

**Luxembourg National Contact Point  
in the European Migration Network**

**2008 Policy Analysis Report  
on Migration and Asylum**

The opinions presented in this report are those of the NCP Luxembourg and do not represent the position of the Luxembourg Ministry of the Family and Integration, or the Ministry for Foreign Affairs and Immigration

**The EMN has been established via Council Decision 2008/381/EC and is financially supported by the European Union**



LE GOUVERNEMENT  
DU GRAND-DUCHÉ DE LUXEMBOURG  
Ministère de la Famille et de l'Intégration

# Contents

<b>FOREWORD .....</b>	<b>4</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>5</b>
<b>1. Political Developments in Luxembourg.....</b>	<b>6</b>
<b>1.1. General structure of the political system and the institutional context of migration and asylum..</b>	<b>6</b>
1.1.1. Government .....	7
1.1.2. Parliament.....	9
1.1.3. Council of State .....	9
1.1.4. Professional chambers of employers and employees.....	10
1.1.5. Trade union organizations .....	10
1.1.6. The Tripartite Coordination Committee .....	11
1.1.7. Economic and Social Council.....	12
1.1.8. Municipalities .....	12
1.1.9. Mediation services .....	13
1.1.10. Other government organizations.....	14
1.1.11. Non-Governmental Organizations .....	14
1.1.12. Welfare system .....	17
<b>1.2. General political developments in 2008 .....</b>	<b>18</b>
<b>1.3. Institutional Developments .....</b>	<b>18</b>
1.3.1. Law of 29 August 2008 on the free movement of persons and immigration .....	18
1.3.2. Law of 16 December 2008 on the reception and integration of foreigners.....	19
1.3.3. The Equality Commission .....	21
1.3.4. Law of 13 May 2008.....	22
<b>2. Policy and Legislative Developments in the area of Migration and Asylum .....</b>	<b>22</b>
<b>2.1. General structure of the legal system in the area of migration and asylum.....</b>	<b>22</b>
2.1.1. Asylum.....	22
2.1.2. Immigration .....	25
2.1.3. Integration.....	26
2.1.4. Nationality .....	26
<b>2.2. Main policy and legislative debates on migration and asylum issues in 2008 .....</b>	<b>27</b>
2.2.1. Reform of the policy for immigration and integration.....	27
2.2.2. Political participation.....	28
2.2.3. National identity and language .....	29
2.2.4. Asylum.....	30
<b>2.3. Policy details and legislative developments .....</b>	<b>35</b>
2.3.1. Control and monitoring of immigration.....	35
2.3.2. Refugee protection and asylum.....	35
2.3.3. Unaccompanied minors and other vulnerable groups .....	36
2.3.4. Economic migration.....	37
2.3.5. Family reunification.....	40
2.3.6. Other kinds of legal migration .....	41
2.3.7. Citizenship and naturalization .....	42
2.3.8. Integration.....	45

2.3.9. Illegal immigration .....	48
2.3.10. Action against human trafficking.....	49
2.3.11. Return migration.....	50
2.3.12. Other policy areas and topics.....	52
<b>3. Implementation of EU Legislation .....</b>	<b>53</b>
<b>3.1. Progress with transposing EU legislation in the field of migration and asylum into national law and administrative practices.....</b>	<b>53</b>
3.1.1. Law of 5 May 2006 on asylum and complementary forms of protection .....	53
3.1.2. Law of 29 August 2008 on the free movement of persons and immigration .....	53
<b>3.2. Debates at political level and within wider society .....</b>	<b>54</b>
<b>A.1. Methodology .....</b>	<b>56</b>
<b>A.2. Key Terms and Definitions.....</b>	<b>57</b>
<b>A.3. List of Abbreviations.....</b>	<b>61</b>
<b>STATEC - CENTRAL DEPARTMENT FOR STATISTICS AND ECONOMIC RESEARCH, SERVICE CENTRAL DE LA STATISTIQUE ET DES ÉTUDES ECONOMIQUES.....</b>	<b>63</b>
<b>SYVICOL – INTER-MUNICIPAL TRADE UNION OF THE MUNICIPALITIES IN LUXEMBOURG, SYNDICAT DES VILLES ET COMMUNES LUXEMBOURGEOISES.....</b>	<b>63</b>
<b>BIBLIOGRAPHY .....</b>	<b>63</b>
<b>ELECTRONIC SOURCES.....</b>	<b>66</b>
<b>LEGISLATION.....</b>	<b>69</b>

## Foreword

In accordance with article 9(1) of Council Decision 2008/381/EC of 14 May 2008<sup>1</sup> establishing the European Migration Network (EMN)<sup>2</sup>, each EMN national contact point is required to provide an annual report on the situation with regard to migration and asylum in its own country, including policy developments and statistical data.

One of the tasks of the national contact points is to write selected policy reports and carry out small-scale studies and research into migration and asylum in their countries. These reports are designed to provide a concise overview of the field in all participating countries and, in the case of Luxembourg, to serve both internal and external information needs by gathering information about national legislation and policy debate.

The present report has been based on input provided by the partners represented in the Luxembourg National Contact Point, in accordance with their special expertise. Coordinated by the University of Luxembourg, the other partners were the Office luxembourgeois de l'Accueil et de l'Intégration (OLAI, the Luxembourg Agency for Reception and Integration attached to the Ministry of the Family and Integration), the Directorate of Immigration in the Luxembourg Ministry for Foreign Affairs and Immigration, SeSoPI-Centre Intercommunautaire (a non-profit-making body for research and action to promote the social integration of people from different ethnic and cultural backgrounds), the Service central de la Statistique et des Études économiques (STATEC, the Luxembourg Central Department for Statistics and Economic Research), and CEPS/INSTEAD (the Luxembourg Centre for Demographic, Poverty and Socio-Economic Studies/International Network for Studies in Technology, Environment, Alternatives, Development).

We should like to thank here all those who contributed personally to the report. Preparation of the entire document was closely supervised by Assistant Professor Dr Christel Baltes-Löhr of the University of Luxembourg, with the cooperation and support of National Contact Point experts. Grateful acknowledgements are also due to researchers Sylvain Besch (SeSoPI-Centre Intercommunautaire) and Claudia Hartman-Hirsch (CEPS/INSTEAD), statistical expert Germaine Thill (STATEC), and government representatives Sylvie Prommenschenkel (Ministry for Foreign Affairs and Immigration) and Marc Hayot (Ministry of the Family and Integration) for their assistance with research activity and drafting of the text. Finally, we acknowledge with gratitude the contribution of Lígia Nóbrega, scientific collaborator in the Luxembourg National Contact Point, who was responsible for compiling the report.

---

<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:131:0007:0012:EN:PDF>

<sup>2</sup> <http://emn.sarenet.es/html/index.html>

## Executive Summary

The Policy Analysis Report on Migration and Asylum for the European Migration Network (EMN) gives an overview of the key political debates and developments in this field in Luxembourg during 2008.

The most important political reform was the introduction of the *statut unique* (single status) which unified several kinds of social security insurance. It also resulted in the merger of two professional chambers (of workers and employees) to form the new Chambre des Salariés (Chamber of Wage Earners)<sup>3</sup>.

Changing immigration and population trends led the Luxembourg government to draw up new policies and adapt its legal framework. Following wide debate and consultation with stakeholders, major policies and legislation were introduced in the area of migration and asylum. They involved basic reforms with the approval of three new laws on immigration, integration and nationality<sup>4</sup>.

One of the most important institutional outcomes of these reforms was the establishment of new government bodies, such as the Luxembourg Agency for Reception and Integration (OLAI) which seeks to support and improve the integration of immigrants and fight discrimination against them.

A public debate on national identity and on the role of Letzeburgesch has been part of the discussions concerning the law on Luxembourg nationality<sup>5</sup>.

---

<sup>3</sup> See section 1.3.

<sup>4</sup> See section 2.2

<sup>5</sup> [http://www.gouvernement.lu/publications/informations\\_gouvernementales/nationalite-luxembourgeoise-2009/nat\\_lux\\_2009\\_EN.pdf](http://www.gouvernement.lu/publications/informations_gouvernementales/nationalite-luxembourgeoise-2009/nat_lux_2009_EN.pdf)

## 1. Political Developments in Luxembourg

### *1.1. General structure of the political system and the institutional context of migration and asylum*

This is the first *Policy Analysis Report on Migration and Asylum* produced by Luxembourg as a participant in the European Migration Network. The present section thus begins with an overview of the country's political system.

The Grand Duchy of Luxembourg has been a sovereign and independent state since the Treaty of London signed on 19 April 1839<sup>6</sup>. It is a constitutional monarchy governed as a parliamentary democracy. The crown is transferred on the basis of male succession within the House of Nassau<sup>7</sup>.

The first constitution of Luxembourg was drafted in 1841 two years after the country gained independence, and superseded by further constitutions in 1848 and 1856<sup>8</sup>.

In 2008, the constitution was amended three times<sup>9</sup>. The law of 31 March 2008<sup>10</sup> introduced an additional article 32 *bis* (32a) guaranteeing the democratic pluralism of political parties, and was followed by the laws of 23 October<sup>11</sup> which amended two further articles to take account of the new law on nationality. Then, in December 2008, a major constitutional reform occurred. The government and parliament decided unanimously to abolish the principle of royal assent to legislation, which had been enshrined in the constitution since 1848. As a result, article 34 now empowers the Grand Duke solely to enact laws and no longer to approve them as well. The amendment followed the refusal of HRH Grand Duke Henri to give his assent to a bill passed by parliament earlier in the year to legalize euthanasia.

Several articles of the constitution deal with the rights of foreigners. While article 10 *bis* (10a) refers to the principle of equal treatment for Luxembourgers<sup>12</sup>, article 111 states that any foreigner in the territory of the Grand Duchy enjoys the same protection granted to persons and property, unless otherwise specified.

---

<sup>6</sup> Calmes (1989).

<sup>7</sup> <http://www.luxembourg.public.lu/fr/politique/index.html>

<sup>8</sup> [http://www.legilux.public.lu/leg/textescoordonnes/recueils/Constitution/Page\\_de\\_garde.pdf](http://www.legilux.public.lu/leg/textescoordonnes/recueils/Constitution/Page_de_garde.pdf)

<sup>9</sup> According to its article 114, any revision of the constitution must be approved by at least two-thirds of the deputies in two successive rounds of voting separated by an interval of at least three months.

<http://www.gouvernement.lu/gouvernement/constitution-luxembourgeoise.pdf>

<sup>10</sup> *Mémorial A* No. 37 of 2 April 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0037/a037.pdf>

<sup>11</sup> *Mémorial A* No. 213 of 28 December 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0213/a213.pdf>

<sup>12</sup> It states that all Luxembourgers are equal before the law and eligible for employment in all public, civil and military posts, while the law governs the eligibility of non-Luxembourgers for these posts.

According to the Luxembourg Court of Appeal, the constitutional principle of equality before the law is applicable not just to Luxembourgers, but to any person coming within the scope of the law<sup>13</sup>.

Luxembourg uses and recognizes three official languages, Letzeburgesch, German and French<sup>14</sup>. While Letzeburgesch is the national language, German is taught from the very first year of primary school and French in the later years of schooling. German is the main language for primary education, as well as for the first years of secondary classical and secondary technical education<sup>15</sup>.

Legislation and its implementing regulations are in French, and that text alone is regarded as authentic and legally binding. However, it is intended that French, German or Letzeburgesch should be used for administrative and judicial purposes, in accordance with each citizen's personal preferences. Letzeburgesch is the language of parliamentary debate, while German is the main language of the press, although the number of French titles has risen as a result of immigration from countries in which Romance languages are spoken, as well as an increase too in the number of cross-border workers from Belgium and France.

Grand Duke Henri has been Head of State since 7 October 2000 and enjoys total political immunity. The constitution grants him the right to enact laws<sup>16</sup>, and to organize his government freely, creating ministries, subdividing ministerial departments, and appointing their members on the basis of election results and coalition negotiations<sup>17</sup>.

Since the elections of 13 June 2004<sup>18</sup>, the government has been based on a coalition of the Christian Social Party (CSV) with nine ministers and the Luxembourg Socialist Workers' Party (LSAP) with six ministers (comprising 3 women and 12 men in all)<sup>19</sup>.

### **1.1.1. Government**

The government of Luxembourg<sup>20</sup> sets out the guidelines for national policy. It considers all important matters within the Council of Government, including issues relating to migration and asylum.

---

<sup>13</sup> *Cour d'Appel, 15 juillet 1999, N°21871 du rôle* (unpublished).

<sup>14</sup> Law of 24 February 1984 on language regulations.

<http://www.legilux.public.lu/leg/a/archives/1984/0016/a016.pdf#page=6>

<sup>15</sup> Ministère de l'Éducation nationale et de la Formation professionnelle (2009).

<sup>16</sup> Articles 33-38 of the Constitution: <http://www.gouvernement.lu/gouvernement/constitution-luxembourgeoise.pdf>

<sup>17</sup> Articles 76-79 (for the link, see preceding footnote).

<sup>18</sup> <http://www.elections.public.lu/fr/elections-legislatives/2004/index.html>

<sup>19</sup> <http://www.gouvernement.lu/dossiers/viepol/formation-gouvernement-2004/index.html>

<sup>20</sup> Le Gouvernement du Grand-Duché de Luxembourg (2006).

Executive power is exercised by the Grand Duke and the Council of Government which includes the prime minister as head of government. The government itself consists of 19 ministries under the authority of 15 ministers, three secretaries of state and a minister delegate, although ministers often hold more than one portfolio in the following list:

- Ministry of State
- Ministry of Finance
- Ministry for Foreign Affairs and Immigration
- Ministry of Agriculture, Viticulture and Rural Development
- Ministry of the Middle Classes, Tourism and Housing
- Ministry of the Family and Integration
- Ministry of Equal Opportunities
- Ministry of National Education and Vocational Training
- Ministry of Justice
- Ministry of Labour and Employment
- Ministry of Culture, Higher Education and Research
- Ministry of the Economy and Foreign Trade
- Ministry of Health
- Ministry of Social Security
- Ministry of Environment
- Ministry of Transport
- Ministry for Home Affairs and Town and Country Planning
- Ministry of the Civil Service and Administrative Reform
- Ministry of Civil Engineering

Legislative power is vested jointly in the Chambre des Députés (parliament), the government and the Conseil d'État (Council of State). Each of these bodies serves a separate purpose. Legislation may be originated by one of the deputies or the government. However, because it is the Grand Duke who formally submits laws to the parliament, ministers can only introduce legislation on his behalf.

Two types of legislative initiative may be identified:

- The **governmental initiative**: the preliminary *projet de loi* (draft law, or bill) is drawn up by the relevant ministry, approved by the Council of Government, examined by the Council of State and put to the vote before parliament in which the government normally holds a majority
- The **parliamentary initiative**: one or more deputies may exercise their right of parliamentary initiative by introducing a *proposition de loi* (legislative proposal) which is submitted to the parliament's Conference of Presidents for a decision on whether it should be referred to a committee. The text of the proposal is submitted to the Council of State for its opinion and sent to the government for its position.

Both these types of legislative initiative are subject to a consultative procedure involving the Council of State and the professional chambers, as well as other stakeholders, if the



government considers this to be necessary. Other stakeholders may introduce opinions on draft laws.

The legislative procedure concludes with a parliamentary vote by the deputies. The law adopted by them comes into force with its enactment by the Grand Duke and following its publication in the *Mémorial* (compendium of legislation).

### ***1.1.2. Parliament***

Parliament<sup>21</sup> consists of 60 deputies elected for a five-year term on the basis of universal suffrage with a system of regional and proportional representation.

From June 2004 to June 2009, the following political parties were represented<sup>22</sup> in parliament:

- Christian Social Party (CSV): 24 seats
- Luxembourg Socialist Workers' Party (LSAP): 14 seats
- Democratic Party (DP): 10 seats
- The Green Party: 7 seats
- Alternative Democratic Reform Party (ADR): 4 seats
- Independent member: 1 seat.

Parliament's primary function is to vote on laws submitted by the government and to monitor its executive branch. Parliamentary debates include the discussion of bills and government policies, in-depth debates (known as *débats d'orientation*) about particular policies such as those concerned with 'immigrant children in the Luxembourg school system', and discussion following parliamentary questions. Parliamentary commissions prepare working documents for these debates.

### ***1.1.3. Council of State***

The Luxembourg parliament is unicameral, so the Council of State<sup>23</sup> plays an important role in the national legislative procedure<sup>24</sup> and one that is unique in the European Union.

The Council consists of 21 councillors and is mainly responsible for formally expressing its opinion on all bills and their amendments prior to a final vote on them in parliament, as well as for examining any draft grand ducal regulation submitted to it<sup>25</sup>. It thus exerts the same kind of moderating influence as the second legislative assembly in a bicameral system.

---

<sup>21</sup> Idem.

<sup>22</sup> <http://www.luxembourg.public.lu/fr/politique/paysage-institutionnel/chambre-deputes/index.html>

<sup>23</sup> Le Gouvernement du Grand-Duché de Luxembourg (2004).

<sup>24</sup> *Rapport d'activité du Conseil d'Etat, 2008/2009*, <http://www.conseil-etat.public.lu/fr/>

<sup>25</sup> A regulation defines the conditions for the enforcement of laws.

#### ***1.1.4. Professional chambers of employers and employees***

Luxembourg has a longstanding and archetypal corporatist structure in which professional chambers<sup>26</sup> have an impact on policy-making and legislative procedures. Established for the most part under a law of 4 April 1924<sup>27</sup>, these chambers have been primarily concerned with defending the professional interests of the groups they represent. At the start of 2008, the six chambers, three of them representing employers, were as follows:

- Chamber of Commerce,
- Chamber of Private Employees,
- Chamber of Civil Servants and Public Employees,
- Chamber of Trades,
- Chamber of Labour,
- Chamber of Agriculture.

However, the law of 15 May 2008 resulted in a merger of the Chamber of Labour and the Chamber of Private Employees to form the Chamber of Wage Earners (see section 1.3.4. below). The professional chambers are entitled to submit proposals to the government on matters within their competence, and their opinion must also be sought on any bills or grand ducal and ministerial regulations relating to such matters.

Any person in a profession covered by one of the chambers must join that chamber, all of whose members – whether Luxembourg nationals or foreigners – may vote or abstain from voting. Elections take place every five years.

#### ***1.1.5. Trade union organizations***

Luxembourg has five trade union organizations as follows<sup>28</sup>:

- the General Confederation of Civil Servants (CGFP)<sup>29</sup>, whose membership is open to (central) government and municipal civil servants, covers around 60 independent sub-groups;
- the General Federation of Municipal Service (FGFC)<sup>30</sup>, whose membership is limited to municipal civil servants, is subdivided into a further 19 organizations;

---

<sup>26</sup> *Histoire de la Chambre des salariés*, <http://www.csl.lu/historique>

<sup>27</sup> Law of 4 April 1924, <http://www.legilux.public.lu/leg/a/archives/1924/0021/a021.pdf#page=1>

<sup>28</sup> <http://www.luxembourg.public.lu/fr/politique/concertation/syndicats/index.html>

<sup>29</sup> [www.cgfp.lu](http://www.cgfp.lu)

<sup>30</sup> [www.fgfc.lu](http://www.fgfc.lu)

- the Luxembourg Confederation of Christian Trade Unions (LCGB)<sup>31</sup>, though nominally independent, has long-standing political ties to the Christian Social Party. Open to all employees (article 1.1 of its statutes)<sup>32</sup> and the second largest trade union federation in the country, the LCGB brings together three trade unions and 10 other bodies which operate in different professional sectors<sup>33</sup>;
- the Independent Trade Union Confederation of Luxembourg (OGB-L)<sup>34</sup>, which is close to the Luxembourg Socialist Workers' Party. It too is open to all employees (statutes Nos. 1.1 and 1.5)<sup>35</sup> and includes 15 trade unions covering different professions;
- the Luxembourg Association of Bank Employees and Insurance (ALEBA)<sup>36</sup> is the main trade union in the Luxembourg financial sector, representing employees of financial institutions, including insurance companies.

Only two trade unions, the LCBG and OGB-L, have been granted general national representative status under articles 4 and 5 of the law of 30 June 2004, enabling them to sign collective agreements<sup>37</sup>. However, two trade unions have been granted national representation within specific sectors, namely the CGFP and the ALEBA in the public and financial sectors respectively<sup>38</sup>, in which they too can sign collective agreements (articles 6 and 7 of the foregoing law).

Trade union organizations are also represented in the Tripartite Coordination Committee<sup>39</sup> four members of which represent the trade unions at national level, while one of them represents the public sector.

#### ***1.1.6. The Tripartite Coordination Committee***

The Tripartite Coordination Committee was established in the aftermath of the mid-1970s steel crisis in order to tackle massive unemployment<sup>40</sup>. The remit of the Committee has

---

<sup>31</sup> <http://lrgb.lu/fr>

<sup>32</sup> [http://lrgb.lu/uploads/wysiwyg/statuts/LCGB\\_statuts\\_fr.pdf](http://lrgb.lu/uploads/wysiwyg/statuts/LCGB_statuts_fr.pdf)

<sup>33</sup> <http://lrgb.lu/>

<sup>34</sup> <http://www.ogb-l.lu/>

<sup>35</sup> [http://www.ogbl.lu/html\\_fr/qui\\_sommes\\_nous/statuts/statuts.html](http://www.ogbl.lu/html_fr/qui_sommes_nous/statuts/statuts.html)

<sup>36</sup> <http://www.aleba.lu>

<sup>37</sup> In accordance with their 'general national representativeness': articles 4 and 5 of the law of 30 June 2004 concerning collective labour relations, settlement of collective disputes and the National Conciliation Office, *Mémorial A*, No. 119 of 15 July 2004,

<http://www.legilux.public.lu/leg/a/archives/2004/0119/a119.pdf#page=2>

<sup>38</sup> In accordance with their 'representativeness in a particularly important sector of the economy': articles 6 and 7 of the law of 30 June 2004, *Mémorial A*, No. 119 of 15 July 2004 (for the link, see preceding footnote).

<sup>39</sup> Grand ducal regulation of 25 October 1989, amending grand ducal regulation of 26 January 1978, determining the functioning of the Tripartite Coordination Committee, *Mémorial A*, No. 9 of 7 March, 1978, <http://www.legilux.public.lu/leg/a/archives/1989/0073/a073.pdf#page=3>;

<http://www.legilux.public.lu/leg/a/archives/1978/0009/a009.pdf#page=2>

been enlarged over the years to cover all employment issues in the broadest sense, including for example social security. This unique advisory body brings together the government, employers' organizations (chambers) and the trade unions.

The recommendations arising from its discussions, which are not public<sup>41</sup>, are either implemented by the government or, if they concern legislative procedures, submitted to parliament. Discussions relate to specific policies and problems such as unemployment.

Consensual decision-making enables Luxembourg, like other small states facing the effects of globalization<sup>42</sup>, to avoid social conflict and contributes to its social stability and economic success.

### ***1.1.7. Economic and Social Council***

The Economic and Social Council (CES) is a government advisory body responsible for examining the country's economic, social and financial problems<sup>43</sup>.

It delivers an annual report, as well as other reports on specifically economic, financial and social matters of interest to several economic sectors or which affect the national economy as a whole.

Following a request from the government, the Economic and Social Council began work on a study at the end of 2005 with a view to a comprehensive reform of the law of 28 March 1972<sup>44</sup> on foreigners and the establishment of an immigration policy, which was to be followed by a policy of active integration.

The Council proposed a simplification of administrative procedures and an active and more clearly targeted approach conducive to 'a well balanced immigration policy for the benefit of migrants with qualifications and skills which furthered economic development and would complement those of the native population'<sup>45</sup>.

### ***1.1.8. Municipalities***

As there are no administrative regions or provinces in the Grand Duchy of Luxembourg, the country is subdivided solely into 116 municipalities.

---

<sup>40</sup> Law of 26 July 1975, <http://www.legilux.public.lu/leg/a/archives/1975/0046/a046.pdf#page=6>

<sup>41</sup> Allegrezza *et al.* (2007); Clément (2008).

<sup>42</sup> Katzenstein (1984).

<sup>43</sup> It was established by the law of 21 March 1966, amended by the laws of 15 December 1986 and 15 June 2004, <http://www.ces.public.lu/fr/ces/historique/loi-1966.pdf>;  
<http://www.ces.public.lu/fr/ces/historique/loi-1986.pdf>; <http://www.ces.public.lu/fr/ces/historique/loi-2004.pdf>

<sup>44</sup> <http://www.legilux.public.lu/leg/a/archives/1972/0024/a024.pdf#page=2>

<sup>45</sup> <http://www.ces.public.lu/fr/avis/educ-forma/2006-immigration-integration.pdf>

They are separate legal entities which manage their assets and raise taxes. A deliberate government policy encourages small municipalities to merge in order to improve the efficiency and quality of their services.

EU citizens can vote in municipal elections and become members of municipal councils (just as in the parallel case of the European Parliament at EU level). However, they are not eligible for the posts of lay assessor or mayor<sup>46</sup>. Third-country nationals can vote in municipal elections but cannot stand for election themselves.

### ***1.1.9. Mediation services***

- **Ombudsman**

The Ombudsman is an independent authority attached and responsible to parliament. The ombudsman service has been operational since May 2004 and was formally established by the law of 22 August 2003<sup>47</sup>.

Cases can be referred to the service by a private individual, an institution governed by private law, such as a voluntary organization, a ‘non-profit making organization’ or a company governed by private law (such as a public limited company).

The function of the service is to mediate on behalf of citizens who consider that the actions or procedures of a public administrative body are prejudicial to their interests.

- **Luxembourg Committee for the Rights of Children**

The Luxembourg Committee for the Rights of Children (ORK) has been operational since 1 January 2003. It was established by the law of 25 July 2002<sup>48</sup> in order to safeguard and promote children’s rights and interests<sup>49</sup>.

Neither the Ombudsman nor the ORK can appear on behalf of citizens in court.

- **Consultative Commission for Human Rights**

The Consultative Commission for Human Rights (CCDH) is an advisory body to the government created by the Council of Government regulation of 26 May 2000. Its legal basis was consolidated under the law of 21 November 2008<sup>50</sup>. The CCDH offers advice, studies, position papers and recommendations drawn up independently of the government on all matters of general importance related to human rights in the Grand Duchy. It draws the government’s attention to measures which promote the defence of human rights and compliance with them. The CCDH has no jurisdiction to deal with individual cases.

---

<sup>46</sup> According to the law of 19 December 2008 which amended the electoral laws of 18 February, 2003, and of 4 February 2005, on the national referendum: “Once registered (one is registered forever), voting is mandatory”, <http://www.legilux.public.lu/leg/a/archives/2008/0210/a210.pdf#page=2>

<sup>47</sup> <http://www.legilux.public.lu/leg/a/archives/2003/0128/a128.pdf#page=2>

<sup>48</sup> <http://www.legilux.public.lu/leg/a/archives/2002/0085/a085.pdf#page=2>

<sup>49</sup> Article 2 of the law of 25 July 2002 (for the link, see preceding footnote).

<sup>50</sup> Article 2 of the law of 25 July 2002.

### ***1.1.10. Other government organizations***

The Service for the Schooling of Foreign Children<sup>51</sup> was launched in the 1990s. It coordinates different projects, measures and facilities, such as the CASNA (Reception Desk for Newly-Arrived Pupils) and the work of the intercultural mediators whose task is to make it easier for immigrant pupils at all types of school (from pre-primary to secondary level) to integrate into the education system and help them to do so. Given the high proportion of such pupils, many special and general measures exist to overcome the problems posed by integration, including the need to develop language skills.

In 2005, the Ministry of National Education and Vocational Training set up the CASNA within the Service for Schooling of Foreign Children. The CASNA acts as the first intermediary between new foreign pupils and educational institutions providing guidance for those aged 12 or over<sup>52</sup>.

The main aims of the CASNA are as follows:

- to provide information about the various types of education, at different levels and within different branches (e.g. general, technical, etc.) where applicable;
- to guarantee follow-up until integration is achieved within a mainstream class;
- to provide teachers with support by motivating the pupils concerned.

On request, the Service for Schooling of Foreign Children provides free of charge intercultural mediators who speak various languages.

### ***1.1.11. Non-Governmental Organizations***

In Luxembourg, two large NGOs (Caritas and the Red Cross) deal (among other things) with migrant and refugee problems, while two major voluntary associations, the Association for the Support of Immigrant Workers (ASTI) and the Liaison Committee of Foreigners' Associations (CLAE) represent and support migrant interests.

#### **Caritas Luxembourg**

Caritas Luxembourg<sup>53</sup> has a social counselling service called Caritas Solidarity and Integration offering reception, information, guidance and support for foreigners and people in need. It works mainly for those seeking international protection, recognized refugees or recipients of social welfare benefits, rejected asylum seekers or persons

---

<sup>51</sup> [http://www.men.public.lu/ministere/annuaire\\_interne/scolari\\_enfant\\_etranger/index.html](http://www.men.public.lu/ministere/annuaire_interne/scolari_enfant_etranger/index.html)

<sup>52</sup> For those aged under 12, pre-primary and primary education are administered by local authorities. Parents are asked to contact the relevant department of the local authority with which they have registered and their children attend the local school.

<sup>53</sup> <http://www.caritas.lu/index.php?include=refugies> (website is currently being updated).

without valid residence status, and EU migrants and third-country nationals with Luxembourg residence permits.

Caritas Luxembourg raises public awareness and cooperates with other national and international organizations to develop a common asylum and immigration policy by implementing actions linked to advocacy, projects for refugee integration and support for voluntary return, the provision of housing<sup>54</sup>, a socio-educational service and a translation facility.

Caritas Luxembourg was the first NGO to provide a special service for asylum seekers. Its refugee support started with the arrival of the Hungarians in 1956 and 1964, and then continued with that of the Chileans and Vietnamese in the 1970s and the Polish at the start of the 1980s. The Caritas refugee service was established in 1991 in response to the arrival of applicants for international protection (AIPs).

### **Luxembourg Red Cross**

Support for migrants and, more specifically for refugees, has always been a concern of the Luxembourg Red Cross. In 2004, the refugee service was established to meet their needs more effectively. The main goal of this service is to care for those seeking refugee status under the Geneva Convention of 28 July 1951<sup>55</sup>.

The main activities of the Luxembourg Red Cross include searching for people missing in the aftermath of war, the provision of a reception service, and the management of three shelters<sup>56</sup> for applicants for international protection (AIPs) with the support of the Ministry of the Family and Integration. Like other NGOs (such as Caritas and ASTI), it also supports people administratively detained in prison because of their illegal situation and pays the monthly social benefits granted to AIPs by the Luxembourg Reception and Integration Agency.

In August 2007, an informal agreement was established with the government to observe removal procedures enforced by the Luxembourg authorities and provide appropriate support to the people involved.

### **Association for the Support of Immigrant Workers**

The Association for the Support of Immigrant Workers (ASTI)<sup>57</sup> is an independent NGO working at grass-roots level in a multicultural neighbourhood of the city of Luxembourg. Its independence is largely attributable to some 600 members who between them represent 20 different nationalities and all political parties. Founded in 1979 to secure

---

<sup>54</sup> For refugees with residence permits, isolated migrant workers or asylum seekers in special situations and sent by the Ministry of the Family and Integration.

<sup>55</sup> <http://www.unhcr.org/pages/49da0e466.html>

<sup>56</sup> 'Don Bosco' Reception Centre; Shelter - Eich; Shelter Felix Schroeder - Rédange, [http://www.croix-rouge.lu/index.php?option=com\\_content&task=view&id=331&Itemid=403](http://www.croix-rouge.lu/index.php?option=com_content&task=view&id=331&Itemid=403)

<sup>57</sup> <http://www.asti.lu/>



equal rights for foreigners, and above all the right to vote, ASTI undertakes political activities focused on community social work with children, adolescents and adults. It also develops teaching materials and manages an intercultural and information resource centre. ASTI has forged national and international partnerships with other organizations to fight for equal access to education, equal rights, an end to discrimination, and support for refugees and migrants for whom there are no official written records.

### **Liaison Committee of Foreigners' Associations**

Founded in 1985, the Liaison Committee of Foreigners' Associations (CLAE)<sup>58</sup> develops projects based on an active approach to immigrant rights, by promoting access to civic social and political rights and the recognition of migrant cultural values and different forms of expression.

In 2008, CLAE organized the 25th Festival of Migration, Cultures and Citizenship. This has become an important event in the cultural life of Luxembourg and a meeting place for many in its society, thus contributing to the country's cultural diversity. The festival is organized under the auspices of the high-level Luxembourg authorities<sup>59</sup>.

### **Luxembourg Refugee Council**

Established in 1990, the Luxembourg Refugee Council<sup>60</sup> is an informal platform for various private organizations concerned with the situation of refugees, migration, human rights, development, social issues and the fight against racism. Its goal is to give a voice to people who have left their country and are seeking international protection in Luxembourg.

The main aims of the Luxembourg Refugee Council are:

- to discuss the position of refugees and their own self-help initiatives;
- to raise public awareness of the refugee situation in Luxembourg, by means of position papers and demonstrations;
- to submit ideas and proposals to the government, political parties, parliamentary factions and international organizations.

---

<sup>58</sup> <http://www.clae.lu/>

<sup>59</sup> In 2008, the festival was held under the patronage of their Royal Highnesses the Grand Duke and Grand Duchess, the Luxembourg government, the City of Luxembourg, Mr Lucien Weiler, President of the Luxembourg Parliament, Mr Hans-Gert Poettering, President of the European Parliament and Mr Terry Davis, Secretary General of the Council of Europe.

<sup>60</sup> The Luxembourg Refugee Council, *Letzebuenger Flüchtlingsrot*, has no permanent secretariat. The secretariat is assumed in rotation by each of the platform members, with ASTI taking over in 2008, <http://www.asti.lu/>



## Migration and Integration Platform

An informal body, the Migration and Integration Platform issues opinions on draft laws concerned with immigration and integration policy. It is coordinated by ASTI and groups together NGOs and trade unions.

### 1.1.12. Welfare system

Based on the principles of Bismarck, the welfare system in Luxembourg was established in the 19th century and provided health insurance for workers<sup>61</sup>, an accident insurance scheme<sup>62</sup>, pension and disability insurance<sup>63</sup> and insurance for dependents<sup>64</sup>. The first three categories were later steadily expanded to cover other target groups.

The Bismarckian tradition based on the corporate-conservative welfare model<sup>65</sup> has been examined by researchers<sup>66</sup>, some of whom have identified parallel trends in Scandinavian models<sup>67</sup>. Far from suffering cutbacks in the last two decades, the cash benefit system has flourished with the introduction of new insurance schemes and improved standards. This has been made possible by increases in social welfare contributions, as a result of a growing economy and the relatively modest uptake of benefits by immigrants and cross-border workers<sup>68</sup>.

All economically active immigrants (EU citizens and third-country nationals), as well as members of their nuclear family, can access welfare insurance. This reflects the Bismarckian principle of linking insurance schemes to the economic activity of employees or the self-employed. EU citizens who are not economically active have to prove that they have adequate economic resources. Third-country nationals are only entitled to certain benefits if they have official residential status. Access to social welfare benefits may be linked to a minimum five-year period of residence<sup>69</sup>. Social services such as the provision of childcare are offered either free of charge or are jointly financed (in accordance with the income and composition of the household concerned), with ineligible applicants having to pay the entire amount due.

---

<sup>61</sup> Law of 31 July 1901, <http://www.legilux.public.lu/leg/a/archives/1901/0053/a053.pdf#page=1>

<sup>62</sup> Law of 5 April 1902, <http://www.legilux.public.lu/leg/a/archives/1902/0020/a020.pdf#page=1>

<sup>63</sup> Law of 6 May 1911, <http://www.legilux.public.lu/leg/a/archives/1911/0037/a037.pdf#page=1>

<sup>64</sup> Law of 19 June 1998, <http://www.legilux.public.lu/leg/a/archives/1998/0048/a048.pdf#page=2>

<sup>65</sup> Welfare issues are mostly negotiated in corporate tripartite or quadripartite committees.

<sup>66</sup> Euzeby (2001); Kerschen (2001); Scuto (2001); Martin *et al.* (2008); Hartmann-Hirsch (2009).

<sup>67</sup> Hartmann-Hirsch (2009); Klenk *et al.* (2010).

<sup>68</sup> Hartmann-Hirsch and Ametepé (2009).

<sup>69</sup> Coordinated text of 22 June 2004 of the law of 29 April 1999 establishing the right to a guaranteed minimum income, as amended, *Mémorial A* No. 103 of 22 July 2004, <http://www.legilux.public.lu/leg/a/archives/2004/0103/a103.pdf#page=2>

Special health insurance provisions apply to AIPs, as follows:

- the authorities are responsible for the health insurance of AIPs during the first three months of their stay – the waiting period for those who register on a ‘voluntary’ basis;
- the authorities also pay contributions towards ‘voluntary’ health insurance throughout the whole period of the application procedure;
- refugees have full access to all benefits available to Luxembourg citizens, and are entitled to social assistance as soon as their refugee status is confirmed.

### ***1.2. General political developments in 2008***

In 2008, there were no local or national elections, with the exception of the elections for the Chamber of Wage Earners<sup>70</sup>. Neither was there any government reshuffle.

### ***1.3. Institutional Developments***

In 2008, the most important institutional developments concerned the three new laws on immigration, integration and nationality.

#### ***1.3.1. Law of 29 August 2008 on the free movement of persons and immigration***

Under the grand ducal regulation of 5 September 2008 arising from the law of 29 August 2008 on the free movement of persons and immigration<sup>71</sup>, three new advisory bodies were set up to support the decision-making processes of the minister responsible for immigration.

- Foreigners’ Advisory Commission<sup>72</sup>

The task of this Commission (except in an emergency) is to advise the minister about the withdrawal of a residence permit or a refusal to renew one.

The Commission always consists of three members, as follows:

- a magistrate;
- a member appointed by the minister responsible for integration;
- a member appointed by the minister because of his or her experience in the field of migration, as indicated in a list submitted by organizations defending the rights of foreigners.

---

<sup>70</sup> See section 1.3.

<sup>71</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

<sup>72</sup> Grand ducal regulation of 5 September 2008

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

- Advisory Committee for Employees (CCTS)<sup>73</sup>

The main task of this Committee is to ensure all-round compliance with the legal conditions governing the renewal of residency for employed workers or the award of a work permit to third-country nationals. The Commission consists of 10 members seconded from the relevant ministries.

- Advisory Commission for the Self-Employed<sup>74</sup>

The opinion of this Commission is required before any decision can be taken to grant or renew a residence permit for self-employed persons. The Commission consists of representatives from several relevant ministers and bodies.

As in the case of all administrative decisions, those taken by the minister responsible for immigration are open to appeal by application to the court of first instance (administrative tribunal) and the appellate jurisdiction (administrative court).

### ***1.3.2. Law of 16 December 2008 on the reception and integration of foreigners***

The law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg, which came into force on 1 June 2009, established the Luxembourg Reception and Integration Agency (OLAI)<sup>75</sup>. The Agency is a public body answering to the ministry responsible for the implementation of integration policy. It has the task of developing a voluntary integration policy for foreigners.

The OLAI thus became operational on 1 June 2009 and replaces the former Government Commission for Foreigners (CGE) which had been established by the (amended) law of 27 July 1993<sup>76</sup>.

The tasks of the OLAI are:

- to implement and coordinate the policy on reception and integration;
- to facilitate the process of integrating foreigners;
- to implement and manage the Welcome and Integration Contract (CAI)<sup>77</sup>;
- to fight against all forms of discrimination (awareness-raising campaigns);
- to study migration flows;
- to provide support to AIPs (counselling and social welfare);
- to manage accommodation centres.

---

<sup>73</sup> See footnote 71.

<sup>74</sup> See footnote 71.

<sup>75</sup> <http://www.olai.public.lu/>

<sup>76</sup> <http://www.legilux.public.lu/leg/a/archives/1993/0055/a055.pdf#page=2>

<sup>77</sup> See section 2.3.8.

At national level the OLAI collaborates closely with:

- the ministries involved in integration through the inter-ministerial committee on integration policy (for which it provides the 'operational' chair and secretariat);
- the municipalities, civil society representatives, organizations of foreigners and those working on their behalf, as well as research institutes.

At European level, OLAI represents the Grand Duchy of Luxembourg in:

- the European Union (e.g. the European Migration Network),
- the Council of Europe,
- the Organisation for Economic Co-operation and Development (OECD),
- the United Nations,
- the Organization for Security and Co-operation in Europe (OSCE).

OLAI is the responsible authority for implementing:

- the European Refugee Fund (ERF),
- the European Fund for the Integration of Third-Country Nationals.

OLAI is the national contact point:

- for the European Commission, as regards integration,
- for the EU Progress programme, as regards the fight against discrimination.

While there is no special body dealing with cooperation between the Luxembourg administrative authorities, various inter-ministerial committees do exist. For example, the OLAI is the coordinating body (providing the 'operational' chair and secretariat) of the inter-ministerial committee on integration policy.

- National Council for Foreigners

The National Council for Foreigners (CNE)<sup>78</sup> operates under the auspices of the OLAI. The Council consists of 30 full members (plus 30 more who may deputize for them), corresponding to 15 (plus 15) Luxembourg nationals and 15 (plus 15) foreigners (foreign countries are represented in proportion to their resident population). An advisory body, the Council examines problems concerning foreigners and their integration into Luxembourg society, either on its own initiative or at the government's request. It offers the government its opinion on all laws relating to integration policy or matters of possible interest to foreigners.

---

<sup>78</sup> Previously established by article 20 of the law of 27 July 1993, and in the new law of 16 December 2008: see articles 17-22, <http://www.legilux.public.lu/leg/a/archives/1993/0055/a055.pdf>; <http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

It also constitutes a forum for debate and reflection following open discussions between the various communities.

- **The Communal Advisory Commissions for Foreigners**

These commissions have been of importance in providing meeting places for Luxembourg citizens and foreigners at local level. They have been set up by municipalities in which over 20% of the residential population consists of foreigners, and are renewed after local elections (last held in October 2005).

The commissions have been concerned with the local interests of foreign residents. Their main aim has been to encourage them to take part in the life of their commune, to propose solutions to the problems of migrants and their families, to encourage mutual understanding between Luxembourg citizens and foreigners, and to further good administrative relations between the latter and their municipal authority services.

The functioning of the commissions was defined by a grand ducal regulation under which their membership has consisted of Luxembourg citizens and foreigners in equal numbers<sup>79</sup>.

The December 2008 law on integration<sup>80</sup> replaces these commissions by the local Commissions for Integration, which all municipalities will have to set up.

### ***1.3.3. The Equality Commission***

The Equality Commission (CET)<sup>81</sup> established under the law of 28 November 2006<sup>82</sup> has been operational since October 2008. It has five members including a president.

This Centre carries out its activities independently, seeking to promote, analyse and monitor the equal treatment of all persons without discrimination on grounds of race/ethnic origin, gender, sexual orientation, religion, beliefs, disability or age.

In performing its duties, the Centre may:

- publish reports, issue opinions and recommendations, and carry out studies concerned with all matters relating to discrimination;
- produce and supply all information and documentation relevant to its mission;

---

<sup>79</sup> Article 3 of grand ducal regulation of 5 August 1989 on the organization and functioning of advisory commissions for foreigners, *Mémorial A* No. 59 of 5 September 1989,

<http://www.legilux.public.lu/leg/a/archives/1989/0059/a059.pdf#page=4>

<sup>80</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

<sup>81</sup> <http://www.cet.lu/en/CET/Praesentation>

<sup>82</sup> This law transposes Directives 2000/43/EC on the equal treatment of persons, irrespective of racial or ethnic origin, and 2000/78/EC establishing a general framework for equal treatment in employment and occupation, <http://www.legilux.public.lu/leg/a/archives/2006/0207/a207.pdf>

- help people who feel they have been victims of discrimination, by means of a service for advice and guidance, which informs them about their individual rights, relevant legislation, case law and how to claim their rights.

CET members work on an entirely independent and neutral basis. The Centre is not entitled to go to court on behalf of those it seeks to support. It submits an annual report on its activities to the government and parliament.

### ***1.3.4. Law of 13 May 2008***

Under the law of 13 May 2008<sup>83</sup>, the single category of ‘wage earner’ in the private sector has replaced the former distinction between ‘employee’ and ‘manual worker’. This reform has resulted in substantial amendments to labour law and social security structures.

On 15 May 2008, the Chamber of Labour merged with the Chamber of Private Employees to become the Chamber of Wage Earners. The first elections to this Chamber took place on 12 November 2008 with a 36% turnout. The largest union in Luxembourg, OGB-L, won 36 seats and the second largest, LCGB, won 16 seats. ALEBA won 5 seats and all other candidates 3 seats<sup>84</sup>.

The Chamber currently represents 400,000 professional people, including employees and retirees, residents and non-residents. It consists of 60 elected members subdivided into nine socio-professional groups.

## **2. Policy and Legislative Developments in the area of Migration and Asylum**

### ***2.1. General structure of the legal system in the area of migration and asylum***

The general structure of the legal system in the area of migration and asylum comprises four major laws on asylum, immigration, integration and nationality. In 2008, basic reforms were approved to ensure a fully consistent policy.

#### ***2.1.1. Asylum***

As regards, first of all, asylum and international protection, the law of 5 May 2006<sup>85</sup> provides the legal framework concerning the right to asylum and complementary forms of protection, in conjunction with the following grand ducal regulations:

- grand ducal regulation of 1 September 2006, laying down the terms and conditions for the granting of social welfare to applicants for international protection<sup>86</sup>;

<sup>83</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0060/a060.pdf#page=2>

<sup>84</sup> <http://www.csl.lu/fonctionnement/assemblee-pleniere>

<sup>85</sup> <http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

<sup>86</sup> *Mémorial A* No. 171 of 22 September 2006,  
<http://www.legilux.public.lu/leg/a/archives/2006/0171/a171.pdf>

- grand ducal regulation of 21 July 2006 determining the conditions under which applicants for international protection have access to training<sup>87</sup>;
- grand ducal regulation of 22 April 1996 which implements articles 8 and 9 of the law of 3 April 1996 establishing a procedure for the examination of an asylum application<sup>88</sup>;
- grand ducal regulation of 21 December 2007 establishing a list of safe countries of origin within the provisions defined by the law of 5 May 2006 on the right of asylum and complementary forms of protection<sup>89</sup>;
- grand ducal regulation of 29 April 1999 which amends the grand ducal regulation of 12 May 1972 determining the measures applicable to the employment of foreign workers<sup>90</sup>.

The law has transposed the following European Union directives:

- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted<sup>91</sup>;
- Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof<sup>92</sup>;
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status<sup>93</sup>;
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers<sup>94</sup>.

The main aims of the authorities were to transpose the above directives, to introduce subsidiary protection, to shorten procedures so that AIPs received a reply within a

---

<sup>87</sup> *Mémorial A* No. 131 of 31 July 2006, <http://www.legilux.public.lu/leg/a/archives/2006/0131/a131.pdf>

<sup>88</sup> *Mémorial A* No. 30 of 7 May 1996,  
<http://www.legilux.public.lu/leg/a/archives/1996/0030/a030.pdf#page=2>

<sup>89</sup> *Mémorial A* No. 245 of 31 December 2007,  
<http://www.legilux.public.lu/leg/a/archives/2007/0245/a245.pdf>

<sup>90</sup> *Mémorial A* No. 48 of 3 May 1999,  
<http://www.legilux.public.lu/leg/a/archives/1999/0048/a048.pdf#page=7>

<sup>91</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

<sup>92</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF>

<sup>93</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF>

<sup>94</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>



reasonable period, and to define more explicitly the rights and obligations of both the AIPs and the authorities.

The minister in charge of immigration is responsible for the recording and processing of AIP case files, as well as for the temporary protection of AIPs, and is empowered to take the final decision regarding their applications. He or she thus decides on their status and whether or not failed asylum seekers (including failed AIPs) should be repatriated. The minister can also apply ‘a tolerance measure’ to failed AIPs if repatriation is not possible.

The Advisory Commission for International Protection may give its opinion within the time limit set by the government on any proposed legislation or regulations relating to international protection, as well as on any proposal which it considers relevant to such protection and, in particular, to improving the situation of AIPs.

The minister may turn to the Advisory Commission for International Protection for advice on individual requests for protection.

AIPs benefit from legal aid and translation services free of charge during the procedure, as well as later during the litigation process.

A standard and accelerated procedure exists for processing AIP case files. The right to appeal varies if applications are considered to be:

- inadmissible (‘first country of asylum’ and ‘safe third-country’),
- unfounded in cases of standard procedure,
- unfounded in cases of accelerated procedure<sup>95</sup>.

As already indicated, the OLAI organizes support for AIPs and manages shelters for them, or delegates their management to NGOs such as the Luxembourg Red Cross and Caritas Luxembourg.

The vocational guidance service of the Employment Administration Agency (ADEM)<sup>96</sup> provides information and advice to AIPs on work-related training.

AIPs are allowed to take up employment in the private and public sectors or undertake self-employed activity, subject to the rules generally applicable in the sector concerned once refugee status has been granted.

Activities such as training opportunities linked to adult employment, vocational training and practical experience in the workplace are offered to AIPs under conditions which are the same as those applicable to Luxembourg nationals.

Besides their entitlement to social welfare, beneficiaries of the ‘tolerance measure’ have the right to take up employment in a particular sector. However, this is subject to

---

<sup>95</sup> Articles 17, 19 and 20 of the law of 5 May 2006,  
<http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

<sup>96</sup> <http://www.adem.public.lu/adem/index.html>



changing circumstances in the labour market, with priority granted to citizens of the European Union and the countries of the European Free Trade Association (EFTA), as well as to citizens of third countries with specific agreements and third-country nationals in receipt of Luxembourg unemployment benefits.

### **2.1.2. Immigration**

The law of 29 August 2008<sup>97</sup> on the free movement of persons and immigration came into force on 1 October 2008 and followed the adoption of draft law No. 5802<sup>98</sup>.

The former law of 28 March 1972<sup>99</sup> covered only general conditions relating to immigration and distinguished between EU and non-EU nationals. However, it did not take account of the wide variety of types of migrant including, for example, self-employed workers, students, researchers and others, or of commonly encountered aspects of migration such as the importance of reunifying families. It required that both work permits and residence permits should be authorized simultaneously<sup>100</sup>.

The new law on immigration has led to a fundamental reform of the amended legislation of 1972. The main features of this law are:

- the transposition of six European directives<sup>101</sup>;
- the abolition of the system requiring dual residence and work permits for non-EU citizens<sup>102</sup>;
- the introduction of a twofold system of authorization (authorization to remain in Luxembourg, and the award of a residence permit) for third-country nationals<sup>103</sup>;
- more categories with their own set of conditions<sup>104</sup>, which have been specifically defined for non-EU citizens;
- procedures for refusing entry and permission to stay in the country which have been reformed, together with the conditions governing repatriation and expulsion.

---

<sup>97</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

<sup>98</sup> [http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I432DO10000000/FTSShowAttachment?mime=application%2fpdf&id=981499&fn=981499.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I432DO10000000/FTSShowAttachment?mime=application%2fpdf&id=981499&fn=981499.pdf)

<sup>99</sup> <http://www.legilux.public.lu/leg/a/archives/1972/0024/a024.pdf#page=2>

<sup>100</sup> This refers to the amended law of 5 May 2006 on asylum, and complementary forms of protection, the Labour Code and the Criminal Code, and to the repeal of the amended law of 28 March 1972 on the entry and residence of foreigners, the medical control of foreigners and the employment of foreign labour, and the law of 28 October 1920 intended to curb the excessive influx of foreigners into the Grand Duchy, <http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

<sup>101</sup> See section 3.1.

<sup>102</sup> See section 2.3.4.

<sup>103</sup> See section 2.3.1.

<sup>104</sup> See section 2.3.6.

The immigration directorate of the Ministry for Foreign Affairs and Immigration decides whether to grant third-country nationals authorization to remain in Luxembourg, and whether to award residence permits. Both decisions are subject to appeal.

### **2.1.3. Integration**

The former amended law of 27 July 1993<sup>105</sup> established the Government Commission for Foreigners (CGE). The same law defined a ‘foreigner’ as any person who was not a Luxembourg national but who resided on the territory of the Grand Duchy, including asylum seekers and stateless persons. Among its other activities, the CGE promoted cultural exchanges, organized the National Conference for Foreigners, and coordinated the National Council for Foreigners.

The new law of 16 December 2008 on integration<sup>106</sup> is broader in scope than the amended law of 27 July 1993. It does more than entitle foreigners to social welfare, by also creating a legal basis for the fight against discrimination.

While the former legislation was intended to facilitate the integration of foreigners in Luxembourg, it did not define the complexity of ‘integration’ in detail. The new law has made amends for this by providing a clearer definition so that the authorities can promote an interdependent relationship between all members of society, their participation in all activities and the sharing of common values.

Integration in Luxembourg is now seen as a bilateral process in which immigrants and the host society make every effort to live side by side in the same community. Each of them is expected to be mutually responsive to their ‘otherness’ so that society functions and develops smoothly.

Under the new law, different instruments have been introduced to promote integration, such as the multi-annual national plan for integration<sup>107</sup> and the Welcome and Integration Contract (CAI)<sup>108</sup>. The law has also reshaped the make-up of the National Council for Foreigners and created the local Commissions for Integration.

### **2.1.4. Nationality**

According to the former law of 24 July 2001 on nationality<sup>109</sup>, a person could only acquire Luxembourg citizenship by renouncing his or her previous nationality. This law provided for different procedures, including naturalization, the acquisition of nationality

---

<sup>105</sup> Law of 27 July 1993 concerning the integration of foreigners in the Grand Duchy of Luxembourg and social support of foreigners, *Mémorial A* No. 55 of 28 July 1993,

<http://www.legilux.public.lu/leg/a/archives/1993/0055/a055.pdf>

<sup>106</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

<sup>107</sup> This national action plan will be officially presented in 2010.

<sup>108</sup> See section 2.3.8.

<sup>109</sup> <http://www.legilux.public.lu/leg/a/archives/2001/0101/2001A20281.html?highlight>

by ‘option’ in the case of certain specified categories of person, and the recovery of nationality by former Luxembourg citizens.

To be eligible for naturalization, at least five consecutive years of residence in Luxembourg were required immediately prior to the application. Naturalization was granted in a law approved by parliament<sup>110</sup>.

The new law of 23 October 2008 on nationality<sup>111</sup> has adapted the legislation to more recent changes in Luxembourg society, thereby contributing to the smoother integration of resident foreigners.

It has introduced the principle of multi-nationality, strengthened the conditions of previous residency and linguistic competence governing the acquisition of Luxembourg citizenship, and made provision for instruction in civics. An administrative procedure has replaced the legislative procedure<sup>112</sup> and the acquisition by ‘option’ has been abolished.

## ***2.2. Main policy and legislative debates on migration and asylum issues in 2008***

### ***2.2.1. Reform of the policy for immigration and integration***

As already stated, the reforms of 2008 sought to create a fully consistent policy in the field of migration.

The legislation had to be adapted to recent developments by providing conditions applicable specifically to different categories of foreigner, such as highly qualified or independent workers.

The overall aim of the reform was to link the policies corresponding to the four new laws discussed in section 2.1., and give the country a common perspective on migration<sup>113</sup>.

The new law on nationality has aroused much interest and been controversial. Certain players became prominent defenders of more rights for immigrants. The Chamber of Commerce and the Council of State<sup>114</sup> called for simpler naturalization formalities, highlighting the enormous contribution of foreigners to Luxembourg’s economy.

---

<sup>110</sup> See section 2.3.7.

<sup>111</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0213/a213.pdf#page=2>

<sup>112</sup> Grand ducal regulation of 31 October 2008, *Mémorial A* No. 165 of 7 November 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0165/2008A2320A.html?highlight>

<sup>113</sup> [http://www.gouvernement.lu/salle\\_presse/actualite/2004/07/29coalition/index.html](http://www.gouvernement.lu/salle_presse/actualite/2004/07/29coalition/index.html)

<sup>114</sup> <http://www.conseil-etat.public.lu/fr/avis/2008/03/47393/47393.pdf>

The main comments, recommendations and opinions have centred on the following:

- the conditions regarding proficiency in Luxembourgish and its recognition on the basis of official tests;
- extension of the compulsory period of unbroken residence immediately prior to an application for naturalization, to seven years instead of five;
- changes regarding naturalization, and nationality by ‘option’ and through marriage.

The law on immigration was preceded by the opinion of the Economic and Social Council (12 October 2006) at the request of the prime minister, and by broad consultation with the ‘lifblood of the country’. The Chamber of Commerce, the Chamber of Labour and the Migration Platform called for more positive immigration policies.

Criticism focused essentially on the following:

- inequality of treatment in certain cases between EU citizens and third-country nationals, and variable treatment of immigrants depending on their work and residence permits;
- the conditions under which students could obtain work permits;
- the conditions governing the return of immigrants, which were previously reflected in administrative procedures with no special legal basis. Since 1 October 2008, a grand ducal regulation of 5 September<sup>115</sup> has placed these procedures on a firm legal footing;
- the numerous references to grand ducal regulations enabling the executive to determine terms and conditions of entry and residence more flexibly, and the request for the grand ducal regulations to be made available during the parliamentary debate.

The following aspects of the law on integration have been discussed<sup>116</sup>:

- the establishment of a single ministry concerned with immigration and integration;
- the reform of the National Council for Foreigners;
- the CAI<sup>117</sup> in the context of the debate on language and identity issues;
- the extended tasks of OLAI in relation to discrimination<sup>118</sup>.

### ***2.2.2. Political participation***

Journalists and researchers have for some years highlighted the low percentage of foreign members of parliament in Luxembourg, compared to the proportion of foreigners in the

---

<sup>115</sup> See section 1.3.

<sup>116</sup> *Idem*.

<sup>117</sup> See section 1.3.2.

<sup>118</sup> *Idem*, for information on the aims and activities of OLAI.

country (42.6% of the total population)<sup>119</sup>. Immigrants can participate in municipal but not national elections<sup>120</sup>. The participation rate of immigrants in previous elections was low<sup>121</sup>, partly owing to the strict conditions governing their registration as voters, which were highlighted by NGOs. An amendment to the legal framework was adopted by the law of 19 December 2008<sup>122</sup> which has established the following criteria:

- the period of residence required for EU citizens in Luxembourg to vote in European elections has been lowered from five to two years;
- the period in which one must register as a voter has been reduced from 15 months (in the case of European elections) and 18 months (for municipal elections) to 86 days before the (EU or municipal) elections are held.

### 2.2.3. National identity and language

The debate on national identity and language proficiency was linked to the discussion on the reform of policies for immigration and integration. Competence in Letzebuergesch<sup>123</sup> was a condition for obtaining dual nationality<sup>124</sup> and necessary for satisfactory completion of the integration process<sup>125</sup>. However, there was continued debate about its status and role as a factor in integration. The languages used in Luxembourg have increasingly varied with the now *de facto* labour market dominance of English. While Luxembourgish appears less used in the private sector, it remains the dominant language in the public service<sup>126</sup>.

Language proficiency as an essential requirement for obtaining Luxembourg nationality has been criticized by the Chamber of Commerce, on the grounds that there are different categories of immigrants with a variety of backgrounds and professional and personal aims. This debate continues, despite the legal changes. In 2008, two political parties, the CSV<sup>127</sup> and the ADR<sup>128</sup>, expressed positive opinions regarding Luxembourgish and integration.

---

<sup>119</sup> *État de la population, Le Luxembourg en chiffres*, STATEC, 2009,

<http://www.statistiques.public.lu/fr/publications/horizontales/luxChiffresFR/luxChiffresFR.pdf>

<sup>120</sup> Law of 18 February 2003,

<http://www.legilux.public.lu/leg/a/archives/2003/0030/a030.pdf?SID=1e7242935237022dc21a181a00c69d78>

<sup>121</sup> Sesopi-Centre Intercommunautaire (1999); Sesopi-Centre Intercommunautaire (2005).

<sup>122</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0210/a210.pdf#page=2>

<sup>123</sup> The national language according to the law of 24 February 1984,

<http://www.legilux.public.lu/leg/a/archives/1984/0016/a016.pdf#page=6>

<sup>124</sup> Law of 23 October 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0158/a158.pdf#page=2>

<sup>125</sup> Law of 16 December 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

<sup>126</sup> Klein (2007).

<sup>127</sup> CSV, *Eng Offensiv fir eis Sprooch, Pressecommuniqué vun der CSV zur Lëtzebuenger Sprooch*, 30

September 2008, <http://csv.lu/actualites/4610.html>

<sup>128</sup> ADR, *Lëtzebuergesch: Déi eenzeg Sprooch fir Integratioun a sozialen Zesammenhalt am Grand-Duché* Pressekonferenz, 21 May 2008, [http://www.adr.lu/cgi-bin/cms?\\_SID=739366d704cbff2308ae7633e32498cbbf57a8de00024614678176&\\_sprache=de&\\_bereich=artikel&\\_aktion=detail&idartikel=100692](http://www.adr.lu/cgi-bin/cms?_SID=739366d704cbff2308ae7633e32498cbbf57a8de00024614678176&_sprache=de&_bereich=artikel&_aktion=detail&idartikel=100692)

#### ***2.2.4. Asylum***

The Luxembourg authorities have favoured a policy encouraging the voluntary return of failed asylum seekers.

The debate on migration and asylum in Luxembourg differs from the corresponding mainstream discussion in other countries, given that a widespread positive attitude prevails among political leaders, as well as in business, industry and the media.

In general, expressions of xenophobia are highly unwelcome, no doubt because the key contribution of migrants and cross-border workers to national economic development is fully recognized, as are their contributions to welfare schemes and the public budget. Xenophobic statements are therefore very definitely not 'politically correct', even if racism is occasionally present in printed press outlets or on websites. The essentially tolerant attitude towards migrants may be further attributable to Luxembourg's highly developed consensual style of policy-making.

Table 1: Arrival, recognition and returns of asylum seekers

Years	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
<b>Arrivals:</b>											
No. of files	893	1425	365	423	671	1210	1346	669	380	291	299
No. of individuals	1707	2920	627	690	1048	1550	1577	803	523	426	463
Individuals/file	1.91	2.05	1.72	1.63	1.56	1.28	1.17	1.20	1.38	1.46	1.55
<b>Country of origin/percentages:<sup>1</sup></b>											
Ex-Yugoslavia	93.6	95.5	66.5	59.0	64.6	44.6	29.1	37.5	43.4	65.7	57.0
Africa	1.4	0.7	6.9	10.8	12.8	32.3	53.8	38.5	24.1	13.6	17.0
Former USSR + EE*	2.2	2.6	20.0	20.2	15.3	15.9	10.3	11.4	18.6	14.5	5.4
Others	2.8	1.2	6.6	10.0	7.3	7.2	6.8	12.6	13.9	6.2	20.6
<b>Recognitions, ASP<sup>2</sup>, Returns:</b>											
Recognitions - No. of files	18	-	7	39	25	38	47	40	30	90	93
- No. of individuals	43	29	17	89	44	62	82	97	37	160	107
Subsidiary protection										7	0
Tolerance status			16	-	43	43	88	368	230	155	200
Residence permit for humanitarian reasons/ASP	-	-	26	353	35	106	219	206	121	224	139
AOT <sup>3</sup>	-	-	-	-	-	-	-	-	67	176	170
Stock of asylum seekers	1900	3668	3600	3600	3100	3229	2400	1850	1700	1600	1040
Returns (individuals)	-	55	290	183	234	708	381	310	295	146	233
Forced returns (individuals)	-	-	-	40 21.9%	44 18.8%	98 13.8%	56 14.7%	144 46.5%	170 57.6%	69 47.3%	104 44.6%

Figures for the years 2001-07 have been provided by the directorate of immigration in the Ministry for Foreign Affairs and Immigration: *L'évolution des demandes d'asile/de protection internationale au Luxembourg entre 2000-2007; L'évolution des demandeurs d'asile/de protection internationale par pays/régions d'origine (2000-2007);* <http://www.mae.lu/fr/Site-MAE/Immigration/Chiffres-cles-en-matiere-d-asile>

Figures for the years 1998, 1999, 2000 and 2008 have been provided by the National Statistical Institute of Luxembourg (STATEC); *Retours des demandeurs d'asile selon les pays de provenance 2001-2008; Demandeurs d'asile par pays d'origine 1998-2008;* [http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF\\_Language=fra&MainTheme=5&FldrName=4&RFPPath=66](http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=5&FldrName=4&RFPPath=66)

\* EE= Eastern Europe before accession

Stock: persons benefiting from social assistance<sup>129</sup>

- 1) Percentages are calculated on the basis of total arrivals;
- 2) *Autorisation de Séjour provisoire pour Raisons humanitaires* (residence permit for humanitarian reasons);
- 3) *Autorisation d'Occupation temporaire* (temporary work permit).

<sup>129</sup> Grand ducal regulation of 1 September 2006 and previous grand ducal regulation of 4 July 2002, <http://www.legilux.public.lu/leg/a/archives/2006/0171/a171.pdf#page=5>; <http://www.legilux.public.lu/leg/a/archives/2002/0084/a084.pdf#page=2>

In 1999, Luxembourg had a higher proportion of foreign arrivals (asylum seekers) in its total population than any other European country<sup>130</sup>. Arrivals then fell temporarily before peaking again in 2003/04, since when there has been a steady decrease with the first big wave of returns occurring in 2003.

In 1998 and 1999, the arrivals consisted mainly of families. There was then a gradual increase in the number of single people, which peaked in 2004 and was followed by a reverse trend (see the 'individuals/file' row in Table 1).

In the same two years, arrivals came mainly from the Balkan countries. In 1970, Luxembourg had signed a workforce treaty with the former Republic of Yugoslavia, strengthening the relations that already existed between the (then) two countries. Migration from Africa was also significantly increasing.

Luxembourg has been one of the countries with the lowest proportion of recognitions with respect to arrivals and people benefiting from social assistance<sup>131</sup>. There was an absolute increase in recognitions in 2007 and 2008, while arrivals and numbers in receipt of social assistance fell considerably. This may be largely attributable to the law of 5 May 2006 which sought to facilitate administrative procedures.

According to article 14 of the law of 18 March 2000, the tolerance measure had been granted, 'if physical execution of the removal is impossible owing to current circumstances'<sup>132</sup>. Since then, it has been authorized by article 22 of the law of 5 May 2006<sup>133</sup>.

This law has applied to the following persons:

- all minorities in Kosovo;
- people from regions at war or in conflict;
- people intending to return to countries in which transport is temporarily dangerous or unsafe;
- young people whose applications have been rejected during their final year of apprenticeship or training school (enabling them to complete that year).

Temporary residence permits (ASPs) have been granted on a discretionary basis for humanitarian or family reasons, or because of ill health, etc. Since 2005, the government has ruled in favour of:

- exceptional cases of families who have arrived since 1 August 2001, with at least one child who has completed secondary school<sup>134</sup>;

---

<sup>130</sup> European Commission (2002).

<sup>131</sup> *Idem*.

<sup>132</sup> <http://www.legilux.public.lu/leg/a/archives/2000/0025/a025.pdf#page=2>

<sup>133</sup> <http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

<sup>134</sup> *Bulletin d'information et de documentation* (2005) Gouvernement du Grand-Duché du Luxembourg, [http://www.gouvernement.lu/publications/download/bulletin\\_2005.pdf](http://www.gouvernement.lu/publications/download/bulletin_2005.pdf)



- young people who have been declared failed AIPs in their last year of apprenticeship or secondary education;
- persons with rights relating to their private and family life, according to article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>135</sup>;
- adults with long-term residence in Luxembourg, mainly from Serbia-Montenegro;
- ASPs could be renewed in the case of those able to prove they had an employment contract.

Since enforcement of the law of 5 May 2006 (article 14)<sup>136</sup>, an AIP can receive:

- a six-month renewable temporary work permit (AOT);
- an apprenticeship (CITP, CATP or CCM)<sup>137</sup>.

An AIP can ask for an AOT after a nine-month stay; applicants who are minors can request this status immediately on arrival.

---

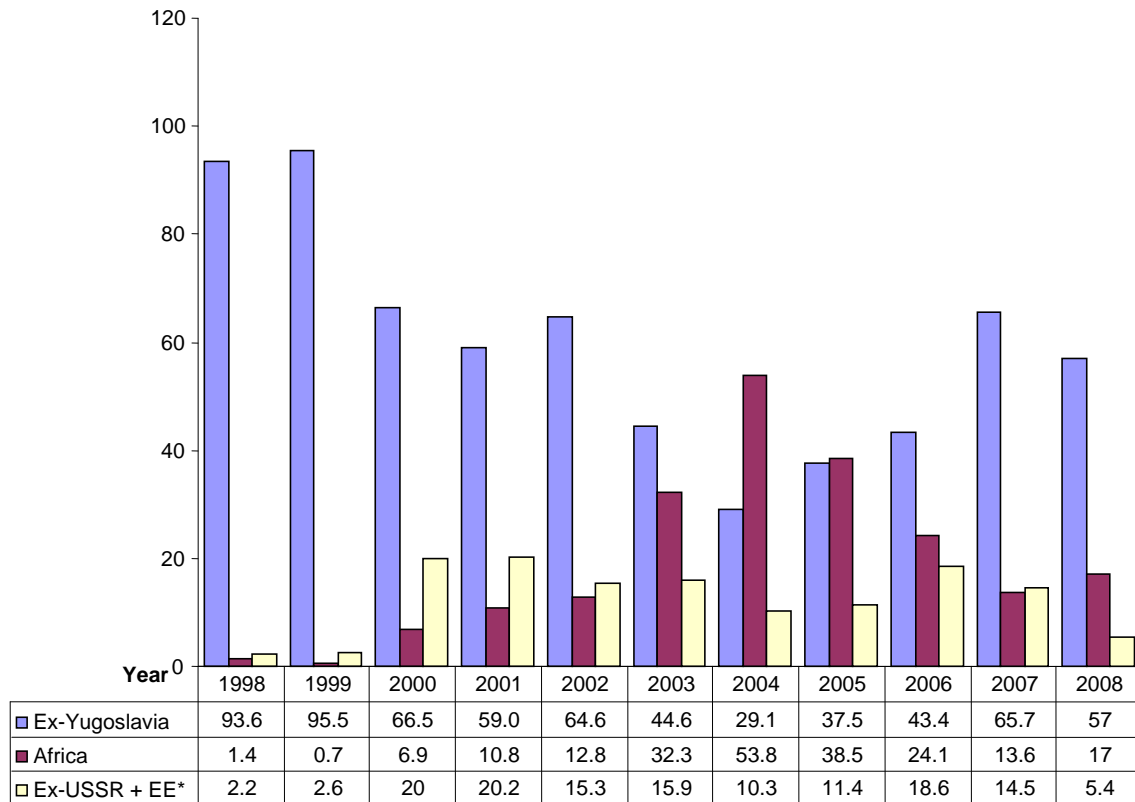
<sup>135</sup> <http://conventions.coe.int/treaty/EN/Treaties/html/005.htm>

<sup>136</sup> <http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

<sup>137</sup> CITP (Technical and Vocational Professional Certificate); CATP (Technical and Vocational Professional Aptitude Certificate); CCM (Manual Ability Certificate).

Table 2: Asylum Seekers in Luxembourg by main country or region of origin, 1998-2008

%



All data relate solely to failed asylum seekers (see section 2.3.11.).

Figures for the years 2001-07 have been provided by the directorate of immigration in the Ministry for Foreign Affairs and Immigration: *L'évolution des demandes d'asile/de protection internationale au Luxembourg entre 2000-2007; L'évolution des demandeurs d'asile/de protection internationale par pays/régions d'origine (2000-2007)*; <http://www.mae.lu/fr/Site-MAE/Immigration/Chiffres-cles-en-matiere-d-asile>

Figures for the years 1998, 1999, 2000 and 2008 have been provided by the National Statistical Institute of Luxembourg. (STATEC); *Retours des demandeurs d'asile selon les pays de provenance 2001-2008 ; Demandeurs d'asile par pays d'origine 1998-2008*; [http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF\\_Language=fra&MainTheme=5&FldrName=4&RFPath=66](http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=5&FldrName=4&RFPath=66)

\* EE= Eastern Europe before accession

In 2008, expulsions of failed asylum seekers or persons illegally present in Luxembourg were, once again, a major topic raised in parliamentary questions, as well as by NGOs and the press. Criticism focused mainly on the forced return of families with children during school term time, the expulsion of persons who were well integrated and had been resident in the country for several years, and a lack of legislation regarding the procedural aspects of expulsion, prior to adoption of the law on immigration.

## ***2.3. Policy details and legislative developments***

### ***2.3.1. Control and monitoring of immigration***

The new law of 29 August on the free movement of persons and immigration introduced a dual system of authorizations for third-country nationals<sup>138</sup>. Before entering Luxembourg, the latter have to apply for permission to stay, so that they can come to the country and then obtain a residence permit subject to certain further conditions, including satisfactory completion of a medical check-up and proof of adequate accommodation. The procedural aspects of some of these conditions are laid down in grand ducal regulations.

In order to ensure that the conditions for entry to and residence in Luxembourg are met, the new law includes provision for verification procedures. While the law states that such procedures are not followed on a regular basis in the case of EU citizens, the police are empowered to carry them out and to monitor foreigners to this end. Furthermore, the Labour and Mining Inspectorate is responsible for monitoring the implementation of all provisions concerned with work done by foreigners. The minister for immigration is entitled to have direct access to certain electronic databases on personal matters such as applications for visas and employment and social security registration. The precise terms of this entitlement are now specified in grand ducal regulation of 26 September 2009<sup>139</sup>.

In order to implement the law, the immigration directorate of the Ministry for Foreign Affairs and Immigration (responsible for processing applications from foreigners) has introduced a new computer system which, when fully operational, should provide more – and better quality – statistical information on immigration flows, thus enabling immigration to Luxembourg to be monitored more effectively.

### ***2.3.2 Refugee protection and asylum***

As specified in the 2004-09 government programme<sup>140</sup>, the Luxembourg government intends that its asylum policy should comply strictly with the principles of the Geneva Convention<sup>141</sup>, thus granting protection to all those who are persecuted in their home country under circumstances as defined in the Convention, or who need subsidiary

---

<sup>138</sup> Articles 34 to 98 of the law of 29 August 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf>

<sup>139</sup> Grand ducal regulation of 26 September 2009, establishing the necessary personal data for the implementation of the law of 29 August 2008 on the free movement of persons and immigration, and determining the personal data which the minister in charge of immigration can access in order to implement the law, <http://www.legilux.public.lu/leg/a/archives/2008/0145/a145.pdf#page=3>

<sup>140</sup> <http://www.gouvernement.lu/dossiers/viepol/formation-gouvernement-2004/index.html>

<sup>141</sup> <http://www.unhcr.org/pages/49da0e466.html>

protection. The government also considers that the return of persons refused international protection remains a necessary complement to its asylum policy.

As regards the provisions applicable to third-country nationals, the law on the free movement of persons and immigration excludes from the field of application refugees, those claiming asylum and beneficiaries of a tolerance measure, though with some exceptions. Persons receiving international protection (whether with refugee status or subject to subsidiary protection) are entitled to apply for family reunification under the provisions of this law. Unaccompanied minors who have international protection are granted the right to be reunited with their families in accordance with special provisions. Furthermore, asylum claimants or those benefiting from a tolerance measure may apply for special authorization to remain in Luxembourg for either humanitarian or exceptional reasons (see section 2.3.9).

These measures have been welcomed by the Luxembourg Refugee Council and the CCDH.

The law on the free movement of persons and immigration<sup>142</sup> has amended the law on asylum in two ways as follows:

- by introducing equal treatment, in terms of labour market access, for persons who have refugee status or subsidiary protection;
- by tying the application of tolerance measures clearly to material considerations, irrespective of any personal preferences expressed by their would-be beneficiaries.

### ***2.3.3. Unaccompanied minors and other vulnerable groups***

Unaccompanied minors seeking asylum first arrived in Luxembourg in 2003. They were welcomed into care under projects supported by the ERF<sup>143</sup>. The OLAI<sup>144</sup> has now taken over responsibility for the reception of immigrants and asylum seekers from the former CGE, and also administers ERF activities in Luxembourg. Previously, the CGE and NGOs drew up incremental principles for the reception of minors who applied for asylum. Article 12 of the law of 5 May 2006 on international protection<sup>145</sup> included special measures relating to matters such as guardianship and asylum procedures. Articles 68 to 77 of the law on the free movement of persons and immigration<sup>146</sup> set out the conditions governing the reunification of families, along with special conditions applicable to unaccompanied minors receiving international protection.

---

<sup>142</sup> Law of 29 August 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf>

<sup>143</sup> [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_movement\\_of\\_persons\\_asylum\\_immigration/114567\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/114567_en.htm)

<sup>144</sup> See section 1.3.2.

<sup>145</sup> <http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

<sup>146</sup> Law of 29 August 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf>

### 2.3.4. Economic migration

The former law on immigration of 28 March 1972<sup>147</sup> laid down national policy regarding European citizens and third-country nationals. It was passed at a time when many immigrant workers came to Luxembourg, mainly from Portugal but also Yugoslavia, both (then) third countries with which Luxembourg had signed a labour force exchange convention. The 1972 law also established compliance with Common Market regulations and directives.

Within this law, four kinds of work permit were granted under a stepwise integration process:

- permit A for the first 12 months with one employer,
- permit B for the next four years within the same sector,
- permit C applicable to the entire labour market,
- permit D for a three-year apprenticeship.

While permits A and B were renewable, third-country nationals had to wait at least five years before they could access any sector of the labour market.

The work permit had to be formally requested by the employer, while the (prospective) employee had to apply for permission to remain in the country.

The Luxembourg labour market is heavily dependent on the employment of migrants and cross-border commuters in a proportion corresponding to 66% of the total workforce (25% are migrants and 41% cross-border commuters) and 73% of private-sector employees<sup>148</sup>. The main group of migrants are Portuguese workers who, mainly for economic reasons, moved with their families to Luxembourg from the late 1960s onwards.

The law of 29 August on the free movement of persons and immigration overhauls the conditions governing economic migration, with different rules for the various forms it may take.

It meets the longstanding demands of associations and trade unions by establishing a new residence permit for employed persons to replace the former dual residence/work permits. Application for the permit has to be made by the person concerned, whereas the employer previously applied for a work permit. Furthermore, this permit was valid for just a single

---

<sup>147</sup> Law of 28 March 1972, and its grand ducal regulations.

<http://www.legilux.public.lu/leg/a/archives/1972/0024/a024.pdf#page=2>

<sup>148</sup> STATEC, *Emploi et Chômage, Travailleurs étrangers occupés au Grand-Duché de Luxembourg selon la nationalité 1974-2008* and *Travailleurs frontaliers occupés au Grand-Duché de Luxembourg selon la résidence et la nationalité (en 1 000 personnes) 1974-2008*,

[http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF\\_Language=fra&MainTheme=2&FldrName=5&RFPath=37](http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=2&FldrName=5&RFPath=37)

employer and occupation, whereas people with the new residence permit can now work with any employer though only in the same profession.

Authorization to remain in Luxembourg as an employed person is subject to four legal conditions<sup>149</sup>: first, it should not undermine the priority granted to the employment of some workers under EU or national legislation; secondly, it should relate to an activity that serves the economic interests of the country; thirdly, the applicant should possess any vocational or professional qualifications required for the employment concerned; and, finally, the employment contract should relate to a job vacancy which has been officially registered at the ADEM. Compliance with these conditions is checked by the ADEM and the CCTS in accordance with grand ducal regulations<sup>150</sup>. First, the minister responsible for immigration seeks the opinion of the ADEM, which has to respond within three weeks, and then the opinion of the CCTS is also requested.

The initial residence permit is valid for up to a year in just one profession with any employer. When first renewed, it is valid for two more years under the same conditions. With effect from the second renewal, it is valid for three years in any sector or profession.

Special provisions have been introduced for transferred and seconded workers, who are exempt from the four above-mentioned conditions for the award of permits. Certain specific temporary occupations, such as those of artists or sportspeople, are also exempt from a residence permit if their activity covers a period shorter than three months a year<sup>151</sup>.

Under article 45 of the law on the free movement of persons and immigration, highly skilled workers can access the labour market in accordance with simpler procedures and conditions<sup>152</sup>. This applies to third-country nationals who have a higher education qualification or specialized professional experience of at least five years, which equips them for jobs requiring special knowledge or ability. After satisfying the standard legal requirements for entry to Luxembourg, people in this category merely have to hold an employment contract whose obligations they are qualified to fulfil, and be remunerated to a level corresponding at least to an amount fixed by grand ducal regulation. The opinions of the ADEM and CCTS are thus not required. Furthermore, those concerned may be granted a residence permit for a maximum three-year period but renewable on request. This particular article has sought to anticipate Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment<sup>153</sup>.

---

<sup>149</sup> Article 42 of the immigration law of 29 August 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf>

<sup>150</sup> Article 43 of the immigration law of 29 August 2008 (for the link, see preceding footnote).

<sup>151</sup> Article 35 of the immigration law of 29 August 2008 (for the link, see footnote 149).

<sup>152</sup> Article 45 of the immigration law of 29 August 2008 (for the link, see footnote 149).

<sup>153</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:EN:PDF>

Here again, the law provides for some workers to be granted employment as a priority under EU legislation, and for third-country nationals to be granted residence permits if they wish to work in a professional sector or occupation confronting recruitment difficulties officially identified in grand ducal regulations. As yet, no such regulations have been issued, so this particular provision has still to be applied.

Finally, the law of August 29 also sets out the conditions under which self-employed persons with the necessary qualifications for their professional activity may obtain residence permits. They have to demonstrate that they possess adequate resources for the activity in question which has to serve the interests of the country. Here, the opinion of the CCTS has to be requested. The residence permit is issued for three years, renewable on request for a further three years.

While there has been a consensus on the need to reform the system of work permits, the new law is still criticized for over-restricting labour market access. The strongest criticism has come from the Chamber of Commerce which calls for more open access to promote a 'foreign image of a society and economy seeking to attract foreign companies and/or foreign labour'<sup>154</sup>.

Among the suggestions and comments made by stakeholders are the following:

- dropping the requirement that professional or employment activity should serve the economic interests of Luxembourg (Chamber of Commerce, Chamber of Trades, Council of State);
- certain key terms of employment are not included in the working contract (Chamber of Commerce, Chamber of Trades, Migration Platform);
- the administrative procedures linked to the dual consultation with the ADEM and CCTS are too cumbersome (Chamber of Commerce);
- the opinion of the CCTS should no longer be required for the renewal of permits (Chamber of Commerce, Chamber of Private Employees);
- the concept of 'sector' is not sufficiently precise (Chamber of Commerce, Chamber of Trades);
- the concept of 'highly skilled worker' should be less restrictively defined (Chamber of Commerce, Chamber of Trades, Council of State);
- conditions of employment should be broadened, mainly to offer longer periods of work experience to students who have obtained their university degree in Luxembourg (Chamber of Commerce);
- conditions governing work permits should be less restrictive in the case of labour secondment (Chamber of Commerce, Chamber of Trades);
- the three-year period of restriction to one economic sector should be shortened (Migration Platform, Chamber of Trades).

---

<sup>154</sup> Parliamentary doc. 5802,  
[http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I432DO10000000/FTSShowAttachment?mime=application%2fpdf&id=981499&fn=981499.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I432DO10000000/FTSShowAttachment?mime=application%2fpdf&id=981499&fn=981499.pdf)

### 2.3.5. Family reunification

The law of 29 August on the free movement of persons and immigration<sup>155</sup> transposes Council Directive 2004/38/EC on the right of EU citizens and members of their families to move and reside freely within the territory of the Member States<sup>156</sup>. The law also transposes Council Directive 2003/86/EC on the right to family reunification<sup>157</sup>, thus providing clearer conditions and criteria regarding this matter for EU citizens and third-country nationals.

In order not to compromise excessively the right to private and family life, the new law enables those who have very close personal or family links with Luxembourg to be allowed to remain there, without necessarily fulfilling the conditions for family reunification.

In some respects, the law goes beyond the standards laid down in the directives. The provisions concerning family reunification for EU citizens also apply to persons in the families of Luxembourgers, who are not themselves Luxembourg nationals. Third country nationals have to wait one year to be eligible for family reunification, in contrast to the maximum two-year period permitted by the directive. Eligibility is immediate in the case of certain special categories, such as highly qualified workers and researchers<sup>158</sup>.

The law specifies those members of families who are covered by the reunification provisions. As far as personal partnerships are concerned, this applies to people in partnerships that are officially declared in accordance with the conditions set by national legislation<sup>159</sup>. The issue of whether to include partners who were not bound by an officially declared partnership but could prove the existence of a stable sustainable relationship, was discussed when the law was before parliament.

The law also sets out the conditions to be met by third-country nationals who want members of their families to join them. They have to demonstrate that they can provide those family members (as well as themselves) with appropriate accommodation, and that they have adequate stable resources to support them financially. During the consultation process prior to adoption of the law, some associations and organizations asked for these requirements and for the condition relating to waiting time to be interpreted more flexibly,

---

<sup>155</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

<sup>156</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0038:en:NOT>

<sup>157</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:EN:PDF>

<sup>158</sup> Article 71 of the immigration law,

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

<sup>159</sup> *Mit dem Gesetz zu eingetragenen Partnerschaften wurden auch eheähnliche Gemeinschaften zwischen Gleichgeschlechtlichen ermöglicht. Gesetz vom 9. Juli 2004: Pacte civil de solidarité (PACS).*



so as not to undermine the right to family life of the people concerned<sup>160</sup>.

EU citizens joining members of their family in Luxembourg – like EU citizens in general – also have to demonstrate that their resources are sufficient for them ‘not to become a burden for the system of social assistance’, as stated in law. The minimum level of resources required is tied to the Luxembourg minimum income, which is fairly high in comparison to other EU Member States.

### **2.3.6. Other kinds of legal migration**

In the case of third-country nationals, the law of 29 August<sup>161</sup> provides for further categories of applicant – in addition to those already discussed – who may also be authorized to reside in Luxembourg. While the criteria set for some of them may derive from transposed EU legislation, others (e.g. sportspeople) have been added under purely national legislation to take account of situations which are not covered by other categories but for which special conditions seem appropriate.

The law specifies the following eight categories:

- employees, including certain sub-categories such as transferred and highly qualified workers (anticipating the basic ideas of the so-called ‘blue card directive’)<sup>162</sup>;
- independent/self-employed persons;
- sportspeople;
- students, pupils, trainees and volunteers (category transposed from Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service)<sup>163</sup>;
- researchers (transposed from Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research)<sup>164</sup>;
- family members (transposed from Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification)<sup>165</sup>;
- private or exceptional reasons (including the need to remain in the country for

---

<sup>160</sup> The criteria are defined by the grand ducal regulation of 5 September 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf>

<sup>161</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

<sup>162</sup> See section 2.3.4.

<sup>163</sup> See section 3.1.

<sup>164</sup> See section 2.3.4.

<sup>165</sup> Idem.

- medical treatment);
- long-term residents (transposed from Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents)<sup>166</sup>.

One of the main issues discussed during adoption of the law concerned the residence conditions applicable to students, as well as their entitlements once student residential status had been granted. In the view of the Chamber of Commerce, the Chamber of Labour and the Migration Platform, the conditions relating to independent resources were too demanding for students, while those regarding their right to gainful employment during their studies were also over-restrictive (they could not work at all during the first year and were limited to 10 hours of work a month in subsequent semesters). Students who had completed their studies and wanted to work in Luxembourg could apply for a two-year period of residence as salaried workers. This opportunity was welcomed by the Migration Platform, while the Chamber of Commerce called for a period longer than two years (opinion 5802)<sup>167</sup>.

### ***2.3.7. Citizenship and naturalization***

In the government statement of 4 August 2004, the prime minister set out the approach to integration and social cohesion, in which the inclusion of multiple nationality was a key element.

The new law on naturalization was debated in public and in the political arena, and was drawn up in its initial form in October 2006. It was subsequently amended on two occasions in 2007 and 2008, prior to its final adoption on 15 October 2008 by 38 votes to 21, with 1 abstention<sup>168</sup>.

The purpose of this law according to its authors is to strengthen the integration of foreigners in Luxembourg.

Prior to its adoption, the conditions and procedures governing the acquisition of Luxembourg nationality were laid down in the law of 22 February 1968<sup>169</sup> as amended in particular by the law of 24 July 2001<sup>170</sup>. As already indicated at the beginning of section 2.1.4., nationality could be acquired through naturalization, by ‘option’ in the case of

---

<sup>166</sup> Idem.

<sup>167</sup>

[http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I432DO10000000/FTSShowAttachment?mime=application%2fpdf&id=981499&fn=981499.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I432DO10000000/FTSShowAttachment?mime=application%2fpdf&id=981499&fn=981499.pdf)

<sup>168</sup> Law of 23 October 2008 on Luxembourg nationality,

<http://www.legilux.public.lu/leg/a/archives/2008/0158/a158.pdf>

<sup>169</sup> <http://www.legilux.public.lu/leg/a/archives/1968/0007/a007.pdf#page=3>

<sup>170</sup> <http://www.legilux.public.lu/leg/a/archives/2001/0101/a101.pdf#page=2>

certain specified categories of person, and through the recovery of nationality by former Luxembourg citizens. Under the same law, a minimum unbroken five-year period of residence in Luxembourg immediately prior to an application for naturalization was a condition of eligibility. Naturalization was granted in a law approved by parliament<sup>171</sup>.

Applicants for Luxembourg nationality either through naturalization or by ‘option’ were subject to two further conditions as follows:

- they had to surrender their original nationality;
- they had to prove that they were sufficiently integrated. In practice, this meant demonstrating both an active and passive knowledge of at least one of the languages specified in the law of 24 February 1984<sup>172</sup> on the language system, as well as basic knowledge of Luxembourgish, with the supporting evidence of certificates or official documents.

The acquisition of nationality by ‘option’ has been abolished under the law of 23 October 2008<sup>173</sup>. To be eligible for naturalization, candidates now have to be resident in Luxembourg for seven consecutive years immediately prior to their application and prove that they are sufficiently integrated<sup>174</sup>, which means:

- demonstrating an active and passive knowledge of at least one of the languages specified in the above-mentioned law of 24 February 1984<sup>175</sup>, and passing an assessment test in spoken Luxembourgish. The level of competence required in terms of listening and speaking is indicated in the same law<sup>176</sup>;
- taking at least three courses in citizenship, with compulsory attendance at one course on Luxembourg institutions and one on fundamental rights.

Two categories of person are exempt from the Luxembourgish assessment test and attendance at civics courses:

- those who have completed at least seven years of schooling within the Luxembourg public or private education systems;
- those who obtained Luxembourg residence permits prior to 31 December 1984 and who have been residents since earlier than that date at least.

---

<sup>171</sup> Article 6 of the law of 22 February 1968,

<http://www.legilux.public.lu/leg/a/archives/1968/0007/a007.pdf#page=3>

<sup>172</sup> <http://www.legilux.public.lu/leg/a/archives/1984/0016/a016.pdf#page=6>

<sup>173</sup> *Mémorial A* No.158 of 27 October 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0213/a213.pdf>

<sup>174</sup> Articles 6 and 7 of the law of 23 October 2008 on Luxembourg nationality,

<http://www.legilux.public.lu/leg/a/archives/2008/0158/a158.pdf>.

<sup>175</sup> See footnote 172.

<sup>176</sup> The skill level to be reached in Letzeburgesch is language level B1 of the Council of Europe Common European Framework of Reference for Languages for listening, and A2 of the same framework for speaking.

In the constitutional amendment of 30 April 2008, parliament voted to remove article 10 under which it was responsible for granting naturalization. On 15 October 2008, the second constitutional vote took place.

A novel feature of the law of 23 October 2008 is that it has introduced appeal procedures and, more specifically, establishes a two-tier jurisdiction. This means that the rights of those wishing to acquire Luxembourg nationality are strengthened.

Given that a ministerial order refusing naturalization constitutes an administrative decision, authority has been transferred from the legislature to the administrative jurisdictions<sup>177</sup>.

The new law introduces further substantive changes:

- it recognizes as Luxembourgers children born in Luxembourg whose parents are not Luxembourg nationals, provided that one of them too was born there;
- it compels the minister of justice to grant or refuse naturalization within an eight-month time limit.

Two grand ducal regulations of 31 October 2008 were adopted under the law of 23 October<sup>178</sup>:

- a regulation concerning the organization of citizenship courses taken by those seeking eligibility for naturalization;
- a second regulation concerning the organization of tests and the certification of competence in spoken Luxembourgish, which is also a requirement for naturalization.

The first regulation entrusts the organization of the courses in civics to the adult training service of the Ministry of National Education and Vocational Training. The courses are held in secondary schools throughout the country. The same regulation also establishes an indirect link between the law on nationality and the law on integration, stating that the courses are primarily intended for applicants for naturalization, while also targeting foreigners who have signed the CAI<sup>179</sup>.

The second regulation entitles the Institut National des Langues (National Institute for Languages) to assess and certify competence levels in spoken Luxembourgish, with a view to the naturalization of those concerned. The Institute holds assessment tests several times a year.

---

<sup>177</sup> Le Gouvernement du Grand-duché de Luxembourg (2009).

<sup>178</sup> *Mémorial A* No. 165 of 7 November 2008,  
<http://www.legilux.public.lu/leg/a/archives/2008/0165/a165.pdf>

<sup>179</sup> See section 1.3.2.

The Council of State and the Chamber of Commerce both criticized what they viewed as the draft law's restrictive approach<sup>180</sup>. During the discussion on the draft organized by the Chamber of Commerce on 12 February 2008, the president of the chamber described the proposed reform as generous but insufficient, objecting to the increase in the required period of residence from five to seven years. The Council of State also opposed this requirement, and launched further formal opposition to the draft law on the grounds that it did not establish the precise level of competence required in Luxembourgish.

In addition, the Council, as well as the Chamber of Commerce and ASTI, all criticized the fact that the spouse of a Luxembourg citizen could no longer apply for nationality by 'option'.

The first set of amendments to the draft law in 2007<sup>181</sup> introduced the principle of a 'dual ground right' to nationality, a proposal welcomed but regarded as over-cautious by the Council of State.

The second set of amendments exempted people who had been resident in Luxembourg prior to 31 December 1984 from the linguistic competence test and attendance at courses in civics. They also identified the level of competence required in Luxembourgish and included provision for the costs of attending courses in both Luxembourgish and civics to be borne by the state.

At a joint press conference held on 8 October, one week before final adoption of the law, the two opposition parties (the Democratic Party and the Green Party) expressed their disagreement with the language criteria and the minimum seven-year compulsory period of residence required prior to naturalization.

### **2.3.8. Integration**

As already discussed in section 2.2.1., demographic and immigration trends in the Grand Duchy of Luxembourg have led the government to reform the law<sup>182</sup>.

The law of 16 December 2008<sup>183</sup> on the reception and integration of foreigners is the third component of immigration policy reform in 2008, subsequent to the law of 29 August 2008 on the free movement of persons and immigration and the law of 23 October 2008 on Luxembourg nationality.

---

<sup>180</sup> Opinion 5620 of 18 March 2008,

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5620#>

<sup>181</sup> Parliamentary doc. 5620,

[http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I4327I10000000/FTSByteServletImpl/?path=/expor t/exped/sexpdata/Mag/038/564/053673.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSByteServletImpl/?path=/expor t/exped/sexpdata/Mag/038/564/053673.pdf)

<sup>182</sup> See section 2.2.1.

<sup>183</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

OLAI has become the body responsible for coordinating the inter-ministerial committee on integration policy, establishing the multi-annual national action plan on integration, and fighting against discrimination. Besides granting social assistance to certain foreigners, it is responsible for monitoring migration in Luxembourg and is expected to submit a national report on the integration of foreigners every five years.

The CAI is for foreigners who are legal residents in Luxembourg and wish to stay on a long-term basis. The government provides language and civics courses, as well as measures for social and economic integration.

The law amends the composition of the CNE<sup>184</sup>. The number of foreign representatives is increased from 15 to 23, including a representative for refugees as defined in the Geneva Convention of 28 July 1951<sup>185</sup>. Following criticism by the Council of State, the law has established a quota of seven representatives for third-country nationals.

The CNE also includes one representative from the inter-municipal trade union of the municipalities in Luxembourg (SYVICOL)<sup>186</sup>, four employer representatives, four representatives from the largest trade unions and two representatives of civil society.

The inter-ministerial committee on integration is no longer part of the CNE which is now officially constituted for five years instead of three.

The debate about the law on integration was much less controversial and less publicized than discussion on the nationality law.

The most strongly debated topic during the legislative process was the CAI: nearly all organizations which expressed an opinion on the bill stressed the importance of the contract for foreigners. However, they questioned whether it should be compulsory for third-country nationals, since the first draft of the law established a direct link between the renewal of residence permits and the degree of integration<sup>187</sup>.

According to the Council of State and the Migration Platform, the degree of integration should not depend solely on signing the CAI or fulfilling the terms contained in it.

The aim of the CAI<sup>188</sup> is to encourage a smooth integration process by enabling foreigners who sign it to secure easier access to Luxembourg nationality<sup>189</sup>, so it is definitely not meant to be a coercive mechanism<sup>190</sup>. However, a widely discussed issue

---

<sup>184</sup> See section 1.3.2.

<sup>185</sup> <http://www.unhcr.org/pages/49da0e466.html>

<sup>186</sup> <http://www.syvicol.lu>

<sup>187</sup> Chamber of Commerce, Chamber of Labour, Migration Platform, Chamber of Private Employees, National Council for Foreigners, Council of State.

<sup>188</sup> The Chamber of Labour and Migration Platform would prefer use of the terms 'offer of welcome' and 'integration'.

<sup>189</sup> Migration Platform, CLAE and the Chamber of Private Employees.

<sup>190</sup> Migration Platform, CLAE, National Council for Foreigners.

has been the extent to which it facilitates access to measures for integration<sup>191</sup> and how far these should be adapted to meet the needs of a very heterogeneous population<sup>192</sup>.

In highlighting the indivisible links between immigration, integration and citizenship, the Council of State expressed regret that immigration and integration were the subject of a law separate from the one governing integration and the acquisition of citizenship. The CNE and CLAE wanted a single ministry to deal with both immigration and integration issues.

Other topics discussed were:

- the enlargement of OLAI's mission to include the fight against discrimination on various grounds, despite opposition from the Council of State. This matter has also been included in the multi-annual national action plan for integration and the fight against discrimination, and will be covered in the five-yearly report submitted to parliament<sup>193</sup>. The parliamentary commission did not follow the advice of the Council of State on this point, but asked that only discrimination on the grounds of origin should be included in OLAI's terms of reference.
- the reform of the CNE altering its membership. The CNE has opposed this amendment and asked for equal numbers of national and non-national members to be maintained. Other basic issues raised but not reflected in the legislation were:
  - the direct election of CNE members by foreigners to improve its representativeness<sup>194</sup>;
  - the obligation to refer to the CNE, as in the case of the professional chambers<sup>195</sup>;
  - sufficient operational resources<sup>196</sup>.

The government has tried to promote other integration measures.

On 29 May 2008, a bill granting leave of absence from work to learn Luxembourgish was tabled in parliament<sup>197</sup>.

The aim was initially to introduce additional special leave in order to allow residents or non-residents of all nationalities working in Luxembourg for at least six months, to learn or improve their knowledge of Luxembourgish. It is intended that leave should be granted for a maximum 200 hours.

---

<sup>191</sup> Chamber of Commerce, Chamber of Labour, Migration Platform, CLAE, Council of State.

<sup>192</sup> Chamber of Private Employees, Migration Platform, CLAE, Council of State.

<sup>193</sup> Articles 6 and 7 of the integration law.

<http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

<sup>194</sup> CLAE.

<sup>195</sup> Migration Platform.

<sup>196</sup> Migration Platform, CLAE, National Council for Foreigners.

<sup>197</sup> Bill No. 5886 on the introduction of language leave.

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5886>



Following formal opposition from the Council of State, the Commission on Labour and Employment has expanded the scope of this draft legislation to include the self-employed.

### ***2.3.9. Illegal immigration***

The new law on immigration contains measures to overcome illegal immigration and fight fraud in this area, in which it thus reinforces an existing set of measures. It includes penalties for anyone who, directly or indirectly, has deliberately facilitated – or tried to facilitate – the illegal entry, transit, or residence, for profit, of third-country nationals in Luxembourg, or another EU Member State, or any country in the Schengen area.

The law prescribes fines for transport companies which fail to comply with their obligation to pass on information to the police about the passengers they bring to Luxembourg. It also provides for the prosecution of persons who employ illegal immigrants, as well as of those who make use of false documents. Possible penalties include the withdrawal of the residence permit from applicants found to have submitted such documents or provided false information.

As regards placing clandestine immigration on a legal footing, the law enables residence permits to be granted under exceptional circumstances to persons who have remained illegally in Luxembourg, provided among other things that the period involved has comprised at least eight years of work and residence.

Furthermore – and again under exceptional circumstances linked for example to family or humanitarian considerations – it may be possible to regularize the position of those involved in individual cases of immigration. However, this never occurs as a matter of course.

The Ombudsman welcomed the clarification in the law of the circumstances under which the position of immigrants could be regularized. At the same time, he claimed that the criteria involved would be applied objectively and transparently on a case-by-case basis<sup>198</sup>.

The CCDH has reiterated its previous criticism about criminalising support for unauthorized entry and residence, if the acts concerned are motivated by humanitarian considerations. It has called for criminal courts to exercise appropriate discretion in such cases. It has also asked the government to work for the humane and generous treatment of those who have lived in Luxembourg for several years without a residence permit or ‘tolerance’ status.

---

<sup>198</sup> <http://www.ombudsman.lu/>



### ***2.3.10. Action against human trafficking***

In 2008, Luxembourg witnessed important developments in the fight against human trafficking. The government took action which led to the approval, adoption or implementation of several international legal instruments.

On 26 March, the Ministry of Justice introduced a bill<sup>199</sup> to implement the following: the Additional Protocol of the United Nations Convention against organized cross-border crimes (2000), which is designed to prevent, eliminate and punish human trafficking; the Convention of the Council of Europe on action against trafficking in human beings (2005); and the Framework Decision of the Council of the European Union on combating trafficking in human beings (2002).

The bill implemented the penal provisions of all three instruments. It extended the definition of human trafficking by including within it, for example, forms of exploitation at work and the removal of human organs. It also introduced severer penalties for trafficking.

Later, on 22 April, the Ministry of Equal Opportunities introduced a bill<sup>200</sup> that aimed to prevent human trafficking, to protect the rights of its victims, and to create a framework for their protection and support. This bill deals with aspects of the prevention of trafficking and the protection of victims covered by the above-mentioned UN and Council of Europe instruments, as well as by EU Council Directive 2004/81/EC concerned largely with the issue of residence permits to third-country nationals who have been victims of trafficking (see reference on p. 75 in the 'EU legislation' section). The bill seeks to transpose articles 7 and 9 of this directive on assistance to such victims, while extending the scope of its provisions to the victims of Luxembourg nationals or EU citizens. Article 4 of the same bill deals with the guardianship of unaccompanied victims who are minors.

In its articles 92-98, the law on the free movement of persons and immigration focuses on the granting of residence permits to victims of trafficking, and incorporates the foregoing EU directive into domestic law.

The law has adopted article 6 of the directive, on providing a reflection period for victims of trafficking who cooperate with the authorities. The parliament agreed on a period of 90 days for reflection, which is longer than is allowed under the Council of Europe Convention. Again subject to cooperation with the authorities or testimony against the perpetrators, victims may be granted a residence permit for a six-month period,

---

<sup>199</sup> The bill concerning the trafficking of human beings. Parliamentary document No. 5860 of 15 April 2008 [http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I4327I10000000/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/090/666/068695.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/090/666/068695.pdf)

<sup>200</sup> The bill on assistance to and protection of victims of human trafficking, amending the new procedural civil code. Parliamentary document No. 5874 of 6 May 2008. [http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I4327I10000000/FTSServletImpl/?path=/export/docpa2/447\\_res\\_0.doc](http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSServletImpl/?path=/export/docpa2/447_res_0.doc)

renewable once. The permit enables them to obtain paid employment if they are suitably qualified. Parliament also agreed that, on expiry of the permit, the minister responsible for immigration may allow them to remain in Luxembourg, for private or humanitarian reasons of exceptional gravity.

In addition, the Council of Government adopted a draft grand ducal regulation on 23 May 2008, establishing the conditions under which victims of trafficking have access to training<sup>201</sup>.

One of the main points of criticism has been that legislation to fight trafficking in human beings is spread across three different laws<sup>202</sup>. Some organizations have regretted the fact that the protection and care of victims is dependent on collaboration with the judicial authorities<sup>203</sup>, although they have commented positively on the possibility of obtaining a residence permit for private reasons.

Public debate has been especially concerned with one manifestation of human trafficking, namely forced prostitution. Several lawsuits have involved evidence against pimps or former employers who were nightclub owners by Ukrainian women complaining that they were forced into prostitution<sup>204</sup>. A draft law on prostitution<sup>205</sup> introduced on 19 March 2008 by socialist members of parliament proposed the inclusion in the penal code of a ban on the purchase of sexual services. Various conferences on the subject have also been held<sup>206</sup>. A public awareness campaign on prostitution was launched by the Ministry of Equal Opportunities on 24 April 2008 with the slogan, ‘to pay a prostitute is financing the trade in human beings’.

### ***2.3.11. Return migration***

The return of migrants is dealt with in the two laws on the free movement of persons and immigration and on international protection, respectively.

---

<sup>201</sup> Preview of article 97 of the law of 29 August 2008 on the free movement of persons and immigration, and of article 5 of the draft bill on assistance to and protection of victims of human trafficking.

<sup>202</sup> Inter-ministerial Committee on the equality of men and women, parliamentary doc. 5874/03; Chamber of Trades, parliamentary doc. 5874/05; Chamber of Labour, parliamentary doc. 5874/06, <http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5874>

<sup>203</sup> Common opinion expressed by Caritas Luxembourg, Femmes en détresse, and the Fondation Maison de la Porte Ouverte, parliamentary doc. 5874/04, <http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5874>

<sup>204</sup> Parliamentary doc. 5860, <http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5860>

<sup>205</sup> Parliamentary doc. 5857, [http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I4327I10000000/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/097/633/069362.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/097/633/069362.pdf)

<sup>206</sup> International Symposium on ‘prostitution et société démocratique’, organised by the University of Luxembourg in coordination with the Conseil national des Femmes (CNFL, or National Council for Women).

### *The immigration law*

The law on the free movement of persons and immigration of 29 August 2008<sup>207</sup> contains detailed provisions on refusal procedures and expulsions. These are in line with Council Directive 2001/40/EC<sup>208</sup> on mutual recognition of decisions on the expulsion of third country nationals, and anticipate the general principles of the so-called ‘return directive’<sup>209</sup>. The grand ducal regulation of 26 September 2008<sup>210</sup> fixes rules on good behaviour applicable to officials who carry out expulsion decisions. The Ministry for Foreign Affairs and Immigration and the Luxembourg Red Cross also signed a cooperation agreement on monitoring forced expulsions.

### *The law on international protection*

Article 72 of the law of 5 May 2006<sup>211</sup> refers specifically to the possibility of initiating a programme for the voluntary return of persons who have been granted temporary protection, to their country of origin. However, it is stated that people who do not return voluntarily within the deadline set by the minister will be expelled from Luxembourg. The law additionally states that forced return will be conducted with respect for human dignity. The minister will consider pressing humanitarian reasons which make return impossible or unreasonable in specific cases. In addition, he or she may allow families with children at school who are minors to remain in Luxembourg so that they can complete the ongoing school period.

In response to an increased number of asylum seekers not willing to return, the government has promoted voluntary return by means that have included offers of cash assistance and the launch of a European Refugee Fund project in 2007. Furthermore, in 2008 the government mandated the International Organization for Migration (IOM) to provide assistance with voluntary return and reintegration intended specifically for rejected asylum seekers from Kosovo.

On 24 October 2008, the government submitted draft law No. 5947<sup>212</sup> setting up a detention centre in order to differentiate clearly between ordinary prisoners and migrants or asylum seekers awaiting return. The separation of the detention centre and the prison had long been requested by NGOs and international organizations. The new centre should be operational in the autumn of 2010.

---

<sup>207</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

<sup>208</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:149:0034:0036:EN:PDF>

<sup>209</sup> See article 116 of the law of 29 August 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2> and the ‘return directive’, <http://www.europarl.europa.eu/sides/getDoc.do?language=EN&type=IM-PRESS&reference=20080616IPR31785>

<sup>210</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0145/a145.pdf#page=3>

<sup>211</sup> <http://www.legilux.public.lu/leg/a/archives/2008/0145/a145.pdf#page=2>

<sup>212</sup> [http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5947&backto=/wps/portal/public!/ut/p/c0/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os3gXI5ewIE8TIwN302BXA6Og0CDPIF8TY3cfY\\_2CbEdFAFroNn8!/](http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5947&backto=/wps/portal/public!/ut/p/c0/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gXI5ewIE8TIwN302BXA6Og0CDPIF8TY3cfY_2CbEdFAFroNn8!/)

Another topic discussed during adoption of the law on the free movement of persons and immigration was the duration of detention.

The law allows detention for a period of no more than one month, which may be extended three times. A longer period proposed in the first draft of the law was criticized by several associations and the CCDH, with the result that it was finally reduced.

As far as returns are concerned, the Luxembourg government has tried to intensify its cooperation with other EU Member States. In 2008, it was involved in joint return flights managed by Frontex<sup>213</sup> and has itself organized a common Benelux flight to Nigeria.

In 2008, the forced return of failed AIPs or illegal persons in Luxembourg was, once again, an issue raised by NGOs and in parliamentary questions and the press. Criticism centred mainly on the return of families with children during school term time, the expulsion of people who had remained in Luxembourg for several years and were well integrated, and a lack of legislation regarding procedures and the enforcement of expulsion, prior to adoption of the law on immigration.

### ***2.3.12. Other policy areas and topics***

Under the Global Approach to Migration<sup>214</sup> adopted by the European Council in 2005, Luxembourg is involved in the mobility partnership established between the European Union and Cape Verde. On 5 June 2008 Luxembourg, together with the other participating EU Member States (Spain, France and Portugal), the European Commission, the presidency of the EU Council and the Cape Verdean government, signed a joint declaration to establish the partnership. Cape Verde is also a privileged partner country in Luxembourg's development cooperation policy. In 2006, even before the mobility partnership was launched, Luxembourg had started to implement a project called *Migrer les yeux ouverts* ('migrate properly informed') which sought to provide persons wishing to migrate to Luxembourg with information about the opportunities and challenges this move would entail.

---

<sup>213</sup> <http://www.frontex.europa.eu/>

<sup>214</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/87642.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/87642.pdf)

### 3. Implementation of EU Legislation

#### *3.1. Progress with transposing EU legislation in the field of migration and asylum into national law and administrative practices*

##### *3.1.1. Law of 5 May 2006 on asylum and complementary forms of protection*

This law implements:

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status<sup>215</sup>;

- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted<sup>216</sup>;
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers<sup>217</sup>;
- Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof<sup>218</sup>.

##### *3.1.2. Law of 29 August 2008 on the free movement of persons and immigration*

This law implements the following EU directives

- Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research<sup>219</sup>;
- Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC<sup>220</sup>;

---

<sup>215</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:01:EN:HTML>

<sup>216</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

<sup>217</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0009:EN:HTML>

<sup>218</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0055:EN:HTML>

<sup>219</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0071:EN:HTML>

<sup>220</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF>

- Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service<sup>221</sup>;
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification<sup>222</sup>;
- Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents<sup>223</sup>;
- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities<sup>224</sup>.

The transposition of some articles and guidelines was also partly taken from the following European directives:

- Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (the ‘blue card directive’)<sup>225</sup>;
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals<sup>226</sup>;
- Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals<sup>227</sup>.

### ***3.2. Debates at political level and within wider society***

The proposal, presented by the European Commission, for a Directive of the European Parliament and the Council establishing common standards and procedures in Member

---

<sup>221</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:375:0012:0018:EN:PDF>

<sup>222</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0086:EN:HTML>

<sup>223</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML>

<sup>224</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML>

<sup>225</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>

<sup>226</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

<sup>227</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>

States for returning illegally staying third-country nationals<sup>228</sup>, the so-called ‘return directive’, was the subject of an intense political debate in Luxembourg.

The debate was started by six non-governmental organizations<sup>229</sup> which challenged the public and policy-makers about the proposed directive in late April 2008.

The government supported the compromise on the project at the Justice and Home Affairs Council meeting of 5 June 2008.

Three members of the European Parliament representing Luxembourg voted for the proposal and three voted against.

---

<sup>228</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005PC0391:EN:HTML>

<sup>229</sup> Action des Chrétiens pour l’Abolition de la Torture (ACAT), ASTI, Caritas, CLAE, Comité luxembourgeois pour une Paix Juste au Proche-Orient (CPJPO), and SeSoPi.

## Annexe

### *A.1. Methodology*

Covering the reference period from 1 January to 31 December 2008, this first national report of its kind in Luxembourg provides an overview of the legal situation, policy developments and public debate relating to the subject of migration in the country. Its findings will be used by the European Commission for the production of a synthesis report to be placed on the website of the European Migration Network (EMN)<sup>230</sup>.

The report is intended for national and European-level policy makers, as well as all those with a professional or general interest in migration, be they officials, administrators, academics or others. It has been based on a common template developed by EMN members and the European Commission, in the hope that this will facilitate comparison and information exchange with other EU Member States.

The main sources of information used for the report were:

- information obtained from national experts;
- follow-up from parliamentary debates, parliamentary questions and press documents;
- a comprehensive range of press articles published in 2008 on asylum, migration and integration;
- the opinions and positions of NGOs;
- reference documents such as the report of the Luxembourg Ombudsman;
- reports and websites of national ministries;
- contact persons in national organizations working on migration and asylum.

Section 1 of the report describes the general structure of the political system, including government and non-governmental organizations involved in some way with migration and asylum. It also provides an overview of general political and institutional developments in these areas in Luxembourg in 2008.

Section 2 focuses more closely on legislative aspects of these developments, as well as important political debates covering the same field.

In Section 3 the implementation and interpretation of EU law in the field of asylum and migration are summarized.

---

<sup>230</sup> <http://emn.sarenet.es>



The official language of administration and law in Luxembourg is French. Only the texts of legislation and regulations as written in that language can be regarded as legally binding.

## **A.2. Key Terms and Definitions**<sup>231</sup>

**Application for International Protection** - In the EU context, this means a request made by a third country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2004/83/EC (Qualification Directive), that can be applied for separately.

Narrower Term: Application for Asylum

**Asylum (Right of)** - The right of the State, in virtue of its territorial sovereignty and in the exercise of its discretion, to allow a non-national to enter and reside, and to resist the exercise of jurisdiction by any State over that individual.

**Border crossing** – Means the physical act of crossing a Border either at a Border Crossing Point or another point along the border

**Citizenship** - Means the particular legal bond between an individual and his or her State, acquired by birth or naturalization, whether by declaration, choice, marriage or other means according to national legislation.

**Country of Origin** - The country (or countries) which are a source of migratory flows and of which a migrant may have citizenship. In refugee context, from Directive 2004/83/EC, this means the country (or countries) of nationality or, for stateless persons, of former habitual residence.

**Detention** - Restriction on freedom of movement through confinement that is ordered by an administrative or judicial authority(ies) in order that another procedure may be implemented.

In an EU asylum context, this means confinement of an asylum applicant by a Member State within a particular place, where the applicant is deprived of his or her freedom of movement. This may occur during any stage of or throughout the asylum process, from the time an initial application is made up to the point of removal of an unsuccessful asylum applicant.

In an EU Return context, Member States may only detain or keep in a detention facility a third country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular when: (a) there is a risk of

---

<sup>231</sup> For further information about the terms and definitions used in the report, see the European and Migration Network Asylum and Migration Glossary, <http://emn.sarenet.es/html/index.html>

absconding; or (b) the third country national concerned avoids or hampers the preparation of return or the removal process. Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.

**Discrimination** – Is used on both senses:

- Indirect discrimination: occurs where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary;
- Racial discrimination: as defined in international law is "any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." Discrimination is prohibited by international law.

**Emigration** - In EU context, means the action by which a person, having previously been usually resident in the territory of a Member State, ceases to have his or her usual residence in that Member State for a period that is, or is expected to be, of at least twelve months.

**Expulsion** - This refers to the removal of:

- a) a third country national subject to an Expulsion Decision based on a serious and present threat to public order or to national security and safety, taken in the following cases:
  - conviction of a third country national by the issuing Member State for an offence punishable by a penalty involving deprivation of liberty of at least one year;
  - the existence of serious grounds for believing that a third country national has committed serious criminal offences or the existence of solid evidence of his intention to commit such offences within the territory of a Member State.
- b) a third country national subject to an Expulsion Decision based on failure to comply with national rules on the entry or residence of aliens.

**Family Reunification** - This refers to the establishment of a family relationship which is either:

- a) the entry into and residence in a Member State, in accordance with Council Directive 2003/86/EC, by family members of a third country national residing lawfully in that Member State ("sponsor") in order to preserve the family unit, whether the family relationship arose before or after the entry of the sponsor; or

- b) between an EU national and third country national established outside the EU who then subsequently enters to the EU.

Synonym: Family Reunion

**Foreigner** – In EU-context: a person who is not a national of a Member State of the European Communities.

Synonym: Alien, non-citizen, non-national

**Immigrant** - In EU context, means a person undertaking an immigration.

**Immigration** - In EU context, means the action by which a person establishes his or her usual residence in the territory of a Member State for a period that is, or is expected to be, of at least twelve months, having previously been usually resident in another Member State or a third country.

**Integration** - In EU context, integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States (CBP1). The promotion of fundamental rights, non discrimination and equal opportunities for all are key integration issues. At EU level, integration policy is developed within the framework of Common Basic Principles - CBP (of which the previous broad definition is one).

**Migration** - In EU context, migration is a broader-term of an immigration and emigration, i.e. the action by which a person either:

- a) establishes his or her usual residence in the territory of a Member State for a period that is, or is expected to be, of at least twelve months, having previously been usually resident in another Member State or a third country; or
- b) having previously been usually resident in the territory of a Member State, ceases to have his or her usual residence in that Member State for a period that is, or is expected to be, of at least twelve months.

**Minor** - Person who, according to the law of their respective country, are under the age of majority, i.e. are not yet entitled to exercise specific civil and political rights.

**Nationality** - Means the legal bond between a person and a State and does not indicate the person's ethnic origin.

Synonym: Citizenship

**Naturalization** - Any mode of acquisition after birth of a nationality not previously held by the target person that requires an application by this person or his/her legal agent as well as an act of granting nationality by a public authority. This definition does not include automatic acquisition that is not initiated by the individual concerned or his/her legal agent (even in cases where the individual has an option to decline this attribution of nationality) or acquisition of nationality based on a unilateral act by the target person (e.g. acquisition by declaration or option).

**Reception Centre** - Means any place used for the collective housing of asylum applicants

**Refugee** - According to the Geneva Convention, a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned before, is unable or, owing to such fear, unwilling to return to it.

Within an EU context, this refers specifically to a third country national or stateless person within the meaning of article 1A (above) of the Geneva Convention and authorised to reside as such on the territory of a Member State and to whom article 12 (Exclusion) of directive 2004/83/EC does not apply.

**Regularization** - In EU context, means any state procedure by which illegally-staying third country nationals are awarded a legal status.

Synonym: Legalization

**Removal** - Means the enforcement of the obligation to return, namely the physical transportation out of the country.

Synonym: Deportation (not preferred term to use)

Broader Term: Forced Return

Narrower Terms: Expulsion, Removal Order

**Researcher** - Means a third country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organization for carrying out a research project for which the above qualification is normally required.

**Residence Permit** - Means any authorization issued by the authorities of a Member State allowing a third country national to stay legally in its territory, in accordance with the provisions of article 1(2)(a) of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third country nationals.

**Return** - Broadly, this refers to the movement of a person returning to his/her country of origin, country of nationality or habitual residence usually after spending a significant period of time (i.e. excluding holiday visits, business meetings and typically considered to be for a period of time of more than three months) in another country. This return may or may not be voluntary.

In the context of the Return Directive (2008/115/EC), this means the process of going back - whether in voluntary compliance with an obligation to return, or enforced - to:

- one's country of origin; or
- a country of transit in accordance with Community or bilateral readmission agreements or other arrangements; or

- another third country, to which the third country national concerned voluntarily decides to return and in which he/she will be accepted.

Synonym: Return Migration

**Return (Forced)** - Defined as “the compulsory return of an individual to the country of origin, transit or third country (country of return), on the basis of an administrative or judicial act.

**Return (Voluntary)** - Defined as the assisted (in which case it would be Assisted Voluntary Return) or independent return to the country of origin, transit or third country, based on the free will of the returnee.

**Third Country** - A country or territory other than one within the European Union.

**Third Country National** - Means any person who is not a citizen of the Union within the meaning of article 17(1) of the Treaty, including stateless persons.

**Visa** - Means the authorization or decision of a Member State required for transit or entry for an intended stay in that Member State or in several Member States.

### **A.3. List of Abbreviations**

ADEM – Employment Administration Agency, *Administration de l’Emploi*

ADR - Alternative Democratic Reform Party, *Alternativ Demokratesch Reformparte*

AIP – Applicant for International Protection

ALEBA - Luxembourg Association of Bank Employees and Insurance, *Association Luxembourgeoise des Employés de Banque et Assurance*

AOT - Temporary work permit, *Autorisation d’Occupation temporaire*

ASP - Residence permit for humanitarian reasons, *Autorisations de Séjour provisoires pour Raisons humanitaires*

ASTI - Association for the support of immigrant workers, *Association de Soutien aux Travailleurs immigrés*

CAI - Welcome and Integration Contract, *Contrat d’Accueil et d’Intégration*

CASNA - Reception Desk for Newly-Arrived Pupils, *Cellule d’Accueil Scolaire pour élèves Nouveaux Arrivants*

CCDH - Consultative Commission for Human Rights, *Commission consultative des Droits de l'Homme*

CCTS - Advisory Committee for Employees, *Commission consultative pour Travailleurs salariés*

CEPS/INSTEAD - Centre for Demographic, Poverty and Socio-Economic Studies/INSTEAD, *Centre d'Etudes de Populations, de Pauvreté et de Politiques Socio-Economiques/International Network for Studies in Technology, Environment, Alternatives, Development*

CES - Economic and Social Council, *'Conseil économique et social'*

CET - The Equality Commission, *Centre pour l'Égalité de Traitement*

CGE - Government Commission for Foreigners, *Commissariat du Gouvernement aux Étrangers*

CGFP – General Confederation of Civil Servants, *Confédération générale de la Fonction publique*

CLAE – The Liaison Committee of Foreigners' Associations, *Comité de Liaison des Associations d'Étrangers*

CNE - National Council for Foreigners, *Conseil national pour Étrangers*

CSV - Christian Social Party, *Parti chrétien social/Chrëschtlech Sozial Vollekspartei*

DP - Democratic Party, *Parti démocratique*

EMN – European Migration Network

ERF - European Refugee Fund

FGFC – General Federation of Municipal Service, *Fédération générale de la Fonction communale*

IOM – International Organization for Migration

LCGB - Luxembourg Confederation of Christian Trade Unions, *Lëtzebuenger Chrëschtliche Gewerkschaftsbond*

LSAP - Luxembourg Socialist Workers' Party, *Parti ouvrier socialiste luxembourgeois*

OGB-L - Independent Trade Union Confederation of Luxembourg, *Confédération syndicale indépendante-Luxembourg/Onofhängege Gewerkschaftsbond Lëtzebuerg*

OLAI - Luxembourg Agency for Reception and Integration, *Office luxembourgeois de l'Accueil et de l'Intégration*

ORK - Luxembourg committee for the rights of children, *Ombudskomitee fir d'Rechter vum Kand*

STATEC - Central Department for Statistics and Economic Research, *Service central de la Statistique et des Études économiques*

SYVICOL – Inter-municipal Trade Union of the Municipalities in Luxembourg, *Syndicat des Villes et Communes luxembourgeoises*

## **Bibliography**

Allegrezza, Serge; Hirsch, Mario; von Kunitzki, Norbert (2007): *L'immigration au Luxembourg, et après?*, Amsterdam: Dutch University Press.

Besch, Sylvain (2008): *La future loi sur la libre circulation des personnes et l'immigration. Entre objectifs économiques et considérations humanitaires*. In: *Sozialalmanach 2008*, Caritas Luxembourg : 93-114.

Besch, Sylvain (2008): *Le projet de loi N° 5825 sur l'accueil et l'intégration des étrangers ou comment favoriser l'intégration des étrangers?* In: *Sozialalmanach 2008*, Caritas Luxembourg: 115-128.

Esping-Andersen, Gosta (1990): *The three worlds of welfare capitalism*. Princeton: University Press.

European Commission (2002): *Statistiques démographiques*. Luxembourg: Eurostat p. 59-122.

Katzenstein, Peter (1984) *Corporatism and change: Austria, Switzerland, and the politics of industry*. Ithaca, United States: Cornell University Press (first publication): 74-75.

Klenk, Tanya; Weyrauch, Philine; Haarmann, Alexander; Nullmeier, Frank (ed.) (2010): *Abkehr vom Korporatismus? Der Wandel der Sozialversicherungen im europäischen Vergleich*. Bremen: Schriften des Zentrums für Sozialpolitik.

Le Gouvernement du Grand-Duché de Luxembourg (2004): *The Luxembourg Council of State*. Luxembourg: Information and Press Service of the Luxembourg Government, Publishing Department.

Le Gouvernement du Grand-Duché de Luxembourg (2006): About political institutions in Luxembourg. Luxembourg: Information and Press Service of the Luxembourg Government, Publishing Department.

Le Gouvernement du Grand-Duché de Luxembourg (2009): The Luxembourg nationality. Luxembourg: Information and Press Service of the Luxembourg Government in collaboration with the Ministry of Justice, Office in charge of Luxembourg nationality (Service de l'indigénat).

Martin, Romain; Dierendonck, Christophe; Meyers, Christian; Noesen, Mélanie (2008): La place de l'école dans la société luxembourgeoise de demain. Bruxelles: Group de Boeck.

Ministère de l'Éducation nationale et de la Formation professionnelle (2009): Les chiffres clés de l'Éducation nationale 2007/2008. Statistiques et indicateurs, année scolaire 2007/2008. Luxembourg: MENFP

von Kunitzki, Norbert (1981): Les étrangers et leur intégration au corps social luxembourgeois, aspects économiques. In: Les étrangers et leur insertion à la collectivité luxembourgeoise, Institut Grand-ducal, Section des Sciences morales et politiques, Luxembourg.

### **Press, articles and others**

ADR (2008): Lëtzebuergesch: Déi eenzeg Sprooch fir Integratioun a sozialen Zesammenhalt am Grand-Duché. Pressekonferenz, Luxembourg.

Ametepé, Fofó; Hartmann-Hirsch, Claudia (2008): Do Immigrants or natives use or 'abuse' more social assistance in Luxembourg? Gallery 1, Conference Centre, Bramber House, University of Sussex.

Bolzmann, Claudio (2007): Travailleurs étrangers sur le marché du travail Suisse : quels modes d'incorporation ? In: Journal of International Migration and Integration, vol. 8 n. 4: 357 – 373.

Borjas, Georges (1999): Immigrant and welfare magnets. In: Journal of Labour Economics, 17(4): 607-637.

Conseil économique et social (2006): Pour une politique d'immigration et d'intégration active, Luxembourg: éd. CES.

Calmes, Christian (1989): The making of a nation from 1815 to the present day. Vienna: éd. Saint-Paul: 526

Clément, Franz (2008): Les relations professionnelles au Luxembourg. Luxembourg: Une collaboration ADEM-Reprem-CEPS/Instead, Centre de Ressources et de Documentation, EURES.



Chaloff, Jonathan; Georges Lemaitre (2009): Managing highly-skilled labour migration: a comparative analysis of migration policies and challenges in OECD countries. In: Employment and Migration Papers, Paris: Organisation for Economic Cooperation and development: n. 79.

CSV (2008): Eng Offensiv fir esi Sprooch, Pressecommuniqué vun der CSV zur Lëtzebuerger Sprooch, 30 septembre 2008.

Elvinger, Marc; Kinsch, Patrick (2001): La discrimination dans la vie publique : rapport national luxembourgeois. In: Bulletin du Cercle François Laurent. Luxembourg: bulletin I: 57-94.

European Commission (2007): Indicators for monitoring the employment guidelines. 2007 Compendium. Brussels: DG Employment and Social Affairs.

Euzéby, Alain (2001): La protection sociale, pilier du modèle social européen. In: Bulletin luxembourgeois des questions sociales. Luxembourg: aloss: vol. 10.

Fehlen, Fernand; Jacquemart, Eric (1995): La main-d'œuvre frontalière au Luxembourg. Exploitation des fichiers de la sécurité sociale. Luxembourg: Cahiers économiques, STATEC, n. 84.

Fehlen, Fernand; Pigeron-Piroth, Isabelle (2009): Mondialisation du travail et pluralité des marchés du travail. L'exemple du Luxembourg.  
[http://gree.univ-nancy2.fr/encours/digitalAssets/53345\\_JIST\\_Fehlen\\_Pigeron.pdf](http://gree.univ-nancy2.fr/encours/digitalAssets/53345_JIST_Fehlen_Pigeron.pdf)

Hartmann-Hirsch, Claudia (2001): Luxembourgs korporatistisches Wohlfahrtsregime mit universalistischen Strukturen. In: Bulletin luxembourgeois des questions sociales. Luxembourg: aloss: vol. 26: 236-268.

Hartmann-Hirsch, Claudia (2007): Une libre circulation restreinte pour les personnes âgées à pension modique. In: Population & Emploi 23. Differdange: CEPS/Instead.

Hartmann-Hirsch, Claudia (2008): Les immigrants hautement qualifiés : le cas du Luxembourg. In: Migration & Société. Luxembourg: vol. 117-118.

Hartmann-Hirsch, Claudia; Ametepé, Fofó (2009): Luxembourg's corporatist-Scandinavian welfare system and incorporation of migrants, for The European Social model in a global perspective. Differdange: conference ESPANET.

Kerschen, Nicole (2001): Aux origines des assurances sociales Luxembourgeoises, - Analyse de la documentation parlementaire relative à l'assurance obligatoire contre les maladies et à l'assurance obligatoire contre les accidents (1897-1902). In: Bulletin luxembourgeois des questions sociales. Luxembourg: aloss: vol. 10.

Klein, Carlo (2007): The valuation of plurilingual competences in an Open European Labour Market. International Journal of Multilingualism. Differdange: CEPS/Instead – vol. 4: 262-281

OECD-SOPEMI (2008): International Migration Outlook. Paris: 393.

Ombudsman (2008): Rapport d'activité du 1er octobre 2007 au 30 septembre 2008. Luxembourg.

Scuto, Denis (2001): La naissance de la protection sociale au Luxembourg (Le contexte économique et social, les acteurs et les enjeux politiques). In: Bulletin luxembourgeois des questions sociales. Luxembourg: aloss: vol. 10.

Service information et presse-Département Communication avec le citoyen (2005): Bulletin d'information et de documentation 2005, Gouvernement du Grand-Duché du Luxembourg.

Sesopi-Centre Intercommunautaire (1999): Bilan des inscriptions aux élections communales et européennes de 1999. Luxembourg: Sesopi-CI: RED n. 4.

Sesopi-Centre Intercommunautaire (2005): Bilan des inscriptions aux élections communales d'octobre 2005 et aux élections européennes de juin 2004. Luxembourg: Sesopi-CI: RED n. 9.

**Press articles from 1 January 2008 till 31 December 2008 in the following newspapers:**

- Luxemburger Wort
- La Voix du Luxembourg
- Tageblatt, Lëtzebuerger Journal
- Zeitung vum Lëtzebuerger Vollek
- Le Quotidien
- Woxx
- Lëtzebuerger Land
- Contacto
- Correio

**Electronic Sources**

Administration de l'emploi (ADEM)

<http://www.adem.public.lu/adem/index.html>

Alternativ Demokratesch Reformpartei

[http://www.adr.lu/cgi-bin/cms?\\_SID=NEW&\\_sprache=de&\\_bereich=ansicht&\\_aktion=detail&\\_schluessel=adr](http://www.adr.lu/cgi-bin/cms?_SID=NEW&_sprache=de&_bereich=ansicht&_aktion=detail&_schluessel=adr)

Association Luxembourgeoise des Employés de Banque et Assurance

<http://www.aleba.lu/>

Association de soutien aux travailleurs immigrés  
<http://www.asti.lu/>

Caritas Luxembourg  
<http://www.caritas.lu/>

CEPS/INSTEAD  
<http://www.ceps.lu/>

Centre pour l'égalité de traitement  
<http://www.cet.lu/en/CET/Praesentation>

Chambre des salariés Luxembourg  
<http://www.csl.lu/index.html>

Chrëschtlech Sozial Vollekspartei  
<http://csv.lu/>

Comité de Liaison des Associations d'Étrangers  
<http://www.clae.lu/>

Conseil d'Etat du Grand-Duché du Luxembourg  
<http://www.conseil-etat.public.lu/fr/>

Confédération générale de la fonction publique  
[www.cgfp.lu](http://www.cgfp.lu)

Den Ombudscomité fir d'Rechter vum Kand  
<http://www.ork.lu/comite.html>

Elections.Public.lu - Le site officiel des élections au Grand-Duché du Luxembourg  
<http://www.elections.public.lu/fr/elections-legislatives/2004/index.html>

Eur-Lex - Access to European Union law  
<http://eur-lex.europa.eu/>

European Commission  
[http://ec.europa.eu/index\\_en.htm](http://ec.europa.eu/index_en.htm)

European Migration Network  
<http://emn.sarenet.es/html/index.html>

Fédération générale de la fonction communale  
[www.fgfc.lu](http://www.fgfc.lu)

Frontex

<http://www.frontex.europa.eu/>

Informations et actualités du gouvernement luxembourgeois

<http://www.gouvernement.lu/index.html>

Lëtzebuenger Chrëschtleche Gewerkschaftsbond

<http://lcgb.lu/fr>

Lëtzebuerg privat

<http://www.luxprivat.lu/>

Le portail du Grand-Duché de Luxembourg - votre porte d'entrée au Luxembourg

<http://www.luxembourg.public.lu/fr/index.html>

Légilux - Service Central de Législation du Grand-Duché du Luxembourg

<http://www.legilux.public.lu/index.html>

Luxembourg Red Cross

<http://www.croix-rouge.lu/index.php>

Office luxembourgeois de l'accueil et de l'intégration

<http://www.olai.public.lu/>

Ombudsman – Le Médiateur au service des citoyens

<http://www.ombudsman.lu/>

Onofhängege Gewerkschaftsbond Lëtzebuerg

<http://www.ogb-1.lu/>

Service de la scolarisation des enfants étrangers

[http://www.men.public.lu/ministere/annuaire\\_interne/scolari\\_enfant\\_etranger/index.html](http://www.men.public.lu/ministere/annuaire_interne/scolari_enfant_etranger/index.html)

Service national d'action sociale

[www.snas.etat.lu](http://www.snas.etat.lu)

SeSoPI-Centre intercommunautaire

<http://www.sesopi-ci.lu/rubrique/1>

Service central de la Statistique et des Études économiques (STATEC)

<http://www.statec.public.lu/fr/index.html>

United Nations High Commissioner for Refugees

<http://www.unhcr.org/pages/49c3646c2.html>

## Legislation

### National Legislation

It should be noted that although English is the language of the original version of the present report, the language of administration and legislation in Luxembourg is French, so that only texts of laws in that language are legally binding.

Loi du 4 avril 1921, portant création de chambres professionnelles à base électorale  
<http://www.legilux.public.lu/leg/a/archives/1924/0021/a021.pdf#page=1>

Loi du 21 mars 1966 portant institution d'un Conseil économique et social, Mémorial A, numéro 14, 26 mars 1966  
<http://www.ces.public.lu/fr/ces/historique/loi-1966.pdf>

Loi du 15 décembre 1986 modifiant et complétant la loi du 21 mars 1966 portant institution d'un Conseil économique et social, Mémorial A, numéro 96, 17 décembre 1986  
<http://www.legilux.public.lu/leg/a/archives/1986/0096/a096.pdf#page=4>

Loi du 15 juin 2004 modifiant la loi modifiée du 21 mars 1966 portant institution d'un Conseil économique et social et portant modification de la loi modifiée du 22 juin 1963 fixant le régime des traitements des fonctionnaires de l'Etat, Mémorial A, numéro 112, 12 juillet 2004  
<http://www.legilux.public.lu/leg/a/archives/2004/0112/a112.pdf#page=2>

Loi du 22 février 1968 sur la nationalité luxembourgeoise  
<http://www.legilux.public.lu/leg/a/archives/1968/0007/a007.pdf#page=3>

Loi du 28 mars 1972 concernant, l'entrée et le séjour des étrangers, le contrôle médical des étrangers, l'emploi de la main-d'oeuvre étrangère  
<http://www.legilux.public.lu/leg/a/archives/1972/0024/a024.pdf#page=2>

Règlement grand-ducal du 12 mai 1972 déterminant les mesures applicables pour l'emploi des travailleurs étrangers sur le territoire du Grand-Duché de Luxembourg  
<http://www.legilux.public.lu/leg/a/archives/1972/0031/a031.pdf#page=9>

Loi du 26 juillet 1975 autorisant le Gouvernement à prendre des mesures destinées à prévenir des licenciements pour des causes conjoncturelles et à assurer le maintien de l'emploi  
<http://www.legilux.public.lu/leg/a/archives/1975/0046/a046.pdf#page=6>

Règlement grand-ducal du 26 janvier 1978 déterminant le fonctionnement du comité de coordination tripartite  
<http://www.legilux.public.lu/leg/a/archives/1978/0009/a009.pdf#page=2>

Loi du 24 février 1984 sur le régime des langues

<http://www.legilux.public.lu/leg/a/archives/1984/0016/a016.pdf#page=6>

Loi du 26 juillet 1986 portant création du droit à un revenu minimum garanti

<http://www.legilux.public.lu/leg/a/archives/1986/0064/a064.pdf#page=2>

Règlement grand-ducal du 5 août 1989 fixant l'organisation et le fonctionnement des commissions consultatives communales pour étrangers

<http://www.legilux.public.lu/leg/a/archives/1989/0059/a059.pdf#page=4>

Règlement grand-ducal du 25 octobre 1989 portant modification du règlement grand-ducal du 26 janvier 1978 déterminant le fonctionnement du comité de coordination tripartite

<http://www.legilux.public.lu/leg/a/archives/1989/0073/a073.pdf#page=3>

Loi du 34 juillet 1901 concernant l'assurance obligatoire des ouvriers contre les maladies

<http://www.legilux.public.lu/leg/a/archives/1901/0053/a053.pdf#page=1>

Loi du 3 avril 1902, concernant l'assurance obligatoire des ouvriers contre les accidents

<http://www.legilux.public.lu/leg/a/archives/1902/0020/a020.pdf#page=1>

Loi du 6 mai 1911 sur l'assurance-vieillesse et invalidité.

<http://www.legilux.public.lu/leg/a/archives/1911/0037/a037.pdf#page=1>

Loi du 27 juillet 1993 concernant l'intégration des étrangers au Grand-Duché de Luxembourg ainsi que l'action sociale en faveur des étrangers

<http://www.legilux.public.lu/leg/a/archives/1993/0055/a055.pdf#page=2>

Règlement grand-ducal du 22 avril 1996 portant application de l'article 3 de la loi du 3 avril 1996 portant création d'une procédure relative à l'examen d'une demande d'asile

<http://www.legilux.public.lu/leg/a/archives/1996/0030/a030.pdf#page=2>

Loi du 19 juin 1998 portant introduction d'une assurance dépendance

<http://www.legilux.public.lu/leg/a/archives/1998/0048/a048.pdf#page=2>

Règlement grand-ducal du 29 avril 1999 portant modification du règlement grand-ducal du 12 mai 1972 déterminant les mesures applicables pour l'emploi des travailleurs étrangers sur le territoire du Grand-Duché de Luxembourg

<http://www.legilux.public.lu/leg/a/archives/1999/0048/a048.pdf#page=7>

Loi du 24 juillet 2001 portant modification de la loi du 22 février 1968 sur la nationalité luxembourgeoise, telle qu'elle a été modifiée

<http://www.legilux.public.lu/leg/a/archives/2001/0101/a101.pdf#page=2>

Règlement grand-ducal du 4 juillet 2002 fixant les conditions et les modalités d'octroi d'une aide sociale aux demandeurs d'asile

<http://www.legilux.public.lu/leg/a/archives/2002/0084/a084.pdf#page=2>

Loi du 25 juillet 2002 portant institution d'un comité luxembourgeois des droits de l'enfant, appelé «Ombuds-Comité fir d'Rechter vum Kand» (ORK)

<http://www.legilux.public.lu/leg/a/archives/2002/0085/a085.pdf#page=2>

Loi du 22 août 2003 instituant un médiateur

<http://www.legilux.public.lu/leg/a/archives/2003/0128/a128.pdf#page=2>

Loi électorale du 18 février 2003

<http://www.legilux.public.lu/leg/a/archives/2003/0030/a030.pdf?SID=1e7242935237022dc21a181a00c69d78>

Loi du 30 juin 2004 concernant les relations collectives de travail, le règlement des conflits collectifs de travail ainsi que l'Office national de conciliation et modifiant

<http://www.legilux.public.lu/leg/a/archives/2004/0119/a119.pdf#page=2>

Loi du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection

<http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

Règlement grand-ducal du 1er septembre 2006 fixant les conditions et les modalités d'octroi d'une aide sociale aux demandeurs de protection internationale.

<http://www.legilux.public.lu/leg/a/archives/2006/0171/a171.pdf>

Règlement grand-ducal du 21 juillet 2006 déterminant les conditions dans lesquelles les demandeurs de protection internationale ont accès à la formation

<http://www.legilux.public.lu/leg/a/archives/2006/0131/a131.pdf>

Loi du 28 novembre 2006, égalité de traitement

<http://www.legilux.public.lu/leg/a/archives/2006/0207/a207.pdf>

Règlement grand-ducal du 21 décembre 2007 fixant une liste de pays d'origine sûrs au sens de la loi modifiée du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection

<http://www.legilux.public.lu/leg/a/archives/2007/0245/a245.pdf>

Loi du 31 mars 2008 portant création d'un article 32bis nouveau de la Constitution

<http://www.legilux.public.lu/leg/a/archives/2008/0037/a037.pdf>

Loi du 13 mai 2008 portant introduction d'un statut unique pour les salariés du secteur privé

<http://www.legilux.public.lu/leg/a/archives/2008/0060/a060.pdf#page=2>

Loi du 29 août 2008 portant sur la libre circulation des personnes et l'immigration

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

Règlement grand-ducal du 5 septembre 2008 relatif à la composition et au fonctionnement 1. de la commission consultative des étrangers; 2. de la commission consultative pour travailleurs salariés; 3. de la commission consultative pour travailleurs indépendants

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

Règlement grand-ducal du 26 septembre 2008 déterminant le niveau de rémunération minimal pour un travailleur hautement qualifié en exécution de la loi du 29 août 2008 sur la libre circulation des personnes et l'immigration

<http://www.legilux.public.lu/leg/a/archives/2008/0145/a145.pdf#page=3>

Loi du 23 octobre 2008 portant révision de l'article 9, alinéa 1er de la Constitution et Loi du 23 octobre 2008 portant révision de l'article 10 de la Constitution

<http://www.legilux.public.lu/leg/a/archives/2008/0213/a213.pdf>

Règlement grand-ducal du 31 octobre 2008 concernant l'organisation des cours d'instruction civique à suivre pour être admis à la naturalisation

<http://www.legilux.public.lu/leg/a/archives/2008/0165/a165.pdf>

Règlement grand-ducal du 31 octobre 2008 concernant l'organisation des épreuves et l'attestation de la compétence de communication en langue luxembourgeoise parlée pour être admis à la naturalisation

(<http://www.legilux.public.lu/leg/a/archives/2008/0165/2008A2320A.html?highlight=>)

Loi du 21 novembre 2008 portant création d'une Commission consultative des Droits de l'Homme au Grand-Duché de Luxembourg

<http://www.legilux.public.lu/leg/a/archives/2008/0180/a180.pdf#page=2>

Loi du 16 décembre 2008 concernant l'accueil et l'intégration des étrangers au Grand-duché de Luxembourg

<http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

Loi du 19 décembre 2008 portant modification de la loi électorale modifiée du 18 février 2003 et de la loi du 4 février 2005 relative au référendum au niveau national

<http://www.legilux.public.lu/leg/a/archives/2008/0210/a210.pdf#page=2>

Loi du 28 mai 2009 portant création et organisation du Centre de rétention

<http://www.legilux.public.lu/leg/a/archives/2009/0119/a119.pdf#page=2>

Constitution du Grand-Duché de Luxembourg

<http://www.gouvernement.lu/gouvernement/constitution-luxembourgeoise.pdf>



## **Parliamentary documents**

Projet de loi n. 5620 sur la nationalité luxembourgeoise

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5620>

Projet de loi n.5802 portant sur la libre circulation des personnes et l'immigration

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5802>

Projet de loi n. 5825 concernant l'accueil et l'intégration des étrangers au Grand-Duché de Luxembourg

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5825>

Proposition de loi n. 5857 sur la prostitution

[http://www.chd.lu/wps/PA\\_1\\_084AIVIMRA06I4327I10000000/FTSByteServingServletI mpl/?path=/export/exped/sexpdata/Mag/097/633/069362.pdf](http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSByteServingServletI mpl/?path=/export/exped/sexpdata/Mag/097/633/069362.pdf)

Projet de loi n. 5859 portant modification de la loi électorale

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5859#>

Projet de loi 5860 relatif à la traite des êtres humains

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5860>

Projet de loi n. 5874 sur l'assistance, la protection et la sécurité des victimes de la traite des êtres humains

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5874>

Projet de loi portant n. 5886 introduction d'un congé linguistique

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5886>

Projet de loi n. 5947 portant création et organisation du Centre de rétention et modifiant

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5947>

## **European Union legislation**

Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community

<http://eur->

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1971R1408:20060428:en:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1971R1408:20060428:en:PDF)

Council Directive 2000/43/EC of 29 June 2000 implementing the equal treatment between persons irrespective of racial or ethnic origin

<http://eur->

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:EN:HTML)

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation establishing a general framework for equal treatment in employment and occupation

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML>

Council Directive 2001/40/EC of 28 May 2001 on mutual recognition of decisions on the expulsion of third country nationals

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:149:0034:0036:EN:PDF>

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF>

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:EN:PDF>

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML>

Council Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0038:en:NOT>

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:EN:PDF>

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML>

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:375:0012:0018:EN:PDF>

Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third country nationals for the purposes of scientific research

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0071:EN:HTML>

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF>

Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:131:0007:0012:EN:PDF>

Directive 2008/115/EC of the European Parliament and of the Council of 16 December, 2008 on common standards and procedures in Member States for returning illegally staying third country nationals

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>

Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals

[http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF)