



Attracting highly
qualified and qualified
third country nationals

Luxembourg

First Focus Study 2013

European Migration Network
Luxembourg National Contact Point

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The European Migration Network, created by Council Decision no. 2008/381/EC of 14 May 2008, has the objective of supplying up-to-date, objective, reliable and comparable information on migration and asylum in the Community institutions, to the authorities and institutions of the Member States and to the general public with a view to support policy- and decision-making with the European Union.



PREFACE

The opinions expressed in this report are those of the author. They do not necessarily reflect the positions of the Luxembourg Ministry of Family and Integration or the Ministry of Foreign Affairs.

The present report was drafted by Adolfo Sommaribas with the assistance of Fabienne Becker, staff members of the National Contact Point Luxembourg within the European Migration Network, under the overall responsibility of Ass.-Prof. Dr. Christel Baltes-Löhr. Continuous support was provided by the members of the national network of the National Contact Point Luxembourg: Sylvain Besch (CEFIS), Sylvie Prommenschenkel (Directorate of Immigration, Ministry of Foreign Affairs), Germaine Thill (STATEC), and Marc Hayot (OLAI Reception and Integration Agency, Ministry of Family and Integration).

METHODOLOGY

National reports are produced by the respective National Contact Points (NCPs) on the legal and policy situation in their Member State according to common specifications. Subsequently, a comparative synthesis report is generated by the European Commission with its service provider giving the key findings from each national report, highlighting the most important aspects and placing them as much as possible within an EU perspective. The various national accounts and the summary report are made publicly available.

The EMN engages primarily in desk research, i.e. it collects and analyzes data and information already available or published at the Member State or international level. The present report was produced by drawing upon a number of different sources of information, all of which are listed in the bibliography by type of document. This includes sources of national and EU legal documents which are referred to in the report. Additionally semi- structured interviews were conducted with government officials, private companies, highly qualified third-country nationals, human resources department of two major auditing corporations, economic stakeholders and lawyers.

EMN FOCUSED STUDY 2013

Attracting Highly Qualified and Qualified Third-Country Nationals

Top-line “Factsheet” (National Contribution) Executive Summary (Synthesis Report)

Luxembourg's economy is focussed on the financial and service sector having one modern and financial centre.¹ The government policy² intends to focus on attracting highly added value activities focussed in new technologies (biomedicine and information and communication technologies – focussing on IT security), logistics and research.³ However, Luxembourg being one of the smallest countries in the European Union, it has limited human resources to guarantee the growth not only of the financial sector but also in the new technologies sectors. Until now Luxembourg has been relying on the work force from the Greater Region but highly qualified workers began to become scarce in the region.⁴ Foreseeing this situation, the government introduced the highly qualified worker residence permit in the bill on free movement of persons and immigration approved by Law of 29 August 2008, almost a year before of the enactment of the Blue Card Directive⁵. As the objective of this inclusion was to bring salaried workers with a high added value, the approval of this legal disposition did not generate any debate. When the bill transposing the Blue Card Directive was introduced, the parliamentary debate focussed mainly on the duration of the residence permit and the minimum salary threshold required, as well as the lack of scientific studies on the need of highly qualified workers in certain professions, but there was no debate in civil society. The Blue Card Directive was finally transposed

¹ The financial center represents 36% of the GDP and tens of thousands of direct and indirect jobs depend on it, see Jean-Claude Juncker, Discours sur l'état de la nation, 10 April 2013.

² Government programme 2009 – 2014, p. 21. See <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>

³ Europaforum.lu, Dans son discours sur l'état de la nation, Jean-Claude Juncker a plaidé pour une Europe unie qui est "un élément important de la raison d'Etat luxembourgeoise", 8 May 2012 and

⁴ Opinion of the Council of State, of 11 October 2011, Parliamentary document n° 6306/02. The Council of State said: « Cette dernière condition risque, le cas échéant, de défavoriser notre pays qui, par ailleurs, figurera parmi les premiers bénéficiaires des nouvelles règles dans la mesure où le Luxembourg souffre, bien plus que d'autres pays européens, d'une pénurie de main-d'œuvre hautement qualifiée pour assurer le développement continu de son économie. »

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/141/041/104400.pdf

It was also mentioned by the Report of the Parliamentary Commission of the Foreign and European Affairs, Defense, Cooperation and Immigration on the bill n° 6306. This commission mentioned: « Le Luxembourg est particulièrement touché par la pénurie de main-d'œuvre hautement qualifiée.

Ceci est dû à l'importance de sa place financière et au poids très important des entreprises de services dont les activités se situent dans un environnement international. L'intensification des relations avec des marchés plus lointains, y compris les marchés émergents, et la spécialisation de l'activité économique font que le réservoir classique de main-d'œuvre du Luxembourg, à savoir, d'une part, la population résidente et celle de la Grande Région, et d'autre part, les personnes provenant des autres pays de l'Union européenne, n'arrive pas à combler les besoins en ressources humaines hautement qualifiées. »

See Parliamentary document n° 6306/04 of 9 November 2011.

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/151/039/105308.pdf

⁵ Directive n° 2009/50/EC of 25 May 2009.

by Law of 8 December 2011 and entered into force on 3 February 2012. The legal framework was simplified with regards to family reunification, access to the labour market and administrative procedures. However, in the eyes of economic stakeholders, for the business cycles of companies the requirements and procedures are not adjusted to the economic needs. Some stakeholders consider that these requirements and procedures are not transparent and inefficient.

Qualified workers do not have a preferential treatment in comparison with other salaried workers. A government official interviewed considered that a legal reform is needed to grant at least a status similar to the one of the highly qualified workers to the category 3 of ISCO, especially for engineers and IT programmers⁶. A similar reflexion was made with regards to the investors. There is no residence permit specifically issued for investors. Normally what the Directorate of Immigration grants is residence permits for self-employed workers or private reasons depending on whether the investor has a direct participation on handling of its investment. The problem is that even though these residence permits solve the problem for a person who wants to invest in Luxembourg, it does not provide any advantages (i.e. family reunification, tax benefits, etc.) to the individual.

⁶ Point of view of a governmental official, Ministry of Commerce and Foreign Trade, Interview 22 February 2013.

Section 1 National Policies and Measures

1.1 Policies

Q.1. Are there national policies in place for the attraction of highly qualified and qualified third-country nationals?

Luxembourg has by far the highest degree of economic openness of the European Union.⁷ Luxembourg has established the attraction of highly qualified workers and researchers into the country as one of the government goals on migration. The main objective is to adapt legal immigration to the economic needs of the country⁸ regardless of the immigrants' country of origin. This policy is complemented with the strategy on attracting foreign capital⁹, which can result in attracting (highly) qualified workers or researchers to the territory¹⁰, through the generation of new investments and projects in different economic sectors¹¹ within the context of economic diversification. Even at the governmental level, the Law of 17 December 2010 (Budget Law of 2011)¹² modified Article 2 (1) f) of the Law of 16 April 1979 on the Staff Regulations of Officials of the State, allowing the government to hire highly qualified workers for the State. This law does not require that highly qualified workers speak the three official administrative languages "in the event of a duly justified departmental necessity."¹³

There is no policy in relation to qualified third-country nationals. They are included in the same category as "salaried workers".

Q1.a. If Yes, please indicate the following:

- ***National definition of highly qualified third-country nationals, including references to relevant international standards such as ISCED/ISCO and/or salary thresholds;***

Article 45 (2) a) of the Law of 29 August 2008 expressly defines what is a highly qualify employment. It is the employment of a worker who exercises a salaried activity for which s/he fulfils the appropriate and specific competences required for the position (highly professional qualifications) certified by a higher education

⁷Chambre de Commerce Luxembourg, Actualité & Tendances, n° 12, Mars 2012, p. 2

⁸ Government programme 2009 – 2014, p. 21. See <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>

⁹ « The socio-economic history of the country is closely linked to migratory flows and to foreign direct investments. » See Chambre de Commerce Luxembourg, Actualité & Tendances, n° 12, Mars 2012, p. 3

¹⁰ Government programme 2009 – 2014, pp. 58-62. See <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>

¹¹ Government programme 2009 – 2014, p. 59

¹² Law of 17 December 2010. Mémorial A-249 of 31 December 2010.

<http://www.legilux.public.lu/leg/a/archives/2010/0249/a249.pdf#page=3>

¹³ Law of 17 December 2010. Mémorial A-249 of 31 December 2010. Article 2 (1) f reads: «*Exceptionnellement, le Gouvernement en conseil pourra procéder à l'engagement d'agents hautement spécialisés ne pouvant pas se prévaloir de la connaissance de deux des trois langues administratives en cas de nécessité de service dûment motivée et sur avis conforme du ministre ayant la Fonction publique dans ses attributions. L'engagement de ces agents ne pourra avoir lieu qu'après la publication des vacances d'emploi en question.*»

diploma or supported by a professional experience of minimum 5 years equivalent to a higher education diploma and that are pertinent for the profession or the economic sector indicated in the work contract.

1. Education level: As mentioned above the applicant must have a higher education diploma.
2. Salary: The salary thresholds for applying as a highly qualified worker are:
 - at least 1.5 times the average gross salary Luxembourg (45,228 x 1.5 = 67,842 Euros in 2013¹⁴) or;
 - at least equivalent to 1.2 times the average gross annual salary Luxembourg (45,228 x 1.2 = 54,273,60Euros in 2013¹⁵) for jobs in occupations belonging to groups 1 and 2 of the "International Standard Classification of Occupations" (ISCO) for which a particular need for workers from third countries is recognized by the government. Until now this has not been done even though according to the Council of State Luxembourg is confronted with shortages of highly qualified workforce¹⁶;
3. Experience: In case a person does not have a higher education diploma s/he can apply if s/he proves having a professional experience of minimum 5 years equivalent to a higher education diploma and which is pertinent for the profession or the economic sector indicated in the work contract.
4. ISCO categories: In Luxembourg highly qualified workers are considered in the ISCO/08 categories 1 and 2.

- ***National definition of qualified third-country nationals, including references to relevant international standards such as ISCED/ISCO and/or salary thresholds.***

The law of 29 August 2008 on free movement of persons and immigration does not have a definition of qualified workers for migration purposes. Qualified workers fall under the general category of salaried or wage-earner workers foreseen in Article 42 of the Law of 29 August 2008. Article 3 point d) defines a worker as 'any person who exercises real and effective salaried or independent activities, excluding marginal and accessory activities'.

However, Article L-222-4 § 2 of the Labour Code¹⁷ defines a qualified worker as an employee who exercises a profession, which requires a professional qualification usually gained by education or training supported by an official certificate. This definition does not vary by

¹⁴ <http://www.guichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-hautement-qualifie/index.html>

¹⁵ <http://www.guichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-hautement-qualifie/index.html>

¹⁶ Opinion of the Council of State, Parliamentary document n° 6306/02 of 11 October 2011, p. 2. See http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/141/04/1/104400.pdf

¹⁷ Code de Travail, 2006, version actualisée valable dès 18 décembre 2012 http://www.legilux.public.lu/leg/textescoordonnes/codes/code_travail/Code_du_Travail.pdf

different nationalities.

To be considered as qualified, the employee must:

- As for level of education:
 - either have, for the profession undertaken, a recognised official certificate at least equivalent to vocational skills certificate (certificat d'aptitude technique et professionnelle - CATP) or a vocational diploma (diplôme d'aptitude professionnelle - DAP) from a Luxembourg technical secondary school¹⁸; or
 - have a manual skills certificate (certificat de capacité manuelle - CCM) or a certificate of vocational ability (certificat de capacité professionnelle - CCP) and proof of at least two years' experience in the trade in question; or
 - have a vocational initiation certificate from a technical secondary school (certificat d'initiation technique et professionnelle - CITP) and proof of at least 5 years practical experience in the trade or the profession in question;
- As for experience in case s/he does not have the diplomas mentioned above the applicant must prove having:
 - at least 10 years practical professional experience (if a certificate exists for the required qualification); or
 - at least 6 years practical experience in a trade requiring a certain technical capacity and for which no official certificate is issued for the training.
- As for salary: Once the employee is considered as a qualified worker the employer has to pay a premium of 20% of the minimum salary¹⁹.

If a collective agreement exists, the applicable salary and pay adjustments are established by the salary scale set out in that agreement according to the position and required qualifications²⁰.

However, the Court of Appeal in its decision of 1 March 2012²¹ established that in order to benefit from this premium the employee has to perform at his/her work as a qualified worker based on his/her qualifications.

¹⁸ See article L. 222-4 (2) § 2 of the Labour Code.

¹⁹ Article L. 222-4 (1) of the Labour Code. From 1 January 2013 the minimum salary of non-qualified workers is 1874,19 Euros and the qualified worker salary is 2249,03 Euros per month.
<http://www.guichet.public.lu/entreprises/fr/ressources-humaines/remuneration/paiement-remunerations/salaire/index.html>

²⁰ See <http://www.guichet.public.lu/en/entreprises/ressources-humaines/remuneration/paiement-remunerations/salaire/index.html>

²¹ Cour d'appel, 3ème chambre, 1 March 2012, n° 36839.

Q1.b. If Yes, do the policies distinguish between highly qualified and qualified third-country nationals?

Yes.

Q1.c. If Yes, please indicate the rationale for their distinction.

The provisions of Article 45 of the Law of 29 August 2008 on the free movement of persons and on immigration²² transposed in anticipation of certain disposition of the directive proposal establishing the conditions of entry and residence of third-country nationals for highly qualified (EU Blue Card)²³ employment. On the contrary, the concept of “qualified worker” for migration purposes is not established by the law.

In terms of the article mentioned above, a highly skilled worker may have better conditions to access the labour market and may benefit from more simplified procedures.²⁴ As such, unlike qualified workers, the highly qualified worker must only prove that s/he meets the legal conditions to enter the territory (employment contract, remuneration threshold, higher education diploma or professional experience, and the position being declared vacant by the employer) and s/he is not subject to the labour market test.

Q1.d. If Yes, what is the main rationale for these policies? What is the objective? Please consider whether this rationale is linked to circular, temporary or permanent migration.

The Luxembourgish economy is centred on the tertiary sector (i.e. banking and insurance services being a major financial centre in Luxembourg) and has been a traditionally open economy even before the approval of Council Directive 2009/50/EC. In the bill n° 5802 introduced in Parliament in 2007, the government, in its exposition of motives, indicated that the introduction of a highly qualified worker residence permit helps to assure the competitiveness and attractiveness of the Luxembourgish economy.²⁵ Luxembourg took the lead with the Law of 29 August 2008 on free movement of persons and immigration by introducing as one of the legal migration categories the category of “highly qualified worker”. The introduction of this category was introduced 40 months before the transposition of the Blue Card Directive by the Law of 18 December 2011. In this case Luxembourg has facilitated the

²² Modified by Law of 8 December 2011 published in the Mémorial A-19 of 3 February 2012.

²³ Directive 2009/50/EC of the Council of May 25th 2009 establishing the conditions of entry and of residence of third-country nationals for a highly qualified job position :

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0050:FR:NOT>

²⁴ Art. 45 of the modified law of 29 August 2008 on the free movement of persons and on immigration

²⁵ Bill n° 5802 on free movement of persons and immigration. Parliamentary document n° 5802/00. The exposition of motives said: « Soucieux d’assurer la compétitivité et l’attractivité du site économique, le projet de loi entend créer à côté du titre de séjour précité, celui pour travailleur hautement qualifié permettant un accès privilégié au marché de travail, préjugant ainsi l’introduction de la „carte bleue“ prévue par la Commission européenne.

La mobilité internationale des personnes hautement qualifiées est une des caractéristiques de la mondialisation. Une économie hautement développée, notamment dans les services financiers, et dépendant fortement des investissements étrangers doit être attractive pour des personnes hautement qualifiées. Pour cette raison, il faut des procédures aussi simples et transparentes que possible. »

procedures for highly qualified workers, especially in relation with family reunification issues (Articles 71, 72 (3), 73(6), 74 (1)), and the access to the labour market (Articles 45, 45-1 (3,4), 45-2). Furthermore a special tax regime for qualifying international employees (circular 95.2 Luxembourg Income Tax Law) according to their professional income has been introduced. So in this context the government policy is promoting legal migration, but in individual cases with an additional added value. It is according to governmental officials 'a case-by-case policy, based on the needs of the economy.'²⁶

The economic and financial crisis has changed Luxembourg's economic and migratory situation. Before the crisis, Luxembourg has experienced a period of high growth and as a corollary phenomenon, economic migration directed in the different economic sectors.

With the emergence of the crisis, one of the interviewees said: "the Luxembourgish State which was in an extremely comfortable situation was faced with a budget situation in deficit"²⁷. Facing a decrease in the State's revenue, the social State will have to distribute less money and to attract in this situation migrants working in jobs 'with little added value' may worsen the situation. If the Luxembourgish economy wants to continue to grow, it must not do so with jobs with low added value, because life is too expensive and so we have to focus on branches with high added value.'²⁸

In the government programme of 2009 legal immigration is described as 'a positive contribution to Luxembourg's society and economy.' This programme indicates that the implementation of the Law of 29 August 2008 on the free movement of persons and immigration 'must fall within the scope of a proactive and coherent immigration policy [...] The objective is to adapt immigration to the needs of the Luxembourg economy, fully respecting the European and international commitments which Luxembourg has undertaken.'²⁹

Not all of the needs are automatically covered by the free movement of workers and capital. There is actually a demand which goes beyond the European borders. As a result neither the Luxembourgish government, nor the sectors of the economy seem to be able to define the exact volume of the potential demand for workers from outside of the EU.³⁰ It is therefore difficult to develop a specific policy for an economic sector or a specific region of origin. This is the reason why the government has not resorted, up until now, to the possibility of setting up a specific regime for the sectors with a labour shortage³¹. Also the government had renounced to foresee a disposition allowing the fixation of an admission quota of highly qualified third-country national workers as set out in Article 6 of the Blue Card Directive. In addition the government has not made the evaluation of the effective needs of third-country nationals who are professionals in the ISCO categories 1 and 2, as

²⁶ Ministerial Point of View, interview 12, page 2, line 28.

²⁷ The deficit at the end of 2012

²⁸ Employers' point of view. Interview 10, page 2, lines 41-46.

²⁹ Government programme, Ministry of Foreign Affairs, *chapter IV.1. Immigration*, <http://www.Gouvernement.lu/Gouvernement/programme-2009/programme-2009/02-mae/index.html>

³⁰ Ministerial Point of View, interview 12, page 1, lines 18.

³¹ Article 42(3) of the modified Law of 29 August 2008.

required by Article 1 of the Grand ducal regulation of 25 January 2012. The result of this is that the government responds essentially to the demand of businesses without having developed an analysis beforehand.

As the Chamber of Commerce had said: “In order to diversify the economy and to open it up to new sectors, the country must support endogenous development, based on growth niches and niches of expertise. A proactive legal and fiscal framework, appropriate infrastructures and targeted investments should aim at developing sectors such as those of logistics, biomedicine, ICT (including e-commerce), as well as environmental technologies, the management of intellectual property and headquartering functions. (...) Their implementation and their development require a highly-skilled workforce, which is not available in sufficient numbers in the Grand Duchy. This is why Luxembourg has to continue and attract a highly-skilled foreign work force to its soil, whether from Europe or beyond. The transposition into national law of the European directive aiming at facilitating the free movement of non-Community workers for the purposes of highly-skilled work, known as the “European Blue Card scheme” is key to the country’s future development challenges.”³²

It is important to mention that the rationale behind this policy is not linked to circular or temporary migration. It is instead linked to permanent migration.³³ The principal objective of the government is to attract the needed highly qualified workers and to keep them in the country, an objective that is confirmed by the fact that the periods of residence in different Member States are computed for obtaining the “long term” residence permit.³⁴

Q1.e. If Yes, briefly outline the main features of the policies. Please consider

³²Chambre de Commerce Luxembourg, Actualité & Tendances, n° 12, Mars 2012, p. 12

³³ Report of the Parliamentary Commission of the Foreign and European Affairs, Defense, Cooperation and Immigration on the bill n° 6306. The Commission states : « Le titulaire d’une carte bleue européenne a le droit de cumuler ses séjours effectués dans différents Etats membres afin de satisfaire à l’exigence de la durée de séjour nécessaire pour obtenir une autorisation de séjour de résident de longue durée. Toutefois, selon le nouvel article 80, paragraphe (3), deux conditions spécifiques sont à remplir: d’une part, cinq années de résidence légale et ininterrompue sur le territoire de l’Union en tant que titulaire d’une carte bleue européenne, et d’autre part, deux années de résidence légale et ininterrompue, précédant immédiatement la présentation de la demande de titre de séjour de résident de longue durée – UE, sur le territoire en tant que titulaire d’une carte bleue européenne.

L’article 80, paragraphe (4) introduit par ailleurs une disposition plus favorable relative à la prise en compte des périodes d’absence du territoire des titulaires d’une carte bleue européenne pour le calcul des cinq années de résidence légale et ininterrompue dans l’Union nécessaires pour l’obtention du statut de résident de longue durée. Ainsi les absences du territoire de l’Union n’interrompent pas ladite période si elles ne s’étendent pas sur plus de douze mois consécutifs et ne dépassent pas au total dix-huit mois sur l’ensemble de la période de cinq ans.

Les titulaires de la carte bleue européenne qui remplissent les conditions de l’article 80, paragraphes (3) et (4) se voient délivrer un „permis de séjour de résident de longue durée – UE“, valable pour une durée de cinq ans et renouvelable, avec l’observation „ancien titulaire d’une carte bleue européenne »

³⁴ Article 80 (3) of the Law of 29 August 2008.

whether the following exists:

- *Points-based system (i.e. a system that admits third-country nationals who have a sufficient number of qualifications and experiences from a list that typically includes language skills, work experience, education and age³⁵);*

No. As mentioned above, up till now Luxembourg has not been obliged to use the possibility of setting up a specific regime for the sectors with a labour shortage³⁶ for any group of workers (qualified or highly qualified workers).

- *Employer-led system (i.e. a system that allows employers to select the workers they need, subject to, government regulations³⁷);*

Yes. The policy is based on a case-by-case basis and economically oriented. It is the responsibility of the companies to look for the highly qualified workers they wish to hire. Once the individuals are located the government in accordance with Article 45 of the modified Law of 29 August 2008 on free movement of persons and immigration will facilitate the entrance and stay of the individual in question and his/her family.

- *Hybrid system (i.e. combination of points-based and employer-driven model³⁸);*

N/A

Q.2. Are other groups of third-country nationals included in the national policies on attracting (highly) qualified third-country nationals?

No. The policy is based on the capability of a person and not on a specific nationality. In general the government policy targets investors and entrepreneurs.

Q2.a. If Yes, please indicate what other groups are included (i.e. investors, entrepreneurs, international graduates, transferred workers etc.)?

1. Self-employed workers (investors/entrepreneurs)

In Luxembourg, around 75% of business creators are non-nationals.³⁹ This means that Luxembourg not only depends on foreign workers in the context of salaried employment but also “within the realm of self-employment work and entrepreneurship.”⁴⁰ The government’s objective is to develop a proactive corporate policy. The creation of a real self-employed status independent of the nationality of the applicant is foreseen, with the objective to implement an adequate status for

³⁵ Definition from: <http://www.migrationpolicy.org/pubs/rethinkingpointssystem.pdf>

³⁶ Article 42(3) of the Law of 29 August 2008.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Chambre de Commerce Luxembourg, Actualité & Tendances, n° 12, Mars 2012, p. 3

⁴⁰ Chambre de Commerce Luxembourg, Actualité & Tendances, n° 12, Mars 2012, p. 3

investors and entrepreneurs offering equivalent social rights to those belonging to the group of the salaried workers⁴¹. However, this status has not yet been concretized⁴².

In Luxembourg a third-country national investor can obtain either a resident permit as: A) a self-employed worker⁴³ or B) for private reasons. The choice will depend on whether the investor would like to actively work in the company s/he invests in or if s/he desires to be a passive investor⁴⁴.

- A. A residence document for independent activity may be granted to a third-country national who wishes to exercise a non-salaried profession in Luxembourg. The procedure⁴⁵ is as follows:
 - a. The applicant must fulfil the same professional qualifications and integrity criteria that any EU citizen. S/he has to prove that s/he has the required qualifications to practice the activity s/he wants to develop.
 - b. The applicant must prove that s/he has adequate resources to be able to practice this activity.
 - c. The activity must serve the interests of the country.
 - d. The applicant must prove that s/he has adequate living facilities.
 - e. Once the examiner considers that the application is completed, the Ministry will ask the opinion of the Consultative Commission of Independent Workers (CCTI).⁴⁶ Nevertheless, the Law of 21 December 2012 which transposed the “Sanctions Directive”⁴⁷ eliminates the requirement of the opinion of the CCTI in the renewal of the residence permits. The reasoning behind this modification is to simplify and promote the efficiency of the renewal procedure.
 - f. The residence document is granted for a maximum duration of three years, and renewable upon request for the same length of time.⁴⁸
- B. Private reasons: An investor that only desires to reside in Luxembourg and invests passively in Luxembourg can apply for a resident permit for private reasons⁴⁹. Article 78 (1) a) of the Law of 29 August 2008 allows the Ministry of Immigration to grant this type of residence permit to third-country nationals provided that their presence does not threaten the public order, public health or public security, that they benefit from health

⁴¹ Government program 2009 – 2014, p. 58. See <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>

⁴²Point of view of a government official, Interview, 22 February 2013.

⁴³Article 51 of the modified Law of 29 August 2008.

⁴⁴Point of view of a government official, Interview, 22 February 2013.

⁴⁵This procedure also applies to any person that demands an authorization of establishment or a ministerial accord to establish an independent artisanal, industrial, commercial or agricultural from the Ministry of Middle Classes.

⁴⁶Article 51 of the modified Law of 29 August 2008.

⁴⁷ 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
OJ L 168, 30.6.2009, p. 24–32

⁴⁸Article 52 of the modified Law of 29 August 2008.

⁴⁹Article 78 (1) a) of the modified Law of 29 August 2008.

insurance, and have an appropriate accommodation as well as that they are able to present evidence of their capability to live on their own resources.

- a. Article 7 of the Grand-Ducal Decree states that in this case the resources of the applicant will be evaluated in relation to the nature and regularity of the funds and in accordance with the minimum social salary for unqualified workers of 1.874,19 Euros per month.
 - b. The applicant must provide certification from a Luxembourgish bank stating that his/her income is at least 21.618 Euros per year. Luxembourg applies the principle of global taxation, which means that, in principle, if the person is a resident in Luxembourg he must pay his/her taxes in Luxembourg according to Article 2.2 of the Income Tax Law⁵⁰.
 - c. According to Article 79 (1) of the Law of 29 August 2008 the resident permit for private reasons will be issued for a 3 years period (maximum) but can be renewed if the conditions required are met.
- 2) Transferred workers: This category of workers can be considered complementary to the policy of highly qualified workers but their status is set out by Article 47 of the modified Law of 29 August 2008⁵¹.
- 3) International graduates: In Luxembourg, a third-country national student, enrolled in a Luxembourgish higher education institution, holds a “student” residence permit.

After finishing his/her studies, s/he has the possibility to acquire a first work experience in Luxembourg and to stay in the country for a maximum period of two years⁵². However, the student has to obtain a job before the conclusion of his/her studies because there is no possibility of granting a supplementary stay period for this purpose. Luxembourg offers an easy access to the labour market for the third-country national students under certain conditions and for a limited duration after they obtain their higher education diploma. This provision tries to conciliate and balance the right to immigration in the scope of a salaried employment for the students after they have finished their studies and to fight against the brain drain in their country of origin. A problem lies in the fact that the person in question is able return to his/her country of origin to immediately apply as a highly qualified worker, therefore the reflexion is centred around the need to eliminate this restriction so that the graduate can stay in the country as a highly qualified worker.

⁵⁰ Modified Law of 4 December 1967 on income tax.

⁵¹ See LU EMN NCP, Satisfying Labour Demand through Migration, 2011.

⁵² Article 59 of the modified Law of 29 August 2008. See also LU EMN NCP, Immigration of International Students to the EU, 2012, pp. 68-69 and LU EMN NCP, Ad-Hoc Query on the possibility and conditions for third-country national students to work after the completion of their higher education studies, 4 October 2012.

Q.3. Do the policies in your Member State focus on specific areas of occupations?

As mentioned above the Luxemburgish government has not yet made an evaluation to determine the need of highly qualified workers (categories 1 and 2)⁵³.

If Yes, please briefly indicate the specific areas of occupations and their link with the policies.

N/A

Q.4. Has the transposition of EU Directives⁵⁴ led to more favourable legislation/measures/conditions for specific groups of (highly) qualified third-country nationals?

Yes. Influenced by the discussions on proposal of the Blue Card Directive, Luxembourg anticipated future developments and proceeded to partially transpose the guidelines of this directive (latter known as 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)⁵⁵ into the Law of 29 August 2008 on free movement of persons and immigration. The government also transposed the Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research into the Law of 29 August 2008.

After the Blue Card Directive came into force the Luxemburgish government presented the bill n° 6306 on 18 July 2011⁵⁶ transposing the Blue Card Directive and modifying the Law of 29 August 2008.

Q4.a. If Yes, please indicate the relevant Directives and the more favourable legislation/measures/conditions which were created for these specific groups (i.e. EU Blue Card Directive and Researchers Directive).

In the presentation of the bill n° 5802⁵⁷ the government made it very clear that the introduction of Article 45 was to facilitate the hiring of highly qualified third-country nationals, without requiring the advice/opinion of the consultative commission⁵⁸ and

⁵³ Article 1 of Grand ducal regulation of 25 January 2012. See <http://www.legilux.public.lu/leg/a/archives/2012/0019/a019.pdf>

⁵⁴ E.g. EU Blue Card Directive and Researchers Directive.

⁵⁵ EMN NCP LU, 2008 Policy Analysis Report on Migration and Asylum.

[https://www.emnluxembourg.lu/sites/default/files/3.1%20Rapport%20Politique%202008%20\(en%20anglais\).pdf](https://www.emnluxembourg.lu/sites/default/files/3.1%20Rapport%20Politique%202008%20(en%20anglais).pdf)

⁵⁶ Document n° 6306/00 presented to Parliament (Chambre de Députés) on 18 July 2011.

⁵⁷ Document n° 5802/00 presented to Parliament (Chambre de Députés) on 7 November 2007. See <http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=5802>

⁵⁸ The exposition of motives of Article 45 of the bill n° 5802, p. 69 says: “Afin de faciliter le recrutement de ressortissants de pays tiers hautement qualifiés, le ministre peut leur accorder une autorisation de séjour après avoir examiné si les conditions générales d’entrée et de séjour, ainsi que les conditions spécifiques établies par cet article sont remplies, sans devoir prendre l’avis de la commission consultative. Ainsi, le ministre devra vérifier si le poste à pourvoir nécessite des connaissances ou des capacités professionnelles particulières et si le travailleur remplit les critères de qualification et de rémunération. Le titre de séjour est émis pour une durée de trois ans, assortie d’un droit au renouvellement. Ce droit au renouvellement s’applique même en cas de changement de secteur ou d’employeur, dès lors que le nouvel emploi correspond aux critères de haute qualification.”

http://chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/041/619/064108.pdf

taking the labour market test. The introduction of Article 45 of the modified Law of 29 August 2008 includes advantages in relation to the general rules for salaried workers, such as provisions concerning family reunification and the duration of the residence permit.

When presenting the bill n°6306 the Luxemburgish government expressly mentioned that the bill's principle objective was to transpose the Directive 2009/50/EC into national law. However, the government indicated that the transposition of this directive will not change substantially the national law because the Law of 29 August 2008 had already foreseen a similar mechanism for highly qualified workers.⁵⁹ Nevertheless, the Law of 8 December 2011, which came into force on 3 February 2012 includes the following advantages: 1) possibility to change the employer but in the framework of the remunerated activities in which they are admitted; 2) free access to highly qualified jobs after two years of having obtained the residence permit, and 3) the right of intra-EU mobility of the highly qualified workers.

The only disadvantage in relation to the previous situation was the reduction of the duration of the first residence permit from a maximum of 3 to 2 years.

Q.5. Are the national policies addressing the aspect of brain drain in the countries of origin?

No, not in regard to highly qualified workers, only in regard to international students. During the transposition procedure of the Blue Card Directive the disposition of Article 8 (4) of the Directive was not addressed and in the exposition of motives of the bill n° 6306 it is not mentioned.

Q6.If Yes (to either of these questions),please briefly indicate how the national policies address these aspects, supporting your answers with reference to research

⁵⁹ See exposition of motives of parliamentary document n° 6306/00 of 18 July 2011, p. 7. The exposition of motives in this regard says: Le présent projet de loi vise principalement à transposer en droit national la „Directive 2009/50/CE du Conseil du 25 mai 2009 établissant les conditions d'entrée et de séjour des ressortissants de pays tiers aux fins d'un emploi hautement qualifié“. La directive vise à faciliter la migration des travailleurs hautement qualifiés ressortissant de pays tiers en harmonisant leurs conditions d'entrée et de séjour et en simplifiant les procédures d'admission afin de favoriser leur mobilité au sein de l'UE. A l'instar de la green card“ américaine, elle crée une „carte bleue européenne“ et définit ses conditions d'obtention et les droits de séjour dans l'Etat membre qui a délivré la carte, ainsi que dans les autres Etats membres. Le but de la directive consiste à renforcer les capacités de l'Union européenne à attirer les ressortissants de pays tiers hautement qualifiés sur le territoire des Etats membres et à favoriser leur mobilité dans l'Union européenne. La facilitation prévue par la directive pour le regroupement familial constitue un atout indéniable du dispositif proposé. La transposition de la directive ne bouleversera pas fondamentalement notre droit interne. La loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration a déjà mis en place un dispositif souple pour faciliter le recrutement de ressortissants de pays tiers hautement qualifiés. Le texte actuel permet d'ores et déjà le recrutement de travailleurs hautement qualifiés sans qu'ils soient soumis à la procédure habituelle des travailleurs salariés qui consiste à vérifier la priorité d'embauche et de soumettre la demande à un examen de la commission consultative pour travailleurs salariés. Outre la célérité du traitement des demandes rendue possible par la simplification de la procédure, les travailleurs hautement qualifiés sont d'ores et déjà autorisés à se faire accompagner ou se faire rejoindre par les membres de leur famille nucléaire sans être soumis à une condition de durée de la résidence. Aussi peut-on constater que le dispositif existant a fait ses preuves et que bon nombre des employeurs ont recouru à ce mode de recrutement depuis octobre 2008 » See http://chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/126/062/102651.pdf

or any other sources of information.

N/A

Q.7. Have your national policies been the subject of public debate?

Yes.

Q7.a. If Yes, please briefly indicate the main features of the policies which were debated as well as the reasons for such debate and the level at which these occurred (e.g. Parliament, society, media). Please support your answer with reference to research or any other sources of information.

Yes. It is important to mention that the implementation of the highly qualified worker residence permit was introduced with the entering into force of the Law of 29 August 2008. This simplified the transposition of the Blue Card Directive. The only debate on the transposition of the Blue Card Directive in 2011 was limited to the opinions of the Employees' Chamber (Chambre de Salariés), Employers' Chamber (Chamber of Commerce) and the Council of State. There was no public debate in civil society. Even in the debate of the bill n°5802 on free movement of persons and immigration, which was larger and implicated civil society, the issue of highly qualified workers was not addressed.

The Employees' Chamber (Chambre de Salariés) argued that they feared that the residence permit granted for highly qualified third-country national workers could be awarded in an arbitrary manner, especially as there was no evaluation allowing to proof the merits to resort to highly qualified third-country national workers, and thereby threatens the social acquis in Luxembourg and other Member States⁶⁰. This is the main reason why the Employees' Chamber did not endorse the bill.

The Chamber of Commerce⁶¹ criticized the following points of the bill:

1. With regard to the minimum remuneration threshold Luxembourg must choose the minimum remuneration threshold (1,2 the average gross salary) set out in the Directive instead of 1,5 of the average gross salary that is the higher salary threshold;
2. The bill should be modified allowing also the binding job offer of work and not only a definitive work contract. This will give the companies more flexibility in their recruitment process⁶²;
3. It criticised the fact that the bill requires the applicant to have suitable accommodation before granting the residence permit while the Directive⁶³ does not require it;

⁶⁰ Parliamentary document n°6306/03. Presented on 11 October 2011. See http://chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/144/061/104630.pdf

⁶¹ Parliamentary document n° 6306/01. Presented on 22 August 2011. See http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/131/045/103404.pdf

⁶² It is important to mention that the Council of State did not agree with this point, arguing that the binding job offer of work is an imprecise notion that does not exist in Luxembourgish social law. They consider that allowing this possibility can open the door to many difficulties of interpretation. Parliamentary document n°6306/02, op. cit., p. 4.

⁶³ Article 5 (1) of the Blue Card Directive.

4. The bill does not foresee the possibility that an employer can make the application for a European Blue Card directly.
5. The Chamber of Commerce regrets that the duration of the residence permit was limited to a maximum of 2 years even though Luxembourg could have granted a maximum duration of 4 years as established in the Directive.

The Council of State⁶⁴ criticised the bill on the following points:

1. The requirement of a remuneration threshold equal to 1,5 of the average gross salary puts Luxembourg in a disadvantageous position in relation to its neighbouring countries. The Council considered that the remuneration level must be reduced to 1,2 of the average medium salary in the Member State in accordance with Article 5.5 of the Directive for the professions included in the categories 1 and 2 of the ISCO.
2. They criticised the duration of the residence permit of 2 years. For the Council of State a duration of 3 years would have been more in line with the international competition for attracting highly qualified workers;
3. They criticised the fact that Luxembourg did not transpose the possibility of establishing quotas for highly qualified workers even though it was not necessary in the actual context.

Also, during the debates in Parliament, Serge Urbany from the Left Wing Party (Déi Lénk) voted against the bill. He argued that the law was the ‘cornerstone of deregulation’ allowing the government ‘to choose the cherries on the pie and prepare salary dumping’.⁶⁵

A structural issue came into light during the parliamentary debates of the transposition of the Directive. Luxembourg has been relying on the qualified and highly qualified workforce of the Greater Region to satisfy its development needs since the 1960’s⁶⁶. However, the highly qualified workers in the Greater Region have become more difficult to find. This situation obliges companies to look for them in third countries. The insufficient number of highly qualified workers is causing a serious competition problem in the globalized economy. The major

⁶⁴ Parliamentary document n°6306/02. Presented on 11 October 2011. See http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/141/041/104400.pdf

⁶⁵ Europaforum.lu, La loi sur la Carte bleue européenne a été votée à la Chambre, 17 November 2011. See <http://www.europaforum.public.lu/fr/actualites/2011/11/chd-carte-bleue-vote/index.html?highlight=travailleur%22hautement%22qualifi%C3%A9s>

⁶⁶ Belkacem Rachid and Isabelle Pigeron-Piroth, Les travailleurs frontaliers au sein de la Grande Région Saar-Lor-Lux, in ‘Le travail frontalier au sein de la Grande Région Saar-Lor-Lux, pratiques, enjeux et perspectives’, PUN-Editions Universitaires de Lorraine, 2012, p. 36. « A la différence de ses voisins, le Luxembourg a opté très tôt (dès les années 1960) pour une stratégie de développement diversifié. A cette époque, l’abandonne de la référence sidérurgique s’est accompagné d’une politique d’attraction des investissements étrangers et d’une fiscalité très avantageuse. Le secteur bancaire, entre autres, a connu un développement capital et a joué un rôle moteur pour le reste de l’économie.

Afin de répondre aux besoins de main-d’œuvre nécessaires au développement de son économie, le Luxembourg a recouru à la fois à l’immigration (94 salariés immigrés en mars 2011) et au travail frontalier (153.000 personnes habitant en France, en Allemagne et en Belgique travaillant en mars 2011). En 2011, les salariés frontaliers représentent près de 44% de l’emploi salarié au Luxembourg et sont plus nombreux que les salariés de nationalité luxembourgeoise (29,3% de l’emploi salarié) et que les travailleurs immigrés (27%) ».

debate in Parliament was the way to transpose the Directive making Luxembourg more attractive to highly qualified workers⁶⁷ than its neighbours⁶⁸.

The transposition of the Directive was carried out by the Law of 18 December 2011, published on the Memorial A-19 of 3 February 2012.

Q7.b. If Yes, please briefly indicate possible impacts of the debate on the national policies.

There was no direct impact on the national policies because the status of highly qualified workers was already partially introduced by the Law of 29 August 2008, hence the only difference created as a result of the transposition of the Directive was the improvement of certain benefits and regulations which were already implemented. It is important to mention that one of the specificities of the country is the country's reliance, non-qualified, qualified, and highly qualified workforces have been coming from the Greater Region and other Member States for more than 120 years. However, until the transposition of the Directive the country has had no specific data on granting residence permits for third-country national highly qualified workers.

1.2 Measures

Refer to the legal framework in case relevant changes to labour migration legislation have occurred as compared to the information contained in the EMN Study on Satisfying Labour Demand through Migration.

Q.8. Does your Member State employ concrete measures in order to satisfy the policy goals?

Yes.

Q8.a. If Yes, please indicate the measures that contribute to the implementation of the national policies and indicate their specific goals.

- *Employer sponsorship and/or involvement in migration process;*

One of the requirements established by Article 45 (1) 1 of the Law of 29 August 2008 for applying for a highly qualified worker residence permit is that the applicant must sign an employment contract for one year with the employer and that the salary guaranteed by the employer is equivalent to: 1) at least 1.5 times the average gross annual salary in Luxembourg ($44,376 \times 1.5 = 66,564$ Euros in 2012) or 2) at least equivalent to 1.2 times the average gross annual salary in Luxembourg ($44,376 \times 1.2 = 53,251.20$ EUR in 2012) for occupations belonging to the groups 1 and 2 of the "International Standard Classification of Occupations" (ISCO) for which a particular need for workers from third countries is recognized by the government⁶⁹.

- *Free access to the labour market;*

Once the authorization of stay is approved by the Minister and the person can prove

⁶⁷ Europaforum.lu, La "Carte bleue" pour travailleurs hautement qualifiés fait débat, 9 November 2011. See <http://www.europaforum.public.lu/fr/actualites/2011/11/chd-carte-bleue/index.html?highlight=travailleur%22hautement%22qualifi%C3%A9>

⁶⁸ See, EMN NCP LU, Rapport politique sur les migrations et l'asile 2011, Luxembourg, 2011, pp. 40-41.

⁶⁹ Grand Ducal Regulation of 25 January 2012.

that s/he has proper housing, the Directorate of Immigration issues the residence permit “European Blue Card”. This residence permit indicates the conditions of the access to the labour market for the person in question. It is valid for two years (except if the contract is for a shorter time. In this case the residence permit is issued for the time of the contract plus three months)⁷⁰.

It is important to mention that during the first two years the holder of a “European Blue Card” will have limited access to the labour market, namely only for the activities for which s/he has been engaged in. As regards this issue Luxembourg has taken advantages of the latitude allowed by the Directive to the Member States. After this period the person will have access to the labour market and to highly qualified positions with equal conditions as a national, with the exception of the jobs that are directly or indirectly related to the exercise of public authority⁷¹.

The residence permit is renewed if the conditions are fulfilled⁷².

- *Fast-tracking of procedures;*

Yes. As it has been mentioned before, the highly qualified worker does not have to pass the labour market test required for the normal salaried worker⁷³, but the position has to be declared vacant at the Employment Agency (ADEM – Agency for the development of employment)⁷⁴. For granting the residence permit the Ministry does not require the opinion of the Consultative Commission contrary to the case of salaried workers⁷⁵.

The Ministry of Immigration has to take a decision on granting or refusing the residence permit within 90 days after the filing of a complete application.⁷⁶

However, a stakeholder mentioned that even though the procedures have been simplified for the highly qualified workers, they are not adapted to the global economic trend in the sense that they are not adapted to the business cycles of the companies in which three months to obtain a residence permit is too long.⁷⁷ This stakeholder considers that the residence permit must be issued in no more than ten business working days. Also, this stakeholder insists that the procedures have to be efficient and transparent.⁷⁸

- *Provision of information including information campaigns;*

No.

⁷⁰ Article 45-1 (2) of the modified Law of 29 August 2008. See <http://www.guichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-hautement-qualifie/index.html>

⁷¹ Article 45-1 (4) of the modified Law of 29 August 2008.

⁷² Article 45-1 (2) of the modified Law of 29 August 2008.

⁷³ Article 42 (1) 1 of the modified Law of 29 August 2008.

⁷⁴ Article 42 (1) 1 of the modified Law of 29 August 2008. See <http://www.guichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-hautement-qualifie/index.html>

⁷⁵ Article 42 (2) in relation with article 45 (4) of the modified Law of 29 August 2008.

⁷⁶ Article 45 (4) of the modified Law of 29 August 2008.

⁷⁷ AMCHAM point of view, Interview of 10 April 2013.

⁷⁸ Public petition of 5 December 2012 to the Prime Minister, M. Jean Claude Junker.

http://www.avaaz.org/en/petition/Keep_Luxembourg_Competitive/?tIELqeb

- Attendance of recruitment fairs abroad;

No.

- Cooperation with institutions/organisations in third countries;

No.

Q8.b. If Yes, are there any measures aimed at facilitating the integration of (highly) qualified third-country nationals?

Yes. As other foreigners, the highly qualified workers also have access to the Welcome and Integration Contract ⁷⁹(CAI). The CAI is offered to any foreigner of at least 16 years of age, who resides legally on the territory of Luxembourg and wishes to remain on a permanent basis. It is aimed as much at European Union citizens as at third-country nationals; at new arrivals as well as at people, who have been living in Luxembourg for many years.

The general goal is the integration of the target population into the Luxembourgish society.

In 2013, there are 144 persons so far who qualify as highly qualified workers and have signed the CAI (see table below).

Table n° 1: Highly qualified workers who have signed the CAI

Nationality	TOTAL	Nationality	TOTAL
China (Popular Republic)	15	Morocco	2
Russia	15	Senegal	2
Ukraine	8	Argentina	1
Cameroon	7	Armenia	1
Mexico	7	Australia	1
Brasil	6	Azerbaijan	1
Peru	6	Belarus	1
Turkey	6	Bolivia	1
Colombia	5	Cape Verde	1
United States of America	5	Congo (Democratic Republic of)	1
Tunisia	5	Croatia	1
India	4	Ethiopia	1
Iran	4	Guatemala	1
Pakistan	4	Island	1
Venezuela	4	Japan	1
Philippines	3	Malaysia	1
Viet Nam	3	Mali	1
Chile	2	Mongolia	1
Cuba	2	Montenegro	1
Guinée-Bissau	2	Ouzbékistan	1
Israel	2	Rwanda	1
Ivory Coast	2	Salvador (El)	1
Kazakhstan	2	South Korea	1
TOTAL			144

Source: OLAI, 2013 © LU EMN NCP

➤ *Improvement of language proficiency;*

The aim is to enable the signatory of the CAI to reach at least Basic User Level A.1.1 of the Common European Framework of Reference for Languages in one or more of the three administrative languages of Luxembourg – i.e. Luxembourgish, French, or

⁷⁹It was instituted by the Law of 16 December 2008 on the Reception and Integration of Foreigners in the Grand Duchy of Luxembourg. The CAI was officially launched on 29 September 2011.

German.

➤ *Provision of information and civic orientation;*

The CAI provides a 6-hour citizenship training course and information on daily life in Luxembourg during an orientation day. Besides the language training an orientation day, organized at least twice a year, takes place during half a day at a weekend. It includes various partners and is aimed at enabling the signatory candidate to have better knowledge of Luxembourg's official establishments and organizations, in a casual atmosphere. The citizenship training course aims to provide an insight on integration and on the basic conditions of a harmonious cohabitation in a pluralistic country as well as on the history of Luxembourg, its political organization, and its values and customs. There are special courses for illiterate persons.

The program is stately funded. The participation at the orientation day and the citizenship training are free of charge. The linguistic courses are at reduced rates (at the moment the price for the person who signs the CAI is 5 Euros /10 Euros per course depending on the organiser). This equals with 2 to 5% of the regular price of such courses. Language courses are offered under the responsibility of the Ministry of Education, which has within its responsibilities adult and continuous education. This is implemented through contracted providers, who have an agreement with the Department of Adult Education of the Ministry.

In the private sector, the American Chamber of Commerce (AMCHAM) publishes a book called "Working in Luxembourg", which is a guide to setting up and running a business in Luxembourg. This guide explains in a nutshell all the aspects that a highly qualified person must need to know to settling in Luxembourg.⁸⁰

➤ *Social and legal guidance.*

No. However, the Luxembourgish government has put online all the information in a centralized website www.guichet.lu, which allows any person moving to Luxembourg to know all the administrative procedures and services which are at its disposal.

It is also important to mention that the highly qualified worker is entitled to unemployment benefits in case s/he loses her/his job. However, the unemployment of the highly qualified worker is not a sufficient reason to withdraw the Blue Card (residence permit) except if this period extends for more than 3 months or if it had happened more than once during the duration of the residence permit.⁸¹

Q.9. Do public policies exist in your Member State that specifically aim at positively influencing the immigration decision of (highly) qualified third-country nationals?

Yes.

Q9.a. If Yes, please also indicate such incentives.

➤ *Family reunification rights*

Family reunification rights are one of the main benefits granted to highly qualified workers. Different from salaried workers (low qualified or qualified workers) the highly qualified workers do not need to reside in the territory to apply for family

⁸⁰<http://www.amcham.lu/publications/working-in-luxembourg/>

⁸¹ Article 45-3 (1) of the Law of 29 August 2008

reunification. The family members of the highly qualified worker can come immediately to the territory with him/her.⁸²

➤ ***Tax incentives***

In order to encourage highly qualified employees to settle in Luxembourg, employers must pay a large proportion of the costs incurred by the employee. A circular of 31 December 2010 published by the tax authorities⁸³ sets out provisions on a new fiscal management of the expenditure and charges in relation to employment on the international market of highly qualified and specialised employees. It addresses the necessity of large companies to complete their personnel with highly competent people having in-depth skills in certain specific sectors in order to remain ahead of their competitors and develop innovative products and technologies. The circular understands by the term ‘highly qualified employee’ in point 2 ‘the employee who, habitually working abroad, is seconded from a company located outside of Luxembourg and being part of an international group, to temporarily exercise a paid activity in a native company belonging to the same international group; as well as the employee directly recruited abroad by a native company, to temporarily carry out a paid role in the company, as long as s/he fulfils the following conditions:

- 1) s/he must bring a significant economic contribution or contribute to the creation of new economic activities with high added value in Luxembourg;
- 2) s/he must fulfil the conditions of a tax-paying resident;
- 3) s/he must not be and must not have been fiscally domiciled in Luxembourg, nor have been liable to individual income over a five year period preceding his/her entry in salaried employment in Luxembourg;
- 4) s/he must hold a higher education degree and have in-depth technical skills, or have acquired at least 5 years of specialised professional experience in the sector that the domestic company requires or that the domestic company is looking to develop in Luxembourg.’

The benefits stipulated for companies and highly qualified workers are the following:

1) The surplus of the costs linked to the employee moving houses over the costs which s/he would have had to pay if s/he would have stayed in his/her country of origin. The following costs and expenses are considered as moving costs paid by the employer in so far as the amounts set out do not exceed a reasonable sum.⁸⁴

2) Costs of children’s schooling.

3) Lump sum allowance for certain other repeated expenses, namely, the difference in costs of living between the host State and the State of origin as well as other miscellaneous costs linked to moving homes.

The employer may pay a specific allowance, which covers the costs of the

⁸² Article 71 b) of the Law of 29 August 2008 on free movement of persons and immigration.

⁸³ http://www.impotsdirects.public.lu/legislation/legi10/Circulaire_L_I_R_-_n_95_2_du_31_d_cembre_2010.pdf

⁸⁴ Point 3 of the circular. The recurring costs in this section may not exceed 50,000 Euros per year, nor 30% of the annual total of the remunerations set for the highly qualified employee. When the highly qualified employee shares an address or a common residence with his/her spouse or partner, the 50,000 Euro limit goes up to 80,000 Euros.

difference in the costs of living between the host State and the State of origin. The monthly amount of the allowance is set at a fixed rate of 8% of the fixed monthly remuneration of the highly qualified salary without exceeding the monthly amount of 1,500 Euros. If s/he shares an address or common residence with his/her spouse or partner the amount is 3,000 Euros, except if the partner exercises his/her own professional activity.

From the company's side, these costs constitute operating expenses. The undertaking and payment of the costs and the payment of lump sum allowance by the employer cannot be considered as income in accordance with Article 95 of the Luxembourgish Income Tax Law (LITL)⁸⁵, and from the employee side, they are not considered as a benefit in kind in accordance with Article 104 of LITL.⁸⁶

These provisions benefit the companies and employees concerned for the duration of the assignment of the employee in question without exceeding the duration of five years. Beyond that, the employee's assignment in Luxembourg is no longer considered to be temporary. The provisions cease to apply when the basic conditions no longer exist.⁸⁷

The circular is applicable to highly qualified employees who settle in Luxembourg after 31 December 2010.

However, the problem with this circular is that the Tax administration⁸⁸ only authorizes the application of this circular to a limited number of persons⁸⁹ (people that only exercise a temporary activity in the territory, and that are highly qualified workers in professions in which there are difficulties to recruit in Luxembourg⁹⁰). Also the circular requires that the person shall provide a significant economic contribution or contribute to the creation of new economic activities of highly added value to Luxembourg, which in most cases becomes an insurmountable obstacle). Another problem is that this circular only applies to newcomers and not to other highly qualified workers who are already present in the country, which could create additional problems in the workplace.

This situation causes a certain frustration for some highly qualified workers who were convinced to come to Luxembourg for these tax benefits. There is an on-going discussion between the Ministries of Economy and Foreign Trade and the Tax administration to solve this issue⁹¹.

⁸⁵ Loi de l'impôt sur le revenu. Point 4 of the circular.

⁸⁶ However, the other payments in kind allocated to the highly qualified employee are processed in compliance with Article 104 L.I.R.

⁸⁷ Point 5 of the circular.

⁸⁸ Administration des contributions directes. www.impotsdirects.public.lu

⁸⁹ Between 1 January and 3 October 2012, 49 individuals (mainly from the financial sector) have applied for these tax benefits at the tax administration (Administration des contributions directes), but only 23 applications were accepted. LU EMN NCP, Rapport politique sur les migrations et l'asile, 2012, p. 41

⁹⁰ See scope of application of the circular. The main problem is that most of the people who come to Luxembourg have a no-fixed term contract, and until now the Luxembourgish government has not made the evaluation concerning the professions and sectors where highly qualified workers are needed.

⁹¹ Point of view of a government official, Interview, 22 February 2013.

➤ ***Social benefits***

Yes. As any employee in Luxembourg a highly qualified worker has to pay social security contributions⁹² and solidarity tax⁹³. Highly qualified workers are entitled to all the social benefits as regular tax payers (jointly taxation for their minor children⁹⁴, family allowances⁹⁵, allowance for higher education studies of the children⁹⁶, etc.) as well as receiving unemployment benefits in case s/he loses her/his job. However, unemployment of a highly qualified worker is not a sufficient reason to withdrawn the blue card (residence permit) except if this period extends more than 3 months or if unemployment takes place more than once during the duration of the residence permit.⁹⁷

Moreover, Luxembourg has concluded bilateral agreements with certain third countries such as Brazil, Canada, Cape Verde, Chile, Switzerland, Tunisia, Turkey, Croatia, Macedonia, Montenegro, Norway, Serbia, Morocco and the United States. These international agreements are based on the principle of equal of treatment, the aggregation of periods of contribution, and the exportability of benefits.⁹⁸

➤ ***Anti-discrimination and equal treatment***

During the first two years of the residence permit the highly qualified worker has a limited access to the labour market only to the wage-earning activities under which the permit was issued but valid for any employer⁹⁹. However, after this period the highly qualified worker benefits of equality of treatment in the labour market with respect to nationals and EU nationals as regards highly qualified positions, excluding those which comprehend a participation, directly or indirectly in the exercise of the public power¹⁰⁰ in which the Luxembourgish nationality is a requirement.

In general the highly qualified can benefit as any other person of equal treatment independent of their nationality.

The government position on anti-discrimination is quite clear: 'Integration and combating discrimination are the subject of shared responsibility between the different ministries, the municipalities and civil society as well as all of the stakeholders having interests in the issues of integration and anti-discrimination. The

⁹²Pension fund: 8%, sickness: 3,05% and dependence contribution 1,4%. The dependence contribution is not tax deductible.

⁹³ For tax payers with an income in class 1 and 1a it is up to 150.000 euros per year or 300.000 euros per year for those who are in tax class 2. If the income is greater than the amounts mentioned above the tax is of 9%. See State Budget Law for 2013, Law of 21 December 2012, published in the Memorial A-273 of 28 December 2012. http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/180/155/117594.pdf. This tax is calculated on the adjustable tax basis (See article 116 of the LITL http://www.impotsdirects.public.lu/legislation/LIR/Loi_modifi__e_du_4_d__cembre_1967_concernant_l_imp__t_sur_le_revenu_-_texte_cooronn__au_1er_janvier_2013.pdf).

⁹⁴ Article 4 of the Law of 4 December 1967 (LITL). In case that children are older than 18 years old but continue studying the tax payer can claim a tax deduction.

⁹⁵ i.e. Boni pour enfant. See article 122.2 of the Law of 4 December 1967. If the tax payer does not receive it in cash, he can deduct it from the final taxation.

⁹⁶ Law of 22 June 2000 on State financial aid for higher education.

⁹⁷ Article 45-3 (1) of the modified Law of 29 August 2008.

⁹⁸ AMCHAM, Working in Luxembourg, 2010, p. 341

⁹⁹ Article 45-1 (3) of the modified Law of 29 August 2008.

¹⁰⁰ Article 45-1 (4) of the modified Law of 29 August 2008.

national multi-annual action plan is the instrument of strategic and operational coordination of transversal integration policies.’¹⁰¹ The plan was adopted on 26 November 2010.¹⁰²

1.3 Relations with third countries and labour migration agreements

Q.10. Do the policies in your Member State focus on specific third countries?

No. Even though Luxembourg has a cooperation policy focussing on specific third countries as well as an economic policy targeting specific countries for attracting investors, it does not have any policy in regard to highly qualified workers.

The position of the government in relation to this aspect was developed in the Government program for 2009 - 2014 stating that the immigration policy has to be proactive and coherent, and it has to be in accordance with the needs of the labour market and the economic interest of the country.¹⁰³ Its main objective is to adapt immigration to the needs of the Luxemburgish economy.¹⁰⁴ The government position is that the keyword therefore appears to be: ‘The qualification, wherever it comes from’.¹⁰⁵ Hence in principle the government does not focus on specific third countries. This can be explained by the fact that the system is employer oriented.

Q10.a. If Yes, please list these third countries, providing a brief indication of the reasons for focusing on specific third countries?

N/A

Q.11. Has your Member State entered into labour migration agreements relating to attracting qualified and/or highly qualified third-country nationals to the national territory?

No.

Q11.a. If Yes, what role do these labour migration agreements play in executing your Member State’s policies?

N/A

Q.12. Has your Member State adopted legislations facilitating labour migration from specific third countries ('country-specific legislation')?

No.

Q.13. Has your Member State entered into other more favourable arrangements

¹⁰¹ OLAI, ‘Plan d’action national d’intégration et de lutte contre les discriminations’ (National Action Plan on integration and against discrimination), <http://www.olai.public.lu/fr/accueil-integration/mesures/plan-action-national/index.html?highlight=plan>

¹⁰² Information and news from the Luxembourgish government, Council of Government, Summary of works on 26 November 2010, http://www.gouvernement.lu/salle_presse/conseils_de_gouvernement/2010/11-novembre/26-consouv/index.html#9

¹⁰³ Government program 2009 – 2014, p. 21.

¹⁰⁴ Government program 2009 – 2014, p. 21.

¹⁰⁵ Ministerial Point of View, interview 12, page 8, lines 25-50 and page 9, lines 1-6. See EMN NCP LU, ‘Satisfying Labour Demand through Migration’, 2011, p. 40.

with non-EU/EEA countries and/or regions relating to attracting qualified and/or highly qualified third-country nationals to the national territory?

No.

Section 2
Evaluation and Effectiveness of Measures

2.1 Evidence of effectiveness based on statistics

A template table for statistics will be provided.

Please provide statistics that reflect the scale and scope of highly qualified and qualified labour immigration of third-country nationals using statistics provided by Eurostat and other relevant national statistics that are available¹⁰⁶. Please present the following:

- The number of third-country nationals employed and self-employed in the respective Member State in the relevant ISCO groups (i.e. those related to qualified and highly qualified employment according to national definitions) over the last 5 years aggregated by sex and age group.

The statistics required are provided in the template table for statistics (annex 1). However, it is important to mention that the information provided is not significant seen the small number of third-country national highly qualified workers residing in Luxembourg. Furthermore, it is also important to take into consideration the fact that there is only available data on highly qualified workers since 2009 because the Law on free movement of persons and immigration entered into force at the end of 2008.

- The number of third-country nationals employed and self-employed in the respective Member State over the last 5 years aggregated by relevant ISCED level of education (i.e. those associated with qualified and highly qualified employment according to national definitions), sex and age group.

Regarding self-employed workers there is no information that fulfils the criteria. See annex 2.

- The number of first residence permits issued for relevant reasons (e.g. highly skilled workers, EU Blue Card) over the past 5 years aggregated by sex and age group.

The number of third-country national highly qualified workers (employed and self-employed) in Luxembourg is not clear. According to STATEC there are only 1.900 third-country nationals who fulfil the criteria established by the Law of 29 August 2008.¹⁰⁷ However, according to data provided by EUROSTAT based on the Labour Force Survey (LFS) there were 2.300 third-country national professionals and 700 management positions under ISCO standards in 2011 and 4.600 individuals who fulfilled the criteria according to ISCED level 5.

These differences can be explained because of the salary threshold required by the Law of 29 August 2008, which will exclude from granting the highly

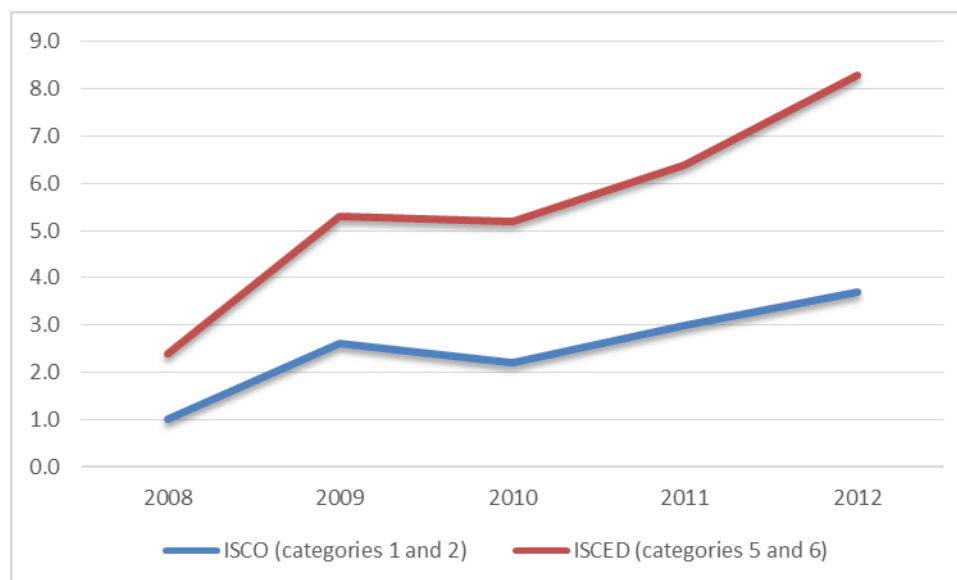
¹⁰⁶ Please take into account the comments made under section V. Available Statistics.

¹⁰⁷ Information provided by M. Reis from STATEC on 22 February 2013. “1900 employed/self-employed third-country nationals with labour earnings in the deciles 7-10. This corresponds very roughly to the definition of the legislation. Due to the small sample size (N < 100) a breakdown into ISCO and ISCED categories is not possible.”

qualified residence permit to certain individuals who have the required professional and educational skills.

The graph below shows the difference between ISCO (classification of occupation) and ISCED (classification of education).

Graph n° 1: Number of TCN residents in Luxembourg fulfilling ISCO and ISCED standards (x 1000) – 2008 - 2012



Source: Eurostat (LFS) 2013 © LU EMN NCP

There is a parallel evolution between the ISCO and ISCED standards in the TCN population. Even though the numbers are just for illustrating purposes we can conclude that there is not a direct relationship between having a higher education diploma and occupying a managerial position¹⁰⁸

Also from the table below it is evident that the number of TCNs included in ISCO categories 1 and 2 had increased from a 3,5% in 2008 to an 11,9% of the total TCN population in Luxembourg, while the ISCED categories 5 and 6 had increased from 4,9% in 2008 to 14,7% in 2012. We can conclude that in the last five years the structure of the TCN population has changed, having more third-country nationals in managerial positions, especially that the TCN resident population only has grown 8,3% in the last five years.

Table n° 1: Number of TCN residents in Luxembourg fulfilling ISCO and ISCED standards (x1000) in comparison with the TCN resident population

Description	2008	%	2009	%	2010	%	2011	%	2012	%
ISCO (categories 1 and 2)	1.0	3.5%	2.6	8.8%	2.2	7.3%	3.0	10.5%	3.7	11.9%
ISCED (categories 5 and 6)	1.4	4.9%	2.7	9.1%	3.0	10.0%	3.4	11.8%	4.6	14.7%

¹⁰⁸ It is important to notice that not all the people that falls in the categories 5 and 6 of ISCED are occupying managerial positions.

Total TCN population	28.8	100.0%	29.6	100.0%	30.1	100.0%	28.7	100.0%	31.2	100.0%
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Source: Eurostat (LFS) 2013, Statec, 2013 © LU EMN NCP

In regard to the total amount of salaried workers categories we can see from the table below that the first issuances of highly qualified residence permit has been stable with the exception of 2010. This can be explained by the fact that 2009 was the first year when the highly qualified worker residence permit was issued and probably workers who fulfilled the criteria and needed to renew their residence permit applied for it.

Category	2009	2010	2011	2012
European Blue Card				183
Highly qualified worker	195	128	186	45
Self-employed worker	87	70	53	106
Salaried worker	1815	1306	1556	1590
Transferred worker	167	226	282	325
Posted worker	23	18	21	36
Community service provider worker				1
Community service provider	1	3	3	
Researcher	15	36	48	58
Total	2303	1787	2149	2344

Source: Directorate of Immigration, 2013 © LU EMN NCP

We can also see from the data that highly qualified residence permits represented 8,5% of all the salaried related residence permits in 2009, 7,2% in 2010, 8,7% in 2011 and 9,7% in 2012, so we can say that the proportion of first issuances of highly qualified residence permits has increased. However, it is important to take into consideration that before the transposition of the Blue Card Directive the residence permit could be issued for a period of 3 years, so some of the new issuances of Blue Card residence permits could previously be highly qualified residence permits.

Nevertheless, the number of first issuance residence permits has remained relatively stable during the last four years.

Q.14. Is there any evidence (quantitative and/or qualitative) of a link existing between the measures outlined in Section 1 and the immigration of highly qualified and qualified third-country nationals?

No.

Q14.a. If yes, please elaborate concisely.

N/A

Q.15. Is there a quota for highly qualified and qualified third-country nationals?

No. Luxembourg applies an employer-led system. As already mentioned Luxembourg chose not to apply the article of the directive, which allows the implementation of quotas in relation to highly qualified workers.

Q15.a. If Yes, is the quota exhausted?

N/A

Q.16. Is there any evidence (quantitative and/or qualitative) of a link existing between the labour migration agreements (also in the framework of Mobility

Partnerships) outlined in Section 1 and the immigration of highly qualified and qualified third-country nationals?

N/A

Q16.a. If yes, please elaborate concisely.

N/A

If (statistical) evidence as requested above regarding concrete measures and labour migration agreements is not available, please outline and analyse any other statistics which may provide indications of the effectiveness of the national policies and measures.

N/A

2.2 National methods of evaluation

Q.17. Does primary research (using any methods) exist in your Member State evaluating the national policies, related practical measures and labour migration agreements (also in the framework of Mobility Partnerships) implemented to attract highly qualified and qualified third-country nationals?

No.

Q17.a. If Yes, which methods have been used?

N/A

Q17.b. If Yes, what is the outcome regarding the effectiveness of these measures and labour migration agreements?

N/A

2.3 Policy makers' or other stakeholders' (i.e. academics, non-governmental or private sector representatives) experience

According to the Observatoire interregional du marché de l'emploi, the European labour market considered as a whole is characterized by a migratory mobility highly qualified workers over long distances. This mobility is not only relatively complex to plan, but also to execute because normally they are accompanied with a transfer of domicile abroad¹⁰⁹, which implies significant costs for the employer.

However, the Luxemburgish Confederation of Chamber of Commerce (Confederation luxembourgeoise du commerce) together with FEDIL (Luxemburgish Federation of Industries) and the ABBL (Luxembourg Bankers' Association) and with the support of ICT Luxembourg and the collaboration of the Chamber of Commerce, the Ministry of Education (MENFP) and ADEM, have taken the initiative of launching a survey to determine the short term needs of companies in the professional sector of information and communication technologies. This survey had as its objective to guide young people and to adapt academic and professional training to the needs of the companies.

¹⁰⁹ Observatoire interregional du marché de l'emploi, Situation du marché de l'emploi dans la Grande Région, 7^{ème} rapport, December 2010, p. 143

http://www.granderegion.net/fr/publications/documentation-oie/7_RAPPORT_OIE_SITUATION_MARCHE_EMPLOI_Grande_REGION.pdf

The results of the survey were published in a booklet entitled: “The qualifications of tomorrow in the domain of ICT”¹¹⁰

Q.18. If evidence (see 2.1 and 2.2) is not available, what is then the national policies makers’ or other stakeholders’ experience and assessment regarding the (perceived) effectiveness of measures (see also questions under 2.2)?

As mentioned before the Grand ducal regulation of 25 January of 2012 foresees the evaluation of sectors which need highly qualified workers so that the exceptions foreseen in the modified Law of 29 August 2008 can be implemented (especially the application of the salary threshold of 1,2 times the average annual salary). However, until now this evaluation has not been carried out.

It is important to mention that the national provisions transposing the Blue Card Directive only entered into force on 3 February 2012 so at the moment the policy makers and other stakeholders have not been capable of assessing the phenomenon.

Section 3 **Challenges and Barriers**

3.1 Possible challenges and barriers

Q.19. Have challenges and barriers in your country been identified based on previous research which affect the attractiveness of your Member State for (highly) qualified third-country nationals?

Yes.

Q19.a. If Yes, please indicate these factors.

- the overly restrictive definition of the notion of 'highly qualified worker' (Chamber of Commerce, Employees’ Council of State)¹¹¹. (See Q.9 a. Tax Incentives)
- reception conditions are not adequate for highly qualified third-country nationals. These conditions must be improved.
- there are no sufficient agreements with third-countries on the secondment and expatriation of workers (Chamber of Commerce)¹¹²
- extension of the diplomatic network in, for example, the Middle East¹¹³
- the request to ‘facilitate the mobility of third-country employees settled in Luxembourg in order to promote Luxembourg as a location for European headquarters. Companies that wish to establish their headquarters and which transfer within this context third-country employees to Luxembourg must be able to ensure mobility for these employees to work in the countries covered by their activity. [...] The strict checks used by

¹¹⁰ CLC, ABBL & FEDIL, Les qualifications de demain dans le domaine des TIC, 2012.

<http://www.clc.lu/Actualites/Les-qualifications-de-demain-dans-le-domaine-des-TIC>

¹¹¹ Point de contact national du Luxembourg du Réseau européen des migrations, ‘Rapport politique sur les migrations et l’asile’, 2008, page 38.

¹¹² Economic bulletin of the Chamber of Commerce issue 7, June 2009, ‘Actualités et tendances’ (News and Trends), page 57.

¹¹³ Employers’ point of view, interview 9, page 24, lines 20-21.

Luxembourg in the past must be reconsidered. The majority of executive directors or employers active at the international level will have difficulties respecting the minimum residence condition of 6 months' stay in Luxembourg, given their business trips'¹¹⁴.

➤ *Salaries/Wages;*

Seen that Luxembourg is one of the countries with the highest income per capita in the world¹¹⁵ the wages factor is an element that mainly attracts highly qualified workers. Nevertheless, as the Council of State mentioned in its opinion during the transposition of the Blue Card Directive, the average gross annual salary is an element which puts Luxembourg in a less advantageous position compared to its neighbours because they can attract more highly qualified workers with a lower salary base¹¹⁶. The fact that the government has not yet made the evaluation of the professions that need third-country national highly qualified workers does not allow the employers to apply the minimum remuneration threshold (1,2 times the average annual gross salary) set out by the Blue Card Directive.

➤ *Economic crisis;*

Luxembourg has a stable economy which lately has been affected by the situation in the Eurozone¹¹⁷. In comparison with the Eurozone and Europe in general the effects of the economic crisis are limited. The growth forecast for 2012% was of 0,5% and for 2013 of 1,0%.

On 31 December 2012, Luxembourg had 16 963 registered unemployed residents (available for the labour market and not benefitting from an employment programme). The seasonally adjusted unemployment rate was 6.24%¹¹⁸.

With these two economic indicators the Luxemburgish economy continues to be attractive in comparison with other Member States in the European Union.

➤ *Language;*

Even if Luxembourg has three official languages (Luxemburgish, German and French), English is largely spoken especially because Luxembourg is a financial

¹¹⁴ Ministry of the Economy and Foreign Trade, 'Propositions d'ordre général du Ministre de l'Économie et du Commerce extérieur pour l'amélioration de la compétitivité nationale, en vue du Comité de coordination tripartite' (Proposals of a general nature by the Minister of Economy and Foreign Trade for the improvement of national competitiveness, in view of the Tripartite Coordination Committee), version of 10 April 2010, pages 3-4.

¹¹⁵ According to the World Bank in 2011, Luxembourg ranked third in the world with a GDP per capita of 114.508 USD. See <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>

¹¹⁶ Opinion of the Council of State, Parliamentary document n° 6306/02 of 12 October 2011. See http://chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/141/041/104400.pdf

¹¹⁷ STATEC, Statnews n° 41/2012, 22 November 2012, p. 2. "Notwithstanding these negative developments, economic activity as measured by GDP in volume is set to return to pre-crisis levels in 2012, due to a rise currently estimated at 0.5% (for 2012 as a whole). In 2013, a very slight acceleration is expected (up 1.0% for GDP in volume), based on a stabilisation of the situation in the financial sector, where a repeating of the extremely negative performance seen in recent years is not expected. However, because of the deterioration across the Eurozone and against a backdrop of fiscal consolidation, growth is now expected to reach just 1.0%, compared to the 1.7% predicted in July." <http://www.statistiques.public.lu/catalogue-publications/note-conjoncture-en/2012/PDF-3-2012.pdf>

¹¹⁸ STATEC, Unemployment rate in December 2012.

<http://www.statistiques.public.lu/en/news/population/labour/2013/01/20130123/index.html>

centre and has some of the largest European Union institutions on its territory, so language issues for third-country nationals are not necessarily a substantial problem.¹¹⁹ A third-country national can work in Luxembourg without speaking one of the three official languages, however, learning at least one of the three official languages becomes necessary for integration purposes. As the Chamber of Commerce says: “The different official languages should enable different angles of integration, with the Luxembourgish language constituting an important vector of integration and cohesion without, however, forming an insurmountable obstacle (*“Eis Sprooch: eng Bréck, keng Barrière”*, or *“Our language: a bridge, not a barrier”*).”¹²⁰

A major problem concerning languages is that almost all the government websites are in French (the guichet.lu is being translated to English and German), which can generate a problem for foreigners to understand the system. As the Chamber of Commerce mentions that the three official languages are used depending of the “situation and because translations are often unavailable (and the practical difficulties that result from this) ...it is hardly surprising... that foreigners’ interest in the socio-political debate remains below aspirations.”¹²¹

One factor that can have a negative effect on the decision-making is the relocation of the family of the high qualified worker’s decision in the sense that, even though the worker might not have any language problems concerning work, language barriers of the spouse and the children could be very difficult to avoid, depending on the school level of the children. The recent development of international schools is a solution for these kinds of problems.

➤ *Formal/Informal discrimination;*

There is no formal or informal discrimination in Luxembourg against highly qualified workers. The Luxembourgish government has a very strict policy against discriminations. The Government programme of 2009 is extremely clear on this point and promotes a campaign of awareness and information against every type of discrimination against foreigners through the Luxembourgish Reception and Integration Office (OLAI)¹²². The position of the government is also very clear against people who promote racism against foreigners, and lately there have been several condemnations including jail sentences¹²³

➤ *Public discourse / debate;*

There is no public discourse or debate against highly qualified workers.

¹¹⁹ “Companies are demonstrating unequalled pragmatism when incorporating people coming from different cultures. It is difficult to draw general lessons on the linguistic heterogeneity faced by Luxembourg-based companies. However, based on a study sponsored by the Chamber of Commerce, one can conclude that French holds the status of main common denominator in the majority of companies: for 56% of them, it is the primary language used. When taking into additional languages used by these firms, French is quoted 99.6% of the time, followed by English (88%), German (83%) and, only in a fourth position, Luxembourgish (80%).” Chambre de Commerce Luxembourg, *Actualité & Tendances*, n° 12, Mars 2012, p. 7

¹²⁰ Chambre de Commerce Luxembourg, *Actualité & Tendances*, n° 12, Mars 2012, p. 3

¹²¹ Chambre de Commerce Luxembourg, *Actualité & Tendances*, n° 12, Mars 2012, p. 7

¹²² Government programme 2009 – 2014, p. 87.

¹²³ Le Quotidien, *Raciste condamné*, 11 May 2012, See <http://www.lequotidien.lu/le-pays/34541.html>; Wort.lu, *Les auteurs de propos racistes sur Facebook condamnés*, 13 February 2013, See <http://device.wort.lu/fr/view/les-auteurs-de-propos-racistes-sur-facebook-condamnes-511ba6a7e4b0c4e1faae967e> L’essentiel, *Peters écope de six mois de prison ferme*, 6 March 2013, See <http://www.lesessentiel.lu/fr/news/luxembourg/story/23688248>

➤ *Bureaucracy;*

Bureaucracy levels are not different from other countries. Seen the small size of the country we can consider that bureaucracy does not have major incidences in attracting highly qualified workers. Nevertheless, the American Chamber of Commerce considers that bureaucracy in Luxembourg can affect the attraction of highly qualified workers in a negative manner. They say: “While some progress has been made, we are far short of a world class system which satisfies the needs and aspirations of the business community. The administration phone lines for status queries frequently go unanswered; files are not transferred when functionaries are away from the office; applicants may not have receipts confirming when their files have arrived; the processing of files lacks any degree of transparency. The overall impression is that the processors are not welcoming to the companies and these needed new employees. Considering this is the first exposure that many have for their welcome into Luxembourg, present practices do not present the image that Luxembourg needs to ensure continued economic prosperity.”¹²⁴

➤ *Monetary and non-monetary (time) costs;*

Before the crisis, the large companies which brought highly qualified third-country nationals to the country depended on relocation agencies for doing all the tasks to relocate the person and his/her family. When the crisis started, the use of relocation agencies was limited to management positions¹²⁵, hence in consequence the newly arriving workers, who are not in managerial positions, have to deal with all these procedures by themselves.

It is important to mention that Luxembourg has a very high GDP per capita, which implies that living in Luxembourg is very expensive in comparison with the largest cities of the Greater Region (Belgium, France and Germany). The country's inflation rate in 2012 was of 2,9%. In the Mercer's Cost of Living study of 2012, Luxembourg City ranked 84th among the most expensive cities in the world. This made Luxembourg more attractive than cities like London (25th), Paris (37th), Milan (38th), Rome (42nd), Stockholm (46th), Vienna (48th) Amsterdam and Brussels (71st)¹²⁶. However, depending on whether the person had negotiated a tax equalisation agreement and/or had obtained the tax benefits given by circular 95/2 the attractiveness of the contractual package can be diminished.¹²⁷

From this perspective Luxembourg continues to be competitive in comparison with other major cities of the other Member States as regards attracting highly qualified workers.

However, taking into account the elevated salary levels for highly qualified workers

¹²⁴ Public petition of 5 December 2012 to the Prime Minister, M. Jean Claude Junker.

http://www.avaaz.org/en/petition/Keep_Luxembourg_Competitive/?tIELqeb

¹²⁵ Gouvernemental position, Interview OLAI.

¹²⁶ See http://www.mercer.com/costoflivingpr#City_rankings

¹²⁷ The adjustable tax basis for a highly qualified worker is subject to 40% income tax since 1 January 2013 (article 120bis modified by Law of 21 December 2012 published in the Memorial A-270 of 28 December 2012 - <http://www.legilux.public.lu/leg/a/archives/2012/0270/a270.pdf>) and almost all the benefits in kind are partially subject to tax (See modified Law of 4 December 1967 http://www.impotsdirects.public.lu/legislation/LIR/Loi_modifi_e_du_4_d_cembre_1967_concernant_l_imp_t_sur_le_revenu_-_texte_coordonn_au_1er_janvier_20131.pdf)

in the financial, insurance and banking sector the average gross annual salary can become a barrier for newly developed or developing sectors, such as biotechnologies or ICT, in which the salaries for highly qualified workers cannot reach the threshold. This situation can deter enterprises and institutions from hiring third-country nationals because they cannot afford them.¹²⁸ Besides the high salaries levels the legal annual indexation of salaries in Luxembourg¹²⁹ can become a financial burden for the enterprise in the medium and long term in the sense that the augmentation of the salaries is made automatically and independent from the performances of the individual.¹³⁰ This situation can have an effect on keeping positions in Luxembourg because after several years the employee is overpaid for the job in comparison with persons in similar positions in another Member State.

A possible solution can be establishing an average gross salary by sectors so the financial burden would not have an effect on presently developing or recent developed sectors.

➤ *Lack of information;*

The lack of information is a major issue in Luxembourg. Most highly qualified workers, investors and entrepreneurs do not have any information prior to their arrival in the country and once they arrived they do not know where to look for it. It is true that almost all the needed information is available on the public website www.guichet.lu, however, this information is provided exclusively in French. One interviewee said that the problem could not only be found in relation with public institutions, but also in the private sector.¹³¹

There are some brochures available to orient the highly qualified third-country national workers (such as the Working in Luxembourg¹³² published by the AMCHAM) but there is an overall lack of information on how a new arrival can settle down in the country. The Luxembourgish Reception and Integration Office has recently realised this situation and promotes orientation and information activities with some embassies (Japan, United States), the Chamber of Commerce (American Chamber of Commerce, etc.) and other associations of third-country nationals.¹³³

Several companies, such as KPMG and Deloitte, hand out ‘welcome packages’ to their new employees, where all the needed information is available. Furthermore, there is a British website, called www.justlanded.com that provides useful information on how to settle in Luxembourg.

➤ *Working conditions;*

The working conditions in Luxembourg are relatively good. Safety and security

¹²⁸ Chamber of Commerce, Interview 17 April 2013.

¹²⁹ The legal salaries index benchmarks wages to the cost of living (“indexation des salaires”). See Eurofond, Luxembourg Annual Review, 2011. <http://www.eurofound.europa.eu/comparative/tn1203020s/lu1203021q.htm> Annual salary increases are often controlled by an industry collective agreement and pegged to local cost of living increases. In Luxembourg, salary may depend on age and, while salary levels rarely appear in job advertisements, the desired age range will give an idea of what an employer is willing to pay.

Just landed.com, Working in Luxembourg: Salary and working conditions, <http://www.justlanded.com/english/Luxembourg/Luxembourg-Guide/Jobs/Working-in-Luxembourg>

¹³⁰ American Chamber of Commerce, Interviews 13 and 19 April 2013.

¹³¹ Point of view of an interviewee, 23 April 2013.

¹³² American Chamber of Commerce, Working in Luxembourg, 2010.

¹³³ Governmental position, Interview OLAI.

standards are high. The social security system is considered being one of the best in Europe, and the normal working hours are 40 hours per week.

➤ *Small/weak academic/scientific community;*

Luxembourg, as a small country, has only one university (University of Luxembourg¹³⁴). However, the Government promotes the development of biotechnologies and environmental technologies within research facilities in the country¹³⁵ and facilitates the intra-EU mobility of researchers. Furthermore, the University of Luxembourg being part of the University of the Greater Region, therefore the exchange of information between the seven universities is very active.¹³⁶

Luxembourg is known to have political and social stability as well as high living standards.¹³⁷ Luxembourg has 172 nationalities present in the country.¹³⁸ The capital has a multicultural atmosphere, and has cities with “human” dimensions, but cannot compete with other capital cities, which are more cosmopolitan (i.e Brussels, Paris, Frankfurt or London).

➤ *Waiting time to process visa applications in the Member State*

As it is mentioned above, the process for the authorisation of stay is limited to 90 days if the file is completed. Once authorised, the applicant shall apply for a visa if it is required for entering into the European Union. The only problem, with which a third-country national can be confronted, is that Luxembourg does not have diplomatic representations everywhere and relies on other Member States for these functions (especially Belgium). This can cause some delays, although in practise these procedures work very well¹³⁹. After verifying with a large employer (multinational company) in Luxembourg they said that the average processing time is of 8 weeks.¹⁴⁰ AMCHAM, considers that there is too much bureaucracy and that the procedure is not transparent. They proposed that the time frame to process a residence permit for a highly qualified worker should ideally be 0 working days.¹⁴¹

➤ *Integration aspects*

As mentioned before, two of the major challenges to attract highly qualified workers to Luxembourg are the schooling of the children and the labour market, which is not open to the accompanying spouse.

➤ *Schooling*

Luxembourg has a very good public school system. However, the fact that Luxembourg has three official languages and that the courses in public schools are taught in Luxembourgish, German and French generates a problem for highly

¹³⁴ See LU EMN NCP, Immigration of International Students, Luxembourg, 2013.

¹³⁵ Government programme, p. 87.

¹³⁶ The University of the Greater Region is composed of the University of Luxembourg, University of Lorraine (fusion of the University of Nancy and Metz), University of Liège, University of Saarland, University of Trier and University of Kaiserslautern. <http://www.uni-gr.eu/fr/la-page-de-depart/lire/datum/2010/09/27/l-universite-de-la-grande-region-ugr-met-en-reseau-etudiants-et-doctorants-internation.html>

¹³⁷ Chamber of Commerce, Interview, 17 April 2013.

¹³⁸ <http://www.cefis.lu/files/letzebuerg-1000025.pdf>

¹³⁹ See LU EMN NCP, Visa policy as a migration channel, 2011.

¹⁴⁰ Employer point of view. Interview 19 March 2013.

¹⁴¹ AMCHAM point of view, Interview, 10 April 2013.

qualified workers – hence they are generally not able to register their children in the public schools, if the latter have already begun their education.¹⁴² From a certain age on, the children of the highly qualified workers would have to enter a class, where the three official languages are already taught at a level that would hardly be possible to reach for children not speaking any, or speaking only one of these languages.

The other possibility for highly qualified workers is to register the children in private schools. Actually in Luxembourg there are six possibilities (primary and secondary education): Fieldgen and Sainte Sophie (Luxemburgish schools), the International School of Luxembourg, The European School, St. George's International School, the Waldorf International School and the French School. The main problems confronted with private schools are:

1. Cost is a major problem in the private schools because yearly tuition fees per child can range between 12.000 and 14.000.
2. Capacity is the main problem, as almost all the schools are at full capacity so the admissions to the schools are conditional in some institutions (European School and International School). The educational institutions do not want to expand, arguing that they do not want to lower the quality of the education.¹⁴³
3. In regards with the French School the problem is the language barrier for English speaking foreign workers.

A viable solution is the International Baccalaureate diploma which is being offered at the Lycée technique du Centre and at the Athénée de Luxembourg (Lycée classique). The curriculum is taught in English and the diploma is recognized by law as an equivalent to the Luxemburgish school leaving certificate.¹⁴⁴ The only problem is that it is only provided at secondary level (grades 9 to 13) and the individual has to pass an admission test which can only be taken once a year¹⁴⁵, hence if the student arrives later in the year s/he will have to wait till next year. Furthermore, this does not solve the problem of children, who are in the lower grades (1 to 8).

➤ *Work permit for the accompanying spouse*

The Law of 8 December 2011 simplified the possibility of family reunification for highly qualified workers, can be arranged automatically. This means that the family members of the highly qualified worker can accompany him/her when s/he enters the

¹⁴² Luxembourg provides free education for children residing in the country. It is compulsory from the age of 4 and it starts with 2 years of pre-school. The possibility to enter the pre-school at the age of 3 exists (précoce). The children are taught in Luxemburgish, but start playfully learning some German and French. In primary schools children are mostly taught in Luxemburgish. They learn German from the first year of elementary school on and start French in the second half of the second year.

¹⁴³ AMCHAM point of view, Interview, 10 April 2013.

¹⁴⁴ Law of 21 July 2006 <http://www.legilux.public.lu/leg/a/archives/2006/0142/a142.pdf#page=2> and Grand-ducal regulation of 9 May 2008 http://158.64.21.3/downloads/Reglement_grand-ducal_9_05_2008.pdf

¹⁴⁵ <http://www.al.lu/index.php/ib>

country, without the waiting period of 1 year, which applies to other salaried workers¹⁴⁶. The accompanying spouse will receive a resident permit as a family member of a highly qualified worker (or European Blue Card holder). However, this residence permit will not grant them direct access to a labour market and they are subject to the labour market test.¹⁴⁷ Even though the procedure of the labour market test was simplified with the modification of the Law of ADEM, the fact remains that the accompanying spouse has to pass a labour market test, except if the individual has the qualifications to apply as a highly qualified worker.

This element, in addition to the fact that the accompanying spouse is normally confronted with a society, in which none of the three vehicular languages are English, can generate a certain level of frustration, because integration becomes very difficult.¹⁴⁸ Either the accompanying spouse is integrated into a network of foreign expats or s/he will eventually decide to return to the country of origin or to a Member State in which they can feel better integrated. This is the reason why the AMCHAM suggests that the government should modify the law and grant a residence permit, which would grant the accompanying spouse an immediate access to the labour market to the accompanying spouse.¹⁴⁹

Q.20. If such evidence is not available, what is then the national policies makers' or other stakeholders' experience and assessment regarding the challenges and barriers which affect the attractiveness of your Member State for (highly) qualified third-country nationals?

N/A

Section 4 Conclusions

Q.21. What conclusions would you draw from your findings that are relevant to the aims of this Focussed Study? Can you identify good practices and lessons learnt with regard to attracting highly qualified and qualified third-country nationals? What is the relevance of your findings to (national and/or EU level) policymakers?

The issue of attracting qualified and highly qualified workforce has accompanied Luxembourg since the 1870's. For more than 120 years, Luxembourg has always relied on its economic and industrial needs on one hand of low qualified migration and on the other hand of qualified and highly qualified migration¹⁵⁰ (i.e. the Italian migration and the German migration of the XIX century).

Luxembourg economy is centred in services focussing principally in the financial sector, which represents 36% of the GDP. It is also one of the main economic objectives of the government to develop the new highly added value technologies (i.e.

¹⁴⁶ Article 69 of the Law of 29 August 2008.

¹⁴⁷ Article 41 (1) 1 of the Law of 29 August 2008

¹⁴⁸ AMCHAM point of view, Interview of 10 April 2013

¹⁴⁹ AMCHAM point of view, Interview of 10 April 2013

¹⁵⁰ LU EMN NCP, Visa policy as a migration channel, 2011, pp. 14-16

biomedicine, ICT, etc.).

Until now the attraction of qualified and highly qualified workforce has been satisfied by the hiring of EU nationals residing in the country or who are cross border workers. The fact that the economic policy of Luxembourg is “economic driven” focussing on attracting international companies to settle in the country, has as a corollary the attraction and settling of qualified/highly qualified workers.

The outcome of this situation provoked that so far Luxembourg has not experienced the need to make studies on workforce needs or of economic sectors or professions with labour shortages, handling the attraction of highly qualified workers on a “case by case” basis responding to the company’s needs.

However, the recruitment of highly qualified workforce in the Greater Region is becoming scarce and does not always fulfil the needs either only of the Luxembourgish economy or the job description of certain high level positions. In those cases the enterprises are compelled to look for highly qualified workers outside the Greater Region but in some cases outside of the European Union, as well.

Taking the lead in the European Union, Luxembourg introduced the “highly qualified worker” residence permit by the Law of 29 August 2008 on free movement of persons and immigration almost a year before the Blue Card Directive was enacted. This legislation simplifies the procedures for highly qualified workers to enter the country. Furthermore, the government granted certain tax advantages for highly qualified workers. Because of the highly added value of these individuals to the economy there was no public debate for the introduction of this type of residence permit. However, the legislation passed was more restrictive than the scope of the Blue Card Directive, which was transposed by Law of 8 December 2011.

There is not a specific residence status for the qualified workers who are in principle treated as average salaried workers and consequently they are subject to a labour market test and the requirement of residing 1 year in the territory for applying for family reunification.

As regards investors there is not a specific residence permit for them either. The investors are included in the categories of self-employed workers or for whom private reasons residence permits are issued. However, there are not specific benefits for these people and they face restrictions concerning family reunification, renewal, etc. These residence permits were not foreseen to attract capital into the country.

With the introduction of the “highly qualified worker” residence permit Luxembourg took the lead in this area. We can conclude that the policy and legislation put into place in principle can facilitate attracting highly qualified workers to the country. However, there are some elements that can be considered as an obstacle for attracting highly qualified workers. Certain issues have been raised, such as:

1. The salary threshold for highly qualified workers is higher than in most of the other Member States. The fact that the salary is indexed yearly can be an advantage for the employee but in the medium and long term it becomes expensive for the enterprises;
2. Another issue related to the salary threshold is that it takes the average gross annual salary of the entire population. This creates a problem for certain sectors other than from finance, insurance or banking where the employees earn lower salaries (biotechnologies, ICT, etc.) In this case some sectors

cannot afford paying the salary threshold which will affect the hiring of highly qualified workers;

3. There is no fast track procedure. Even though the procedure is more expedite than the one use for salaried workers the problem remains that duration for three months goes against the business cycle of some enterprises.
4. Moreover, it is also the point of view of certain stakeholders, that the procedures are not transparent and there is no way to follow them neither by the applicant or the enterprise. A recommendation made is the introduction of an electronic ticket and an electronic procedure that would allow to know in which stage the application is;
5. Languages are not a problem for highly qualified workers given the fact that Luxembourg has a multicultural society and the normal working language for international business is English. However, languages can become a barrier for the integration of these persons and especially for their families, and in the medium or long term it can affect their permanence in the territory.
6. The fact that the accompanying spouse does not receives a residence permit which allows direct access to the labour market can represent a real handicap when trying to keep these highly qualified workers in the country.
7. Schooling is another major problem for highly qualified workers. The public school system is very good but for foreigners it is not an option except if the children begin their school already at pre-primary school. Children of certain age without any knowledge of French and German will have problems to follow the regular curriculum. In this case the other possibility is private schools. This is an option for highly qualified workers with high ranking positions in the enterprises because the cost per children is elevated and this makes the relocating costs very high for the employers. Nevertheless, even if the person can afford it the private schools in Luxembourg are arriving to saturation so in the near future there will not be enough offers to cover the demand.
8. The tax benefits given by the Circular n° 95/2 are granted in a restrictive manner and are sometimes rejected because the applicant cannot fulfil the insurmountable conditions required by the circular (see Q.a.9). Another problem is that these benefits only apply for newly arrivals and not for highly qualified workers who are already in the country. This can cause a serious discrimination problem inside the enterprises.

The study has also detected some good practices for the attraction of highly qualified workers, such as:

1. Promotion and development of international schools and the introduction of the international baccalaureate

The government had introduced the international baccalaureate in English in some elite public schools. However, this program has been developed since 2007 and it only covers the years from grades 9 to 13.
2. Publishing of information and orientation documentation in different languages (i.e. OLAI)

3. Orientations courses provided by the OLAI as well as information meetings with economic stakeholders and diplomatic representations.

ANNEX n° 1:

Table 1.1: Employment of Third-Country Nationals in high-skilled occupations (1 000) (lfsa_egais)

Occupation according to ISCO categorisation	2008	2009	2010	2011	2012
OC1 Legislators, senior officials and managers	:	0.6 (u)	:	0.7 (u)	:
OC 2 Professionals	1 (u)	2.0	2.2	2.3	3.7
OC 3 Technicians and associate professionals	:	0.8 (u)	1 (u)	0.6 (u)	0.8 (u)
Total	1.5	3.4	3.7	3.6	4.8

Table 1.2: Employment of Third-Country Nationals in high-skilled occupations and sex (lfsa_egais)

Age breakdown	2008	2009	2010	2011	2012
Male	1 (u)	2.2	2.5	2.4	3.2
Female	:	1.2	1.3	1.2	1.7
Total	1.5	3.4	3.7	3.6	4.8

Table 1.3: Employment of Third-Country Nationals in high-skilled occupations and age (lfsa_egais)

Age breakdown	2008	2009	2010	2011	2012
25-34	:	1.4	1.5	1.4	1.8
35-44	0.6 (u)	0.9 (u)	1.1	1 (u)	1.9
45-54	:	0.9 (u)	0.9 (u)	0.9 (u)	1 (u)
55-64	:	:	:	:	:
Total	1.5	3.4	3.7	3.6	4.8

Sources:

http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egais&lang=en

Employment by sex, age, professional status and occupation (1 000)

Table 2.1: Employment of highly educated Third-Country Nationals (1 000)
(lfsa_egaed)

Level of education according to ISCED categorisation	2008	2009	2010	2011	2012
First stage of tertiary education (ISCED level 5)	1.4	2.7	3.0	3.4	4.6
Second stage of tertiary education (ISCED level 6)	:	:	:	:	:
Total	1.5	3.0	3.2	3.5	4.8

Table 2.2: Employment of highly educated Third-Country Nationals by sex
(lfsa_egaed)

Age breakdown	2008	2009	2010	2011	2012
Male	1 (u)	2.1	2.2	2.5	3
Female	:	1 (u)	1 (u)	1.1	1.9
Total	1.5	3	3.2	3.5	4.8

Table 2.3: Employment of highly educated Third-Country Nationals by age
(lfsa_egaed)

Age breakdown	2008	2009	2010	2011	2012
25-34	:	1.2	1.3	1.3	1.7
35-44	0.6 (u)	0.8 (u)	0.9 (u)	1 (u)	1.9
45-54	:	0.9 (u)	0.8 (u)	0.9 (u)	1 (u)
55-64	:	:	:	:	:
Total	1.5	3	3.2	3.5	4.8

Source:

http://epp.eurostat.ec.europa.eu/NavTree_prod/AppLinkServices?pid=458_1209540_458_211810_211810&lang=en&appId=nui&appUrl=http%3A%2F%2Fappsso.eurostat.ec.europa.eu%2Fnui%2Fshow.do%3Fdataset%3Dlfsa_egaed%26lang%3Den

Table 3.1: Self-Employment of Third-Country Nationals in high-skilled professions, by Member State (1 000) (lfsa_esgaed)

Country	2008	2009	2010	2011	2012
AT	7.7 (u)	8.1	7.5 (u)	4.2 (u)	5.1 (u)
BE	:	:	5.9 (u)	:	:
BG	:	:	:	:	:
CY	:	:	:	:	0.6 (u)
CZ	5.8	4 (u)	4.5 (u)	4.7	4.5 (u)
DE	103	108.6	118.8	94.6	106.3
DK	:	5.4 (u)	:	:	:
EE	:	:	:	:	:
ES	71.4	68.5	63.6	32.2	29
FI	:	:	:	:	:
FR	:	35.1 (u)	39.7 (u)	26.3 (u)	27.2 (u)
GR	5.8	4.8 (u)	6.2	:	:
HU	:	:	:	:	:
IE	:	2.8 (u)	3.5 (u)	2.9 (u)	2.7 (u)
IT	54.4	51.5	53.3	29.8	31.8
LT	:	:	:	:	:
LU	:	0.6 (u)	:	:	:
LV	6.2 (u)	6.3 (u)	5.2 (u)	:	:
MT	:	:	:	:	:
NL	8.7	8.2	8.9	8.2	8.2
PL	:	:	:	:	:
PT	:	:	:	:	:
RO	:	:	:	:	:
SE	3.1 (u)	5.4	4.4	3.9 (u)	4.2
SI	:	:	1.6 (u)	:	1.5 (u)
SK	:	:	:	:	:
UK	70.3	68	57.4	79.3	71.3
EU-27	398.6	400.1	400.8	310.7	314.4

Note: High-skilled professions are defined as ISCO categories 1-3:

OC1 Legislators, senior officials and managers

OC 2 Professionals

OC 3 Technicians and associate professionals

'u' = unreliable

Source : Eurostat, 2013

Table 3.2: Self-Employment of highly educated Third-Country Nationals (ISCED 5-6), by Member State (1 000) (lfsa_esgaed)

Country	2008	2009	2010	2011	2012
AT	:	5.7 (u)	5 (u)	4.2 (u)	4.3 (u)
BE	:	:	:	:	:
BG	:	:	:	:	:
CY	1 (u)	1 (u)	1 (u)	1 (u)	1 (u)
CZ	3.6 (u)	3.5 (u)	3.6 (u)	3.2 (u)	3.8 (u)
DE	46.7	54.8	56.6	62.5	67.2
DK	:	:	:	:	:
EE	:	:	:	:	:
ES	36	32.9	31.2	34.4	33.2
FI	:	:	:	:	:
FR	:	:	:	:	:
GR	2.7 (u)	2.4 (u)	2.8 (u)	2.6 (u)	3.4 (u)
HU	:	:	:	:	:
IE	:	:	3.6 (u)	3.5 (u)	3.2 (u)
IT	23.7	20.9	20.5	23.6	25.3
LT	:	:	:	:	:
LU	:	:	:	:	:
LV	:	:	:	:	:
MT	:	:	:	:	:
NL	4.5 (u)	3.9 (u)	5.5	5.1	6.4
PL	:	:	:	:	:
PT	:	:	:	:	:
RO	:	:	:	:	:
SE	:	4.1 (u)	4.5	3.9 (u)	4.6
SI	:	:	:	:	:
SK	:	:	:	:	:
UK	42.7	45.7	36.5	74.3	74.3
Grand Total	205.7	211	206.6	252.1	267

Note: Highly education third-country nationals are defined as ISCED categories 5 and 6

'u' = *unreliable*

Source : Eurostat, 2013