry date linked to the lifespan of their executive agency
- between CA 3b: recruited with or without CAST EPSO and now with a call for expression of interest

In order to defend staff interests effectively, we must avoid any further staff divisions, while promoting equal treatment for all persons.

Commission	Permanent officials	CA 3a	CA 3b	Total
2005	20902	2787		2787
2014	23642	3108	3142	6250

Executive agencies	Total Staff	TA	CA
2014	1708	+ 25%	+ 75% (± 1281)
2020	2644	+ 25%	+ 75% (± 1983)

REPRESENTATION OF CAs OF THE EXECUTIVE AGENCIES AT SOCIAL DIALOGUE MEETINGS

As the executive agencies have been created for a fixed duration, the procedures do not provide for members of their staff committees to participate in social dialogue meetings at central level; such meetings, however, are the most important, since this is where changes to the Staff Regulations, the Conditions of Employment of other Servants and the General Implementing Provisions (GIP) are discussed.

Who wants to kill the social dialogue? Since the reform, this has become a sham at central level, but what can be said about the executive agencies where only the strict minimum exists to defend staff interests? Why were new agencies established without giving thought to ensuring that staff rights are respected?

Are we really at the Commission, guardian of the Treaties, and responsible for ensuring the application of European law, which advocates equal treatment, etc.?

For your information, here is a description of the differences between the representation of the Commission's staff and that of the agencies:

STRUCTURE OF THE COMMISSION'S STAFF COMMITTEE

This is the structure put in place by the Commission for staff representation (*parts of the text describing these committees have been copied from the Intracomm*)

- **The Staff Committee (SC):** body set up under the Staff Regulations (article 9 §3 of the Staff Regulations), whose role is to:
 - represent the interests of the staff vis-à-vis their institution;
 - contribute to the smooth running of the services by providing a consultative opinion on any difficulty having general implications for the interpretation and application of the Staff Regulations.

The dialogue between the Staff Committee and the administration (represented by the Director-General of DG HR) is organised via consultation committees (COCO).

From an organisational point of view, the SC is composed of:

- a Central Staff Committee (CSC);
- 8 local sections corresponding to the main places of employment:

Brussels	+ 22,399 voters
Luxembourg	+ 3,786 voters
Ispra	+ 1,729 voters
Karlsruhe	+ 248 voters
Petten	+ 196 voters
Geel	+ 295 voters
France	+ 84 voters
"outside the EU"	+ 4,744 voters

These figures taken from the Excel file describing the "Internal organisation of the SC" are published on the Intracomm⁵ but are not up-to-date. Nonetheless, we wanted to present them as a guide.

The members of the Local Staff Committees (LSC) are elected by the staff of their place of employment (officials and other servants of the Commission with a contract of indefinite duration of more than or less than one year, in the latter case, if they have been employed for six months). They are elected for a period of three years. They are also responsible for designating representatives to sit on the CSC from among the members of their LSC.

At elections, the trade unions present their list of members and endeavour to obtain a maximum of votes in order to meet one of the criteria defined in the procedures to be considered a representative trade union at the Commission. This representation is important, since it allows the trade unions to obtain a number of seats/secondments which enable the elected members to participate in the various staff committees. This is also important for the viability and visibility of the trade union, since with few elected members on these committees, it is difficult to cover and defend certain claims and have all the necessary information to keep staff informed.

- **The Joint Committees:**

The Joint Committees (JC) contribute to the development of staff policy, its correct implementation, and help to ensure that the relative provisions in force are applied fairly and equitably. They are part of the structured cooperation between the administration and its staff.

The JCs work either on matters relating to the implementation of staff policy, or on the management of welfare services.

⁵ http://myintracomm.ec.testa.eu/hr_admin/en/social_dialogue/actors/staff-committee/Pages/index.aspx

For example, joint committees have been set up in the following areas:

- *Careers and training*: Evaluation and Promotion Committee
- *Working conditions, health and safety*: Prevention and Protection at Work Committee
- *Social initiatives; Early Childhood Committee (day nurseries)*
- *Inter-institutional committees: Committee for the Reimbursement of Exceptional Educational Costs*
- *The committees not covered by action 56*: Sickness Insurance Management Committee

Committees which fall under the responsibility of the CSC:

<http://www.cc.cec/fpfis/blogs/ccp-csc/our-actions/joint-committees/>

Committees which fall under the responsibility of the Brussels LSC:

<http://www.cc.cec/fpfis/blogs/clp-bxl-lsc/what-we-do-2/our-appointed-to-the-local-joint-committees/>

▪ **The Trade Unions:**

The role of the trade unions and staff associations is to defend the general interests of the institution’s staff (article 10b of the Staff Regulations).

Although these bodies were not set up under the Staff Regulations, the trade unions and staff associations have stable, structured relations with the administration in accordance with the standards established by the framework agreement on relations between the European Commission and the trade unions and staff associations (the “framework agreement”) concluded on 18 December 2008.

According to article 14 of this agreement, social dialogue involving the trade unions and staff associations “can apply to any questions dealing with staff policy and the working conditions of officials and other servants”. Nevertheless, the consultation procedures at administrative, technical and political level (described in articles 14 to 20 of the framework agreement) can only apply to changes to the existing rules or the creation of a new rule, without prejudice to the statutory powers of the Staff Committee.

STRUCTURE OF THE STAFF COMMITTEE OF THE EXECUTIVE AGENCIES (EA)

The structure currently in place in the agencies is as follows:

▪ **The Staff Committee (SC):**

Each executive agency (EA) has a local staff committee whose members are temporary agents (TA), contract agents (CA) and AST (e.g. at the REA) elected by the staff of their agency, composed of contract agents and temporary agents, including officials seconded from the Commission.

The following EA indicative table shows the approximate number of voters

Executive agencies	2014	Staff in 2020
EACEA	452	456
(ex) EACI → EASME	159	498
EAHC → CHAFEA	50	79
(ex) TEN-TEA → INEA	100	318
ERCEA	389	529
REA	558	764
TOTAL	1708	2644

The executive agency SC meets with the Director of the EA and the human resources representative to discuss staff demands. These often relate to the Staff Regulations, the GIP and other issues discussed with the Commission at central level (canteens, day nurseries, etc.). In some areas, the directors do not have the power to change rules which have been adopted at the Commission, and it is not unusual for the SC to

come out of such meetings with more questions than answers. The leeway to change or even improve working conditions is very small.

The concerns of EA staff are the same as those of Commission staff, but as their representatives are not at the heart of the central services, it is impossible for them to answer questions or have these included on the agenda of social dialogue meetings (e.g. access to internal competitions). This is demotivating not only for EA staff, but also for their representatives. It is even becoming difficult to find volunteers to stand at the Staff Committee elections in several agencies.

Realising that internal meetings did not provide any relevant information concerning demands (mobility, internal competitions, etc.), some trade union members and AE staff committee members have started to participate actively in the process of representing EA staff at central level.

But this solution is not sustainable!

Network Executive Agencies Staff Committee (NEASC)

Having noted that the demands of the various agency staff committees were the same, these committees decided to join forces.

Accordingly, in 2010, they set up the Network Executive Agency Staff Committee (NEASC).

The NEASC is composed of the 6 staff committees of the executive agencies:

6 executive agencies	
EACEA	http://intranet.eacea.cec.eu.int/SitePages/homepage.aspx
(ex) EACI → EASME	http://intragate.ec.europa.eu/easme/#loaded
EAHC → CHAFEA	http://ec.europa.eu/chafea/contacts/contacts.html
(ex) TEN-TEA → INEA	http://ineanet.inea.cec.eu.int/
ERCEA	http://intranet.ercea.cec.eu.int/Pages/NewIntranetHP.aspx
REA	http://intranet-rea.rea.cec.eu.int/sites/rea/Pages/default.aspx

The NEASC is chaired by the chair of the agency SC on a rotating basis.

It is currently chaired by the chair of the ERCEA Staff Committee, Sebastian Winkler

In 2010, the NEASC signed a Memorandum of Understanding with the Commission's Central Staff Committee and has written on several occasions to Mrs Souka, Director-General of DG HR. Meetings have already been held with DG HR, notably meetings on executive agency appeal, in order to explain the situation of the staff of the agencies.

Since the end of 2013, the NEASC has been invited to participate with observer status in Commission CSC and LSC meetings.

It is easy to designate one or two people to participate when meetings, such as those of the CSC, are in Brussels. However, if the meetings are held in Ispra or Luxembourg, only the Commission's representatives have their mission expenses covered by the budget allocated to staff representation. The NEASC members do not have any budget allocation.

At the time of the reform, the NEASC (Network Executive Agencies Staff Committee) representatives were also invited to participate in the social dialogue meetings. They were present either as an NEASC representative or as a trade union representative.

They very quickly realised that the discussions would focus primarily on Commission staff matters and that as the executive agencies were not part of the Commission, it would be for them to adopt their own rules in agreement with the director of their agency.

The Commission and the executive agency directors are passing the buck as regards certain important decisions (e.g. inter-institution mobility, careers, internal competitions, full reimbursement of travel expenses, etc.) which affect the staff of the executive agencies. The agencies cannot do anything because the decisions are negotiated at Commission level, and the Commission cannot do anything because the agencies have their own legal identity. Without support from senior management in executive agencies and without a more open approach by the Commission, it is a futile exercise.

Article 110 of the new Staff Regulations states that the details of the Staff Regulations which are adopted by the Commission, and in particular the General Implementing Provisions (GIP), apply by analogy to the agencies. The agencies have 9 months to submit to the Commission GIP which differ from those adopted by the Commission. Because of the restrictions of the Staff Regulations, there is almost no room for manoeuvre at all.

The participation of the representatives of the executive agencies has nevertheless provided an opportunity for them to share the experiences of agency staff with their counterparts and to negotiate general working conditions for a wider group of staff.

These are the difficulties encountered by the EA staff representatives in performing their duties.

It should be borne in mind that a positive result for their commitment is necessary to motivate local staff, but also in the interests of the institutions.

At the level of the Social Dialogue

- They have no secondment rights since there are no trade unions in the agencies.
- Their work as representatives is carried out at the expense of their personal career and sometimes their private life. It must be borne in mind therefore that they have to combine their work in the agency that employs them with their representation duties (studying documents, procedures, participating in juries and panels, answering staff questions, attending meetings in order to keep up to date with developments, defending staff, etc.).
- For those on contracts of indeterminate duration, but above all for those who do not yet have such contracts, this role as a staff representative represents a potential risk for the continuity of their contract and/or career.

At the level of the Commission's Local Staff Committee and Central Staff Committee

- They are invited as observers to certain LSC and CSC meetings, but:
 - they do not participate in all the other committee meetings;
 - they receive only some of the information and emails regarding the issues discussed;
 - they do not have secondment rights.

Consequences:

- Their presence at meetings is left to the goodwill of their line managers. In general, such attendance is accepted by management, which is sensitive to such initiatives, as they are useful and necessary for the well-being of staff as a whole. The latter, who are very often forgotten by the Commission, have legitimate expectations vis-à-vis this representation at central level. Naturally, the representatives must ensure that their work within their service is duly accomplished.
- As the representatives are not officially recognised, they have little or no legitimacy compared with their Commission counterparts.

- Without all the necessary information and without secondment, it is more difficult for them to understand the issues being discussed and to adequately represent staff. In order to ensure that they can work efficiently in their services and also participate effectively in meetings, they need to be able to monitor developments diligently. As you know, every word counts in a text since it can completely change the meaning!
- As contract agents are very vulnerable in terms of job security (budget, bad reports, long-term absences, closure of the agency, etc.), they must have great conviction in order to commit themselves to such duties, which are very time-consuming and demanding, and also require patience, since decisions are taken very slowly (or never!). At both professional and personal levels, this requires a huge effort by these committed people. Their careers suffer as their staff representation duties are not recognised in their appraisals.
- From the point of view of objectives, it is possible to move mountains, but it's a long-term goal. The results are invisible in the short term.
- All this is discouraging and an obstacle to the recruitment of new employees interested in staff representation duties. The necessary motivation and endurance exist at the present time, but for how much longer?

▪ **The Joint Committees:**

The members of the EA staff committees do not have access to the Commission's joint committees, despite the fact that EA staff are also affected by the issues discussed in these committees, e.g. canteens, day nurseries, sickness insurance, etc.

It is very important for the EA representatives to have access to these committees, and the minutes of their meetings!

▪ **The Trade Unions:**

There are no trade unions in the agencies since no framework agreement between the trade union and staff associations has been signed. It would be appropriate to draw up such a framework agreement⁶ for these agencies since this situation cannot be allowed to continue.

In practice, some staff members who were members of Commission trade unions have actively sought to help the staff of the executive agencies, with the twofold aim of ensuring that they are represented in the social dialogue discussions and keeping them informed about key issues concerning their rights.

Why is the presence of trade unions in the executive agencies necessary?

EA staff have the right, like all other Commission colleagues, to be represented at central meetings and in the defence of their rights. In general, only the trade unions can do this.

Without this framework agreement, and if no solution is found, other threats hang over EA staff. At the current time, an executive agency can prevent staff that are members of a trade union from participating in their union's trade union days. However, such days are important for the trade unions and their members alike. As offshoots of the European Commission, the agencies have a legal duty to comply with the attendant regulations, in particular:

- article 24b of the Staff Regulations: "Officials shall be entitled to exercise the right of association; they may in particular be members of trade unions or staff associations of European officials";
- article 10b of the Staff Regulations: "The trade unions and staff associations referred to in article 24b shall act in the general interests of the staff, without prejudice to the statutory powers of the Staff Committees";

⁶ See Article 10c of the Staff Regulations: http://myintracomm.ec.testa.eu/hr_admin/en/staff-regulations/officials/Pages/title-1.aspx

- Commission Decision of 5 November 2010 on implementing provisions on leave, which explicitly provides for trade union leave.

If EA staff are prevented from having contact with their union, this will open the door to all kinds of abuses.

This situation as a whole has the following perverse effects:

- Some trade unions give priority to Commission staff since they are their voters and therefore the only ones who can, at Commission elections, contribute the necessary votes for their representativeness.
- The percentage of trade union members is not very high at the Commission, since the work of trade unions is very often misunderstood, and some staff members believe that they do not need the trade unions, even if sooner or later they contact them. However, in the agencies, which are mainly staffed by CAs, the latter need to be supported!
- If a trade union finds itself with a large number of agency members, during the elections for Commission staff representatives, their call to members to vote for them is likely to be unsuccessful and as a result they will not obtain the number of votes needed among their own members, since some of them do not vote.
- The trade unions represent the staff, and weakening them is tantamount to weakening the staff as a whole. If staff members feel that the trade unions do not do enough and want to get involved, all they have to do is register on the list of eligible members, since places are open to all Commission staff, BUT definitely not to executive agency staff. However, it is the EA staff who realise, in the absence of trade unions within their agency, the importance of the role that the trade unions play in defending staff rights.

ADVERTISING OF ALL VACANT POSITIONS

United Front demand:

“The advertising of all vacant positions by all the institutions, agencies, offices and delegations”

Internal positions are published in Sysper but are only accessible to the CAs of the institution. Therefore, there is no transparency as regards vacancies in all the institutions where CAs could work.

ELIMINATE DISCRIMINATIONS

United Front demand:

“Eliminate discriminations with regard to the recognition of professional experience between 3a and 3b categories, and the significant salary losses for CA colleagues moving from one contract to another”

When contract agents are recruited, the professional experience of CA 3a staff is not treated in the same way as that of CA 3b staff.

CA 3a staff are graded every 7 years, compared with only 5 years for CA 3b staff. It is to be noted that some CA 3a staff (in an office, agency, etc.) have even been recruited with a lower grade than the one they had at the Commission, although they did the same work as a CA 3b. This has a significant effect on the recognition of the work and salary level, in particular for the most experienced colleagues.

Another perverse effect of this practice is that, very often, it is the experience acquired even within European institutions that is not recognised.

According to the administration, this difference is above all due to the length of the contract (see F-33/12; case J Pepi/ERCEA). Given that CA 3b staff are not given contracts of indeterminate duration and do not have a career (evaluation system), they receive more favourable treatment as regards the recognition of their experience.

The reason given by the administration is incomprehensible for agency CAs, since the new CA contract which should be a true contract of indeterminate duration is in fact a contract of indeterminate duration linked to the existence of their agency. The CAs concerned who have lost money and who receive a contract with an end-of-contract clause (which depends on whether or not a framework programme is extended) feel disadvantaged.

TRANSITIONAL MEASURES

United Front demand:

“Transitional measures intended to safeguard, at the end of their contract, the employment of CA to enable them also to be recruited via a simplified procedure after the adoption of the new Staff Regulations”

The Commission has a non-aggregation rule⁷ which applies to the maximum period during which the Commission’s services can enlist non-permanent external staff to carry out specific tasks (when short-term additional resources are needed), or for specialised tasks (if the necessary skills are not available within the institution).

The use of this type of staff is authorised for a maximum period of 7 years (6 years before 1st January 2014) and is based on a rolling period of 12 years.

The 7-year non-aggregation rule includes duties performed as a:

- temporary agent 2a;
- temporary agent 2b, calculated solely for duties (current duties or new contract) performed from 1st May 2004;
- temporary agent 2d, calculated solely for duties (current duties or new contract) performed from 1st May 2004;
- contract agent 3a without prior CAST successful selection;
- contract agent 3b (Commission), except for conference interpreters;
- temporary staff (however the first three years worked on a temporary basis are not taken into account in the 7-year non-aggregation rule);
- national expert on secondment;
- service provider (except for the services which fall within the scope of directive 92/50/EEC; this applies to services from 1st May 2004).

THE CAs NOT HAVING EXCEEDED THE 6-YEAR LIMIT BEFORE THE ADOPTION OF THE REFORM

While taking into account the interests of the services, some DGs (e.g. DEVCO) have offered temporary contracts to their CAs whose contract was due to expire shortly before 1st January 2014 and who had not exceeded the 6-year limit in the institutions.

At the Commission, non-permanent staff, including contract agents, were subject to the 6-year rule.

This rule was amended following the adoption of the new Staff Regulations. The Commission Decision C(2013) 9028 of 16 December 2013 extended the maximum period from 6 to 7 years⁸ with effect from 1st January 2014, and stipulated that the first 3 years worked on a temporary basis are not taken into account.

⁷ http://myintracomm.ec.testa.eu/hr_admin/en/external_staff/anti-cumul/Pages/index.aspx

⁸ http://myintracomm.ec.testa.eu/infodm/en/2013/Documents/ia13068_en.PDF

THE CA HAVING EXCEEDED THE 6-YEAR LIMIT BEFORE THE ADOPTION OF THE REFORM

These CAs had to leave the Commission.

SOCIAL COVER AND CONDITIONS (LEAVE ON PERSONAL GROUNDS; DISABILITY, ETC.)

United Front demand:

“The improvement of social cover and conditions (leave on personal grounds, disability, etc.)”

No discussions are currently being held. These conditions are limited by the Staff Regulations.

The current status of contract agents is so special that it prevents them from being treated equally with other colleagues on a contract of indeterminate duration. These points include:

- **The length of leave on personal grounds or unpaid leave** of CAs, which was not negotiated during the reform. This period is a maximum of one year throughout the contract agent’s career, whereas for officials and some temporary agents (TA 2f), it can be as long as 12 or even 15 years. Even if this limit is due to the fact that the CAs are not included in the headcount and therefore limited to the allocated budget, this minimum period is an obstacle to the personal initiatives of contract agents.

Some CA colleagues have already contacted us to point out the difficulties they face if they want to make regular visits to their elderly parents (often sick) in their country of origin. Since the reform, the number of leave days and the annual travel allowance of some staff members have been reduced. In the long term, this situation may well become unmanageable for some CAs. Must they choose between their family and their work?

- **The termination of the servant’s contract:** According to the Conditions of Employment of Other Servants – Article 16, paid sick leave for staff employed under a contract may not exceed three months or the length of time worked, where the latter is longer. Similarly, paid sick leave may not exceed the term of the contract of the staff member in question.

Article 48 of the Conditions of Employment of Other Servants stipulates that the contract may be terminated by the institution if the servant is unable to resume his or her duties at the end of a period of paid sick leave, as provided for in article 16. If the contract is not terminated despite the fact that the servant cannot resume his or her duties, the servant is put on unpaid leave. However, servants suffering from a work-related sickness or accident continue to receive, throughout the period of their incapacity for work, their full remuneration unless they are eligible for a disability pension.

CAREER UPGRADES

United Front demand:

“Career upgrades (via identical procedures to those applying to officials) which should be based on experience and/or qualifications”

No discussions on career upgrades have been initiated.

To progress in their career, the contract agents with the requisite skills (qualifications, experience, etc.) must first of all pass a higher level CAST and then find a vacant position that corresponds to their new profile. (And for any new contract, the new implementing rules adopted at the time of the reform apply: e.g. pensionable age.)

To date, only the PMO has organised upgrade procedures to enable contract agents who hold a position in a lower function group and who are successful CAST candidates at a higher level to be upgraded within the PMO to a vacant position at a higher level.

This procedure is organised internally by the PMO HR via upgrade selection panels in order to establish a pool of immediately available resources. These reserve lists are then used by the Heads of Unit to:

- upgrade a person in the position that he or she holds, but with a new job description, provided that the duties performed correspond to the higher function group,
- appoint and upgrade a person to an available position.

Some agencies also upgrade their CAs, but this form of upgrade differs in that these CAs must apply for a higher function group via a call for applications published externally and therefore open to everyone.

The organisation of new general CASTs is eagerly awaited by some CAs who have not passed a higher level CAST selection, although adequately qualified, so that they can progress and work in a higher function group. N.B.: the last general CAST dates back to 2007.

REINTEGRATION OF THE CAS OF EXECUTIVE AGENCIES

United Front demand:

“Priority reintegration of the contract agents who have lost their jobs following the closure of their executive agency”

No discussion on this item.

The CAs of executive agencies are considered as external staff, although their agencies implement Commission programmes (Commission budget), with management staff provided by the parent DG. The contracts of these contract agents depend on the lifespan of their agency/framework programme (expires every 7 years!).

Depending on the areas in which they operate, they are considered either as “Agencies” or as the “Commission”, but the staff always remains external staff!

It is important to note that EA staff face serious difficulties if their contract is terminated, since after nine years in the institution they will lose any entitlements to unemployment benefits according to the rules in force in Belgium.

In addition, what happens to servants aged over 50? Will they still be employable on the domestic labour market? At the end of a contract of indeterminate duration, is there a reintegration plan for those who are no longer on a valid CAST list?

If they lose their job, they no longer have access to the European schools, unless they pay the full amount of the school fees, which is almost impossible for the majority of such staff.

And if these executive agencies remain open... their staff numbers will increase even more in the coming years and the number of staff faced with these questions will be even greater.

Unfortunately, it has to be said that at the current time nothing has been done to ensure that the social dialogue is respected. Are the executive agencies “no-go areas”?

Every day contract agents contact the local representatives with their concerns and questions, while knowing full well that no solutions can exist without the necessary political determination.

This is not at all reassuring for contract agents who feel devalued.

CONF-SFE’s actions

Conf-SFE is committed to helping you on a daily basis, irrespective of your status (official, temporary agent, contract agent, temp, retired staff, etc.).

David and Goliath

Conf-SFE has appointed a contract agent from an executive agency as President of a Commission trade union. This gesture demonstrates that we are all equal.

Having appointed a contract agent as its leader does not mean that Conf-SFE only looks after the interests of contract agents. We do not differentiate between the people who contact us. We answer anyone who contacts us and support those who trust us!

Conf-SFE is a trade union with a long tradition. It is committed to defending all staff. In addition, it has ties with a national trade union. These ties enhance our knowledge of the rules in force for workers and job seekers. This is very useful for the non-permanent staff of the institutions who live in Belgium.

Even if you do not contribute any electoral votes to our trade union, because of your position in an agency or other type of organisation, you will be given equal priority, because our role is to defend the interests of everyone⁹!

Article 7 : critères de la reconnaissance des OSP

Sont reconnues les OSP

- qui déclarent avoir comme objectif statutaire la défense des intérêts de tous les membres du personnel sans aucune distinction de quelque nature que ce soit (notamment de groupe de fonction, de nationalité, de nature du lien avec l'institution, de sexe, de race, de couleur, d'origine ethnique ou sociale, de caractéristique génétique, de langue, de religion ou de conviction, d'opinion politique ou de toute autre opinion, d'appartenance à une minorité nationale, de fortune, de naissance, d'handicap, d'âge ou d'orientation sexuelle) ;
- qui confirment être régulièrement constituées

In recent months, our trade union has been subject to attacks, understandably from those that regard our actions as disruptive. However, rather than discouraging us, these attacks have on the contrary made us even more determined to pursue this battle FOR YOU!

Life's uncertainties have reduced our teams but the remaining representatives are as dynamic, proactive and motivated as ever to defend at all costs the true values. They will never leave anyone by the wayside.

It is tempting to think that it cannot happen to us and that all is well in our services. But prepare for a shock. Take the time to talk with your colleagues. Embrace solidarity!

No-go areas, wherever they may be, must no longer exist. A member of our team will always be available to listen to you throughout the year and defend your interests in accordance with the true trade union spirit.

No institution has the right to disregard the social dialogue. Fundamental rights must not be reserved for those that have the financial means to assert such rights.

At the current time, as the institutions are riding roughshod over the social dialogue, the defence of our rights often requires expensive legal proceedings to be instituted.

Staff representation is therefore a difficult task at the present time, which does not create desire to perform such duties, but it is now more than ever necessary to make the commitment to defending our values.

Conf-SFE can only continue to develop its actions and ensure that you are defended and protected more effectively thanks to you and with you.

If you believe that you can contribute new ideas and/or if you too want to participate: come and join our teams!

You will be very welcome!

⁹ Extract from the agreement on the relations between the European Commission and the trade unions and staff associations (the "framework agreement") signed on 18/12/2008 by all the trade unions and staff associations and the European Commission.

What is Conf-SFE doing to support CAs?

The world of contract agents is not a virtual world; it needs commitment and real solutions in order to exist fully in its own right. The presence of CAs is indispensable, as borne out by the constant increase in their numbers from year to year. What we need to do now is to find compromises to grow together despite our differences!

In order to find solutions, our representatives are also participating in various groupings to represent contract agents, such as:

ACTIF (Agents Contractuels Toutes Institutions et leur Futur)

Conf-SFE supports the ACTif (Agents Contractuels Toutes Institutions et leur Futur) group.

ACTif is a grouping of old and new contract agents, officials, whether or not union members, supported by various trade unions and staff associations, from all the institutions, including the Commission, the executive agencies, offices and delegations.

Motivated by their concerns about the future and careers of CA in the institutions, this group has set up the "ACTIF" network in order not only to develop synergies, but also to communicate to DG HR the fears and expectations of CA whose situation is increasingly vulnerable and who are growing in numbers.

Irrespective of their contract or origin, they serve the institutions to the best of their ability, in accordance with principles of excellence and loyalty.

Four of the Conf-SFE representatives have been part of this group from the outset.

Get involved! Do not hesitate to join them by signing up via the following links to be kept informed of their work.

Agents Contractuels Toutes Institutions et leur Futur



Yammer

[https://www.yammer.com/?return_home=true
actifnetwork+ec.europa.eu@yammer.com](https://www.yammer.com/?return_home=true%20actifnetwork+ec.europa.eu@yammer.com)



<https://www.facebook.com/#!/ACTif.eu>

NEASC (Network Executive Agency Staff Committee)

Conf-SFE also supports the actions of the NEASC (Network Executive Agency Staff Committee).

Five CONF-SFE representatives, from 3 different executive agencies, including three staff committee chairs and the President of Conf-SFE, member of the Staff Committee, are part of the NEASC. They are very active in defending the interests of executive agency staff.

Other Agencies

Conf-SFE also organises actions in other agencies whose staff contact us regularly. Conf-SFE has realised that the rights of workers are denied in some agencies. For example: contracts of indeterminate duration are almost never granted. After a series of consecutive contracts (up to 5), some temporary agents apparently do not receive a contract of indeterminate duration, but instead are offered a contract as a member of the contract staff on a take it or leave it basis.

In the defence of workers' rights, we support compliance with contract renewal rules (at the end of the 3rd contract, the servant must receive a contract of indeterminate duration).

Some practices completely disregard Council Directive 1999/70/EC of 28 June 1999 on the Framework Agreement on fixed-term work concluded by ETUC, UNICE and CEEP (Official Journal n° L 175 of 10/07/1999 p. 0043 – 0048).

Conf-SFE is outraged at these practices and will continue to defend you.