

# Correction coefficient in Luxembourg: Legal aspects

## Should staff be afraid of "opening the Staff Regulations"?

## What can/should the Commission do?



### Should staff have a fear of opening the Statute ?

USL can only advise staff to open up their Statute as often as possible and look for answers to the many questions they may have throughout their professional career, and in case of need, ask USL for further explanation...

More concretely, the concept of ‘opening of the Statute’ does not exist in the ordinary legislative procedure / codecision. The Commission, exercising its power of legislative initiative, could certainly propose to the legislator to modify certain aspects of the Statute as it did in 2004 and 2014.

But to date, the Institution, properly advised by its Administration, has never made an OPEN proposal to the Council and the EP for the adaptation of the Statute. The type of changes practiced so far have always been well targeted and the Commission still has the option of withdrawing its proposal if the Council and the EP tried to ‘distort it’.

**However, according to the repeated statements of the Commissioner responsible for the Personnel and Budget, this is not at all on the agenda for the immediate future.**

Moreover, the legislator during the last Reform of the Statute provided for a certain number of deadlines in this regard:

1. The adjustment method of the remuneration is ‘cimented’ until the end of 2023 cf. Art. 15 of Annex XI.
2. Pensions are monitored annually in order to ensure the perfect match between the contribution to the scheme and its actuarial balance: its financial state of health is perfect in the medium and long term. A report from the Commission to the Council and the EP is expected in 2022 cf. Art.14 of Appendix XII.
3. In any case, and as it was in 2004, any Commission initiative in this sense should be preceded by a long period of consultation with the other Institutions and the staff representation...



### What can/should the European Commission do to this major problem?

The legislator provided for a lighter procedure in 2014 during the last revision of the EPA Statute by empowering the Commission ‘to adopt delegated acts’ in particular with regard to ‘Article 9 of Annex XI’ cf. supra (Artt. 111 and 112 of the EPA Statute) concerning the creation of correction coefficients

The delegated act that would be adopted regarding this legal basis is subject to the right of scrutiny/objection by the European Parliament and the Council within 2 months of its notification.

But this ‘delegation of power’ to the Commission by the European legislator does not presuppose in any way an ‘opening of the Statute’.

### What are the applicable statutory provisions?



The legal basis is laid down in Art. 64 of the Statute: ‘An official's remuneration ... shall ... be weighted at a rate above, below or equal to 100 %, depending on living conditions in the various places of employment’. The same Art. 64 specifies in its 3rd paragraph: ‘No correction coefficient shall be applicable in Belgium and Luxembourg’... This calls for a comment, namely that the legislator when referring to Belgium and Luxembourg, refers to the countries. And therefore, a correction coefficient specific to a part of the territory of Luxembourg would not in principle be excluded automatically. There are thus correction coefficients for the cities of The Hague, London, Copenhagen, Dublin ... and many other places of assignment...

**Annex XI of the Statute (Rules for implementing articles 64 and 65 of the staff regulations) deals with the creation and the withdrawal of correction coefficients in Chapter 4 (Art. 9.1).**

‘The appropriate authorities of the Member States concerned, the administration of an institution of the Union or the representatives of officials of the Union in a given place of employment can request the creation of a correction coefficient specific to that place.’

If Eurostat confirms that the difference is appreciable (more than 5 %) and sustainable, the Commission shall enact, by means of delegated acts [...] a correction coefficient for that place’.

These conditions seem to be a priori fulfilled because due to the costs of housing, a purchasing power disparity of more than 5 % has persisted continuously in Luxembourg since 2006. And this is obviously verifiable on the basis of the work of ESTAT, OECD and the Coordinated Organizations.

### Is there a recent prehistory in Luxembourg with regard to the correction coefficient?



undeniably **YES**

1. EFTA established a correction coefficient of 8.1% in 2016 for its staff assigned to Luxembourg.
2. NSPA (NATO Capellen Agency) has also developed a proposal for CC for its staff in 2018 based on a disparity of purchasing power observed then, about 15% .

In terms of trend, we must therefore note a very significant deterioration as the disparity in purchasing power doubled between 2016 and 2018...bourg.

## Conclusion

Union Syndicale Luxembourg tends to consider that any attempt to establish a link between the unavoidable necessity of urgently establishing a CC in Luxembourg on the one hand, and the alleged implications in terms of the opening of the Statute on the other hand is clear disinformation, and USL has full confidence in how the staff reads it.

**USL engages itself to defend the EPA Statute against any regarding ill-considered attack..**