Union Syndicale Fédérale
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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[1] 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] 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...

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 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!