

Creating a correction coefficient (cc) for Luxembourg? Please, spare us your lessons of law!

➤ All [‘slides’](#) refer to our presentation [‘Correction coefficient made simple’](#) (2 Jan 2019), which we recommend to you to go through before reading this flyer.

*The trade union which misleadingly¹ uses the name ‘Union Syndicale’ Luxembourg has accused those who do not share its pretentious **legal** analysis of ‘**manifest intention to misinform**’.*

By misrepresenting the existing legal framework, the “US” L is seeking to **reassure** staff that a correction coefficient (cc) Luxembourg can well be introduced by a sleight of hand of the Commission, bypassing the ordinary legislative procedure (Parliament + Council, see [slide 14](#)).

The long-standing demand of the ‘US’L of a cc Luxembourg proceeds on the assumption that its creation does not require a revision of the Staff Regulations but that the Commission has the power to decide itself to create a cc by a [“delegated act”](#). Implicitly, this union averts **the** risk of **“opening”** the Staff Regulation, which would be tantamount to opening the Pandora’s box.²

‘Opening’ the Staff Regulations: word-to-word translation from French Community-jargon, which means that, once a Commission proposal to amend the Staff Regulations is on the Council’s table, the latter can ask the Commission to re-examine its draft and to extend its proposal to other provisions ([Article 293 TFEU](#)).

We would simply recall **the legal framework in force:**

1. What the Commission *can* do “by means of delegated acts”: It may create a cc (Article 9 (1) of Annex XI to the Staff Regulations) that is **specific to “a given place**

¹ This organisation, which had resigned in 2015 from Union Syndicale Fédérale, did not spare its members’ money : (i) to prohibit –unsuccessfully– the new trade union branch USF-Luxembourg from bearing this name; ii) to register –once again unsuccessfully– with EUIPO its trade mark ‘Union Syndicale Luxembourg’.

² Just to get an idea of the intentions of the Council, see the [drafts](#) that have been kept in its drawers since 2013, waiting for the next round...

of employment”, in which the cost of living is appreciably and persistently different from the cost of living in “**the capital** of the Member State concerned (except for the Netherlands, where the Hague is used instead of Amsterdam)” (see [slide 6](#)).

2. What the Commission **cannot do** “by means of delegated acts”:

- a. To create a cc **for the capital city** of a Member State (or for the Hague); that is, moreover, devoid of purpose, since a cc already exists under the Staff Regulations. The cc calculated on the capital is applied by default **to the entire territory of the country**.
- b. To create a cc for “**a given place of employment**” in **Belgium or Luxembourg**, as this is explicitly excluded by two Staff Regulations provisions (see [slides 9, 10](#)). Since they are set out in the negative (*‘No correction coefficient shall be applicable in Belgium and Luxembourg’*), they are not open to derogation, the part (capital city) being included in the whole (country).

⇒ For these two reasons, the Commission **cannot** create a cc neither for Luxembourg (country) (without repealing Staff Regulations’ provisions [slide 10](#)) nor for Luxembourg capital-city.

⇒ Whatever our sorcerer’s apprentices might think about it, no cc can be created for Luxembourg without **revising the Staff Regulations, by way of an ordinary legislative procedure**.

The legal framework being given, let everyone assume their own responsibilities!