

## 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 misleadingly<sup>1</sup> 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.<sup>2</sup>

**‘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**

<sup>1</sup> 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’.

<sup>2</sup> 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!**