



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

Office luxembourgeois de l'accueil  
et de l'intégration

# 2009 Policy Report on Migration and Asylum

European Migration Network

National Contact Point

Luxembourg

The European Migration Network (EMN) was established via Council Decision 2008/381/EC on May 14th, 2008, and is coordinated by the European Commission under the direct responsibility of the Directorate General Justice, Freedom and Security. The objective of the EMN is to provide up-to-date, objective, reliable and comparable information on migration and asylum to Community Institutions, Member States' authorities and institutions, and the general public, with a view to supporting policy-making in the European Union in these areas.

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The EMN was established via Council Decision 2008/381/EC and is financially supported by the European Union.



Policy Report 2009  
on Migration and Asylum

by the  
European Migration Network  
National Contact Point  
Luxembourg

MARCH 2010

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## **FOREWORD**

The opinions expressed in this report are those of their authors and do not necessarily reflect the position of the Luxembourg Ministry of the Family and Integration, or the Ministry for Foreign Affairs

The present report has been prepared by members of the European Migration Network (EMN) National Contact Point, who have been led and coordinated by Christel Baltes-Löhr at the University of Luxembourg. The members of the group responsible for drafting the text were Sylvain Besch, SeSoPI-Centre Intercommunautaire<sup>1</sup>; Claudia Hartman-Hirsch, CEPS/Instead; Germaine Thill, STATEC; Sylvie Prommenschenkel, Ministry for Foreign affairs, and Marc Hayot, Ministry of the Family and Integration.

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<sup>1</sup> CEFIS- Centre d'étude et de formation interculturelles et sociales (since 10/11/2010)

## **EXECUTIVE SUMMARY**

### **Information concerning the European Pact on Immigration and Asylum**

The year 2009 was noteworthy for the parliamentary elections of 7 June 2009 and the formation of a new government which is setting out the main lines of policy for immigration, asylum and integration. The law of 29 August 2008 on the free movement of persons and immigration (hereafter referred to as the 'law on immigration'), which came into force on 1 October 2008 and the law of 16 December 2008 on the reception and integration of foreigners in the Grand-Duchy of Luxembourg (hereafter referred to as the 'law on integration'), which came into force on 1 June 2009, both to some extent take account of the aims of the European Pact on Immigration and Asylum (hereafter called 'the Pact'). The Luxembourg government has also announced administrative measures which meet some of the aims of the 'Pact'.

The government<sup>2</sup>, together with the other EU Member States, has expressed its determination to fight unlawful immigration.

This policy complements provision for legal immigration: on the one hand, the law on immigration strengthens the disciplinary measures contained in legislation on the entry and residence of foreigners, including penalties for employers who take on foreigners whose position is unlawful; on the other, the same law provides in very exceptional cases for them to regularize their situation in various ways.

It is also worth adding that Luxembourg takes part in operations to guard national borders as part of the activities of the Frontex agency, and that it is highly involved in the development of technological resources for strengthening external border controls.

While restating its commitment to respect the right of asylum, the government has also reasserted its support for the development of a common European policy. It has thus displayed its solidarity by accepting a large group of refugees, the majority of them Iraqis, and undertaking to admit refugees recognized in Malta.

A primary aim of its asylum policy is to encourage voluntary return, as is testified by the broadening and maintenance of the voluntary return programme implemented in cooperation with the International Organization for Migration (IOM). Meanwhile, the government is undertaking the preparation of readmission agreements, the majority of them established under the Benelux union or in cooperation on readmission with Cape Verde or Nigeria.

The government has stated firmly that it will accept economic immigration in accordance with the country's interests. By way of example, one may note that the law on immigration has introduced authorization to remain in Luxembourg for the purpose of undertaking paid employment or self-employment. It also puts an end to the two-tier system of both residence permits and work permits.

Like other categories of third-country citizens, highly skilled workers benefit from preferential conditions regarding access to employment, the right to residence and to

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<sup>2</sup> *Programme gouvernemental*, <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/index.html>.



family reunification. In order to promote research in Luxembourg, the government is seeking to increase incentives offered by the country and attract researchers with benefits in terms of family reunification and financial support for combined training and research included in the new law of 29 August 2008.

As far as family reunification is concerned, the law on immigration establishes that family members of third-country citizens are authorized to reside in Luxembourg, but also that such citizens may remain there on an individual basis without satisfying the conditions of family reunification if they can demonstrate that they have very close personal or family links with the country. Providing applicants for family reunification with information when they leave their country of origin for the host country also constitutes a government priority, as is borne out by a programme with the Cape Verde Islands.

The law on the integration of foreigners radically changes the former legal framework. It broadens the remit of the Luxembourg Agency for Reception and Integration (OLAI) and establishes a legal basis for combating discrimination. Also contained in the law are two mechanisms for integration, namely the multi-annual national action plan for integration and combating discrimination, and the Welcome and Integration Contract (CAI). This contract contains reciprocal commitments for the State and the foreigner concerned, with a view to arranging and facilitating the latter's integration.

The State is seeking to boost the learning of Letzeburgesch by means of the CAI, the procedure for acquiring Luxembourg nationality, and inclusion of the national language in the school curriculum. Furthermore, the introduction of language leave enables working people of all nationalities to learn or refine their knowledge of Letzeburgesch, so that they can integrate more easily into society through joining the labour market.

As part of its overall approach to migration, Luxembourg is involved in the Mobility Partnership between the European Union and Cape Verde. Since 2006, the *Migrer les yeux ouverts* ('migrate properly informed') programme has sought to form partnerships between Cape Verdean or other NGOs in the city of Luxembourg and NGOs in Cape Verde, in order to implement cooperation schemes.

### **Additional information**

While 2008 was a year of basic reforms in the field of policies concerned with migration, whether in terms of immigration, integration and the right to (Luxembourg) nationality, 2009 has been the year when the laws on nationality and integration were enacted.

Even though the issues of immigration and integration occupied a significant position in the election manifestos of the various political parties, these sensitive topics were not really discussed in their own right during the electoral campaign. On the contrary, greater attention and interest was focused on the implementation and impact of the laws already adopted.

Major institutional changes occurred in 2009:

- the Government Commissioner for Foreigners (CGE) was replaced by the OLAI which was given broader terms of reference;
- certain ministerial responsibilities were changed: the Minister of Labour and Employment took over responsibility for immigration, although the directorate of immigration remained within the Ministry for Foreign Affairs.

Finally, 2009 also witnessed the publication of various reference studies concerned with integration and asylum.

# **1 GENERAL STRUCTURE OF THE POLITICAL AND LEGISLATIVE SYSTEM IN LUXEMBOURG**

## **1.1 Structure of the political system and the institutional context**

The structure of the political system and the institutional context have been described in detail in the policy report on migration and asylum for 2008<sup>3</sup>.

Before the parliamentary elections of 7 June 2009, the Luxembourg government possessed:

- a Ministry for Foreign Affairs and Immigration under the political authority of a minister for foreign affairs and immigration and a minister delegate for foreign affairs and immigration.

This Ministry was responsible for the following:

- the entry and residence of foreigners,
- the asylum procedure,
- European policy on immigration and asylum.

- a Ministry of the Family and Integration, charged in particular with carrying out the responsibilities of the minister of the family and integration.

This Ministry dealt with the following:

- integration and welfare for foreigners;
- the CGE;
- reception centres for asylum seekers;
- reception hostels for immigrants;
- the National Council for Foreigners (CNE).

The Ministry of National Education and Vocational Training was responsible in particular for carrying out the remit of the minister of national education and vocational training, including the school education of foreign children.

Among the responsibilities of the Ministry of Justice was administration of the law concerning foreign residents.

Following the parliamentary elections of 7 June 2009, several institutional changes occurred in the formation of the government<sup>4</sup> and the distribution of responsibilities within it.

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<sup>3</sup> European Migration Network - National Contact Point - Luxembourg. Policy Analysis Report on Migration and Asylum 2008, Section 1.1; published in 2010.

<sup>4</sup> Grand ducal regulation of 27 July 2009 on the constitution of the Ministries, *Mémorial A* No. 168 of 24 July 2009, <http://www.legilux.public.lu/leg/a/archives/2009/0168/index.html>

The Ministry for Foreign Affairs was involved in duties that were the responsibility of the Ministry of Labour, Employment and Immigration, as follows:

Immigration:

- entry and residence of foreigners;
- return of persons whose situation was unlawful;
- granting 'stateless person' status;
- asylum: granting refugee status and the status conferred by subsidiary protection;
- the Detention Centre;
- national, European and international policy on migration and asylum;
- relations with international organizations and NGOs.

The responsibilities of the other ministries remained unchanged.

For more detailed information, readers should consult the chart showing the institutional framework for immigration and asylum policies<sup>5</sup>. The chart takes account of changes that followed the parliamentary elections of 7 June 2009.

## 1.2 The legislative framework regarding immigration and asylum

Brief reference is made here to the legislative framework regarding immigration, asylum and integration, which has already been discussed in the 2008 policy report. The first feature requiring emphasis is its three framework laws concerned with asylum, immigration and integration. They are as follows:

- law of 5 May 2006 on the right to asylum and complementary forms of protection, and its grand ducal regulations<sup>6</sup>;
- law of 29 August 2008 on the free movement of persons and immigration, and its grand ducal regulations<sup>7</sup>;
- law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg<sup>8</sup>.

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<sup>5</sup> Luxembourg institutional chart:

<http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=547CA793D1EBF8DC7138C6893397FDFF?directoryID=124>

<sup>6</sup> *Mémorial A* No. 78 of 5 May 2006,

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

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

*Mémorial A* No. 171 of 22 September 2006,

<http://www.legilux.public.lu/leg/a/archives/2006/0171/a171.pdf>,

*Mémorial A* No. 245 of 31 December 2007,

<http://www.legilux.public.lu/leg/a/archives/2007/0245/a245.pdf>

<sup>7</sup> *Mémorial A* No. 138 of 10 September 2008,

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

*Mémorial A* No. 145 of 29 September 2008,

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

<sup>8</sup> *Mémorial A* No. 209 of 24 December 2008,

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

Mention should also be made of the following legislative texts concerned with policies on migration:

- law of 28 May 2009 on the establishment and organization of the Detention Centre<sup>9</sup> ;
- law of 23 October 2008 on Luxembourg nationality and its grand ducal regulations<sup>10</sup> ;
- law of 19 December 2008 on amendment of the amended electoral law of 18 February 2003 and of the law of 4 February 2005 concerning the national level referendum<sup>11</sup> ;
- grand ducal regulation of 5 August 1989 establishing the organization and functioning in the communes of advisory commissions for foreigners<sup>12</sup> ;
- law of 28 November 2006 on equality of treatment<sup>13</sup> ;
- law of 17 February 2009 on the introduction of language leave<sup>14</sup>.

## **2 POLITICAL, LEGISLATIVE AND INSTITUTIONAL CHANGES**

### **2.1 General political trends in 2009**

As already indicated in the 2008 report<sup>15</sup>, the Constitution has been amended by the law of 12 March 2009 on the reform of article 34 of the Constitution, following the refusal of the Grand Duke to sign the law on euthanasia. In accordance with his own wishes, this reform abolished the right of the Grand Duke to approve or veto laws. His privileges have thus been limited as he now merely has to enact laws<sup>16</sup> so that they come into force.

Party representation in the parliament formed after the elections of 7 June 2009 is as follows:

<b>2009</b>			<b>2004</b>	
<b>Political parties</b>	<b>%</b>	<b>Deputies</b>	<b>%</b>	<b>Deputies</b>
<b>CSV</b>	38.04	26	36.11	24

<sup>9</sup> *Mémorial A* No. 119 of 29 May 2009,

<http://www.legilux.public.lu/leg/a/archives/2009/0119/a119.pdf#page=2>

<sup>10</sup> *Mémorial A* No. 158 of 27 October 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0158/index.html>

*Mémorial A* No. 165 of 7 November 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0165/a165.pdf>

<sup>11</sup> *Mémorial A* No. 210 of 24 December 2008,

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

<sup>12</sup> *Mémorial A* No. 59 of 5 September 1989,

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

<sup>13</sup> *Mémorial A* No. 207 of 6 December 2006,

<http://www.legilux.public.lu/leg/a/archives/2006/0207/a207.pdf>

<sup>14</sup> *Mémorial A* No. 33 of 26 February 2009,

<http://www.legilux.public.lu/leg/a/archives/2009/0033/index.html>

<sup>15</sup> European Migration Network - National Contact Point - Luxembourg. Policy Analysis Report on Migration and Asylum 2008, Section 1.1; (published in 2010).

<sup>16</sup> *Mémorial A* No. 43 of 12 March 2009,

<http://www.legilux.public.lu/leg/a/archives/2009/0043/2009A0586A.html>

<b>LSAP</b>	21.56	13	23.37	14
<b>DP</b>	14.98	9	16.05	10
<b>Déi Gréng</b>	11.71	7	11.58	7
<b>ADR</b>	8.13	4	9.95	5
<b>Déi Lénk</b>	3.29	1	1.90	0
<b>KPL</b>	1.47	0	0.92	0
<b>Biergerlëscht</b>	0.81	0	-	-
<b>FPL</b>	-	-	0.12	0
<b>Total</b>	100.0	60	100.0	60

Source: <http://www.elections.public.lu/fr/elections-legislatives/2004/resultats/0index.html>

CSV: Christian Social Party  
LSAP: Luxembourg Socialist Workers' Party  
DP: Democratic Party  
Déi Gréng: The Greens  
ADR: Alternative Democratic Reform Party  
Déi Lénk: The Left  
KPL: Luxembourg Communist Party  
Biergerlëscht: List of Citizens  
FPL: Fräi Partei Lëtzebuerg.

The CSV-LSAP coalition government was maintained in 2009. It consists of a chairperson with the title of Prime Minister, a Vice Prime Minister and 13 members with the title of minister who share 19 ministries. Within the new government, the Ministry of the Family and Integration has been handed to the CSV. While, during the previous parliamentary period, there was a minister delegate for foreign affairs and immigration, this is no longer the case in the new government. Responsibility for immigration now lies with the minister of labour, employment and immigration, and with the LSAP.

European elections were held at the same time as the parliamentary elections. Following enforcement of the law of 3 July 2008 on the amendment to electoral law<sup>17</sup>, a list can now include no more than six candidates, whereas previously the number for possible inclusion corresponded to twice the number of posts to be filled.

Luxembourgers are registered automatically on the electoral roll. In order to vote in the European or local elections, non-Luxembourgers have to register on the electoral roll. Once they have done so, voting is mandatory. One of the most significant innovations in the law of 19 December 2008 has extended the period for registering on the electoral roll for European and local elections up to the 13th Friday before voting day.

Prior to this amendment, the deadline for registration stood at 14 months (around 60 weeks) before the vote in the case of European elections and 18 months (some 78 weeks) for the local elections.

Another substantial amendment has been to reduce from five years to two the period

<sup>17</sup> *Mémorial A* No. 100 of 14 July 2008,  
<http://www.legilux.public.lu/leg/a/archives/2008/0100/index.html>

of residence required before one can register to take part in European elections.

The other measures concerning the electoral participation of foreigners remain unchanged:

- only EU citizens have the right to vote and to stand in the European and local elections;
- third-country nationals are entitled to an active right to vote in local elections but still not a passive right to vote;
- the period of residence required before one can register on the electoral roll for local elections is still set at five years.

With enactment of the law of 13 May 2008 on the introduction of the *statut unique* (single status)<sup>18</sup> for wage earners in the private sector, the Chamber of Wage Earners has replaced the Chamber of Labour (workers) and the Chamber of Private Employees. It has been operational since 1 January 2009.

## **2.2 Main political and parliamentary debates concerning immigration and asylum**

In 2009, the different political parties announced one by one their election manifestos for the parliamentary elections on 7 June. Except in the case of the KPL, the manifestos of all the other political parties devoted a special section to the integration of foreigners or to the question of indigenous and non-native people living together in the same community<sup>19</sup>.

Furthermore, different conceptions of identity and Luxembourg society in relation to foreign nationals are evident from the basic programmes, statutes and election manifestos.

For the ADR, national identity is to be preserved at any cost with the language, Letzeburgesch, a crucial factor in this identity. In the view of the ADR, the national language will cement a society that stands for social cohesion. The CSV and DP, for their part, favour the image of an identity that changes with the experience of migration and multilingualism.

In addition, all political parties recognize that Luxembourg is a country of immigration no less now and in the future than in the past. The parties emphasize the input and benefits of immigration for the Luxembourg way of life, both in economic and social terms.

While the ADR does not object in principle to a multicultural society, in so far as it recognizes that foreign cultures help to enrich the common good, this acceptance should not mean forsaking national culture. The CSV, Déi Gréng, and LSAP are all firmly in favour of a multicultural society that embraces multilingualism. Such a

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<sup>18</sup> *Mémorial A* No. 60 of 15 May 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0060/a060.pdf>

<sup>19</sup> The positions of political parties vis-à-vis various aspects of migration policies are discussed more fully below.



society calls for open-mindedness, tolerance and mutual respect. The DP stands for an open and free society of which foreign nationals are an integral part. Déi Lénk supports the idea of a multicultural society based on equal rights.

As regards the presence of foreigners in political parties, it has to be said that the five political party lists for the European elections included one, or possibly two, candidates of foreign nationality<sup>20</sup>.

While the study on political parties and foreigners<sup>21</sup> notes the marginal position of foreigners within parties, it identifies the points on which there is an agreement or a deep divide between the latter as far as policies for immigration, integration and asylum are concerned.

The idea of promoting a school for equal opportunities, based on differentiated teaching and geared to the wide variety of pupils is broadly supported<sup>22</sup>. The parties still agreed unanimously about seeking a reform of language teaching and recognizing the importance of Letzeburgesch as a factor in integration. All parties represented in parliament, including Déi Lénk, expressed views on the question of foreigners taking part in national and local elections.

Even though the political parties and the Migration and Integration Platform<sup>23</sup> called for an evaluation, when the time came, of recently adopted laws concerning immigration and integration, neither issue was to the forefront during public or electoral debate.

At a stage preceding the elections, various interested groups in civil society<sup>24</sup>, namely the Migration and Integration Platform, the Refugee Group (*Lëtzebuenger Flüchtlingsrot*, or LFR), the Higher Council for Sustainable Development (CSDD)<sup>25</sup>,

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<sup>20</sup> Besch, Sylvain; Dubajic, Nénad; Legrand, Michel (2009): *Les partis politiques et les étrangers au Luxembourg*, SESOPI-Centre Intercommunautaire, RED, No. 13, p.17.

<sup>21</sup> Besch, Sylvain; Dubajic, Nénad; Legrand, Michel (2009): *Les partis politiques et les étrangers au Luxembourg*, SESOPI-Centre Intercommunautaire, RED, No. 13, pp. 64-144.

<sup>22</sup> Foreign pupils account for 40% of all pupils in national public and private education: [www.men.public.lu/publications/etudes\\_statistiques/chiffres\\_cles/chiffres\\_cles\\_2007/090519\\_2007\\_2008\\_chiffres\\_online.pdf](http://www.men.public.lu/publications/etudes_statistiques/chiffres_cles/chiffres_cles_2007/090519_2007_2008_chiffres_online.pdf)

<sup>23</sup> *Mémorandum pour un meilleur vivre ensemble*, Plateforme migration & intégration APL – ASTI - ASTM – CARITAS - CCPL -FAAL - FAEL –LCGB – OGBL - FNCTFFEL – SeSoPi-CI – SYPROLUX.

<sup>24</sup> European Migration Network - National Contact Point - Luxembourg. Policy Analysis Report on Migration and Asylum 2008, Section 1.1; published in 2010.

<sup>25</sup> <http://www.csdd.public.lu/fr/index.html>. The law of 25 June 2004 on the coordination of national policy for sustainable development established the Higher Council for Sustainable Development (CSDD). According to article 4, the Council shall act as a discussion forum on sustainable development. It will carry out research and studies in all fields concerned with sustainable development. It will establish links with similar bodies in EU member countries. It shall stimulate the broadest possible involvement in achieving these aims, on the part of public and private bodies as well as citizens. It will express opinions on all measures relating to national policy for sustainable development, which have been taken or are envisaged by the government, in particular for sustainable development at national level, and the implementation of Luxembourg's international commitments. The Higher Council fulfils the foregoing obligations on its own initiative or at the request of the government. *Mémorial A* No. 102 of 2 July 2004.



and the Liaison Committee of Foreigners' Associations (CLAE)<sup>26</sup> challenged political parties on different aspects of migration policy.

The question of integrating foreigners is inevitably linked to the debate on Letzeburgesch, which is prominent in electoral manifestos. It is a matter of making this language one of integration and not exclusion. Following the publication of a reference study on the use of languages<sup>27</sup>, whose findings differed from those of another study carried out by UNESCO on the position of languages throughout the world<sup>28</sup>, a debate about the future of the language got under way at the beginning of 2009.

As regards the integration of foreigners, 2009 witnessed the implementation of the new law on nationality which has had an unquestionable impact<sup>29</sup>, as well as the laws on language leave and access to the public service.

In another context, attention should be drawn to adoption of the law on the detention of foreigners.

With regard to asylum policy, two studies worthy of note are the one on asylum case law and another on access to employment of asylum applicants<sup>30</sup>.

Finally, the government programme includes certain references to the policy for immigration and the integration of foreigners (see below).

### **2.3 Institutional trends in 2009 regarding immigration, asylum and integration**

The law on integration is broader in purpose than the amended law of 27 July 1993<sup>31</sup>, in that it goes beyond the question of integrating foreigners and providing for their welfare, by also creating a legal basis for the prevention of discrimination.

The enactment on 1 June 2009 of the law on the integration of foreigners went hand in hand with substantial institutional changes.

The OLAI took the place of the CGE.

By making the grounds for discrimination, as specified in the law on the equality of treatment, a legitimate focus of attention, the new law on integration creates a legal basis for the entire remit of the OLAI in this area.

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<sup>26</sup> CLAE Services (2009): Les partis politiques se prononcent sur les droits des étrangers. In: *Horizon*, No. 95, Luxembourg.

<sup>27</sup> Fehlen, Fernand (2009): *Baleine Bis. Une enquête sur le marché linguistique multilingue en profonde mutation, Luxemburgs Sprachenmarkt im Wandel*. RED No. 12; Sesopi-CI, Luxembourg.

<sup>28</sup> UNESCO (2009): *UNESCO Atlas of the World's Languages in Danger*.

<http://www.unesco.org/culture/en/endangeredlanguages/atlas>. Another controversial debate began following the organization of a symposium on the position of the German language in Luxembourg.

<sup>29</sup> See section 3.8 on citizenship and naturalization.

<sup>30</sup> See section 3.2.5 on the right to asylum and the protection of refugees: additional information.

<sup>31</sup> Law concerning the integration of foreigners in the Grand Duchy of Luxembourg, as well as provision for their welfare. In: *Mémorial A* No. 55 of 28 July 1993;

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

From this standpoint, the national action plan for integration and the prevention of discrimination provides for a great many schemes and measures for combating discrimination that should result in the attainment of real measurable objectives.

The National Council for Foreigners (CNE) is an advisory body responsible for studying problems concerning foreigners and their integration, either on its own initiative or at the request of the government. It is expected to submit an annual report to the government on the integration of foreigners in Luxembourg. The law on integration has altered the make-up of the CNE: the number of those representing foreigners has been increased from 15 to 22<sup>32</sup>. Following criticism by the Council of State, the law has established a quota of seven third-country representatives for foreign nationals.

The period of CNE membership has now been increased from three years to five. Members of the inter-ministerial committee on integration policy are no longer CNE members. Neither is the director of the OLAI now automatically member and chair of the CNE, although he or she – like the minister – may attend its meetings. The chair and vice-chair of the CNE are elected by majority vote of its members and their period in office may be renewed. They are appointed by the minister with oversight of the Council.

The inter-ministerial committee on integration policy provided for in the former law on the integration of foreigners<sup>33</sup> has been abolished under the current law. However, article 6 of the same law refers to it in stating that “... the OLAI is responsible for establishing in cooperation with the inter-ministerial committee on integration policy a draft national action plan”<sup>34</sup>.

At local level, the communal advisory commissions for foreigners, which had to be established in communes with a proportion of over 20% of foreigners in the residential population, have been replaced by the commune committees for integration<sup>35</sup>, which will henceforth be mandatory in all communes. The law no longer provides for equal representation within these bodies. The way they are organized and operate is determined by grand ducal regulation. The staff framework of the OLAI has been broadened<sup>36</sup>. OLAI staff consist of public servants, as well as State employees and workers, who form a multidisciplinary and multilingual team. Thus its 43 members (26 women and 17 men), who come from exceptionally varied cultural backgrounds and speak 22 languages in all, share out among themselves the numerous tasks with which the OLAI is entrusted. The OLAI is headed by a director from the higher echelons of government administration.

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<sup>32</sup> As in the past, the Council also includes a representative for refugees as defined by the Geneva Convention.

<sup>33</sup> Article 19 of the law of 27 July 1993 on the integration of foreigners in the Grand Duchy of Luxembourg as well as provision for their welfare, in: *Mémorial A* No. 55 of 28 July 1993. <http://www.legilux.public.lu/leg/a/archives/1993/0055/a055.pdf#page=2>

<sup>34</sup> Article 6 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg. In: *Mémorial A* No. 209 of 24 December 2008.

<sup>35</sup> Article 23 of the law of 27 July 1993 on the integration of foreigners in the Grand Duchy of Luxembourg as well as provision for their welfare.

<sup>36</sup> Article 28 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg authorizes the minister to take on seven employees.

### **3 DEVELOPMENTS CONCERNING POLICY FOR IMMIGRATION, INTEGRATION AND ASYLUM**

#### **3.1 Control and monitoring of immigration**

##### *3.1.1 Preventing the risks of irregular immigration: Item II ( c) of the European Pact*

The law on immigration which came into force on 1 October 2008 has a new section entitled ‘disciplinary measures’ in which measures relating to irregular entry and residence have been broadened and strengthened.

The law lays down a fine for EU citizens and members of their families who do not go through with the administrative formalities for registering or applying for a residence permit within the required time limit<sup>37</sup>. Fines and/or imprisonment are possible for foreigners who commit offences relating to entry or residence<sup>38</sup>, or who make false statements or produce forged, falsified or inaccurate documents to gain entry to Luxembourg or to obtain some form of authorization, a residence permit or its renewal<sup>39</sup>.

Penalties are also prescribed for persons who by offering help directly or indirectly, facilitate the irregular entrance or transit, or – for profit – the unlawful residence, of third nationals in Luxembourg territory<sup>40</sup>. Air carriers are punished with fines if they transport third-country nationals to Luxembourg who are not in possession of the proper travel documents or visas<sup>41</sup>, or if they have failed to provide the grand ducal police with appropriate information about their passengers bound for Luxembourg<sup>42</sup>.

As regards prevention, the ‘migrate properly informed’ scheme which was introduced in Cape Verde by the Luxembourg cooperation authorities – and renewed from 2009 to 2010 – enables those wishing to leave Cape Verde, to emigrate in full knowledge of the facts, or to refrain from emigrating if legal requirements are not met. Similarly, the Mobility Partnership between the European Union and Cape Verde signed by Luxembourg on 5 June 2008 seeks to facilitate legal migration and prevent clandestine immigration<sup>43</sup>.

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<sup>37</sup> Article 139 of the law on the free movement of persons and immigration. In: *Mémorial A* No. 138 of 10 September 2008.

<sup>38</sup> Article 140 of the law on the free movement of persons and immigration.

<sup>39</sup> Article 141 of the law on the free movement of persons and immigration.

<sup>40</sup> Article 143 of the law on the free movement of persons and immigration.

<sup>41</sup> Article 147 of the law on the free movement of persons and immigration.

<sup>42</sup> Article 148 of the law on the free movement of persons and immigration.

<sup>43</sup> Article d'actualité, Signature du Partenariat pour la mobilité entre l'Union européenne et le Cape Verde, [http://www.gouvernement.lu/salle\\_presse/actualite/2008/06-juin/05-schmit-jai/index.html](http://www.gouvernement.lu/salle_presse/actualite/2008/06-juin/05-schmit-jai/index.html)

3.1.2 An expulsion decision taken by one Member State is applicable throughout the European Union and an alert for it is entered in the Schengen information system (implementation of Directive 2001/40/EC on the mutual recognition of expulsion decisions): Item II (h) of the European Pact

Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals was transposed by the law of 21 December 2006, amending the 1972 law on the entry and residence of foreigners<sup>44</sup>. The law on immigration includes this amendment<sup>45</sup>.

Furthermore, the above-mentioned law anticipates the thrust of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

In 2009, 207 unlawfully resident persons were repatriated. Of that number, 107 left Luxembourg voluntarily, including 36 with IOM assistance, while 48 left after being placed in the Detention Centre. Finally, 52 persons were escorted during their forced return<sup>46</sup>.

Expulsions (persons) in 2009					
Nationality	Forced (escorted)	After detention (unescorted)	Voluntary		Total
			(with or without IOM assistance)	(with IOM assistance)	
South Africa					
Albania	6	3	6	3	15
Algeria					
Armenia					
Belarus	2	3	3	1	8
Benin					
Bosnia/H			3	3	3
Brazil		4	13		17
Burundi					
Cameroon		1	1		2
Canada					
Cape Verde	1	1	1		3
Chile			2		2
China			1		1
Colombia		2			2
Congo (D.R.)	1	1			2
Côte d'Ivoire		1			1

<sup>44</sup> Law of 21 December 2006, in: *Mémorial A* No. 230 of 27 December 2006.

<sup>45</sup> Articles 117 and 118 of the law on the free movement of persons and immigration. In: *Mémorial A* No. 138 of 10 September 2008, p. 2046.

<sup>46</sup> See section 3.11.2.

Croatia		2			2
Egypt		4			4
Gambia	2				2
Georgia					
Ghana					
Guinea (Conakry)	2	5			7
Iran			3	2	3
Jordan	1				1
Kenya					
Kyrgyzstan	1	1			2
Kosovo	23	7	52	19	82
Libya					
Macedonia		1	1	1	2
Malaysia		1			1
Morocco	1		1		2
Mexico			2		2
Moldova					
Montenegro		2	8	4	10
Niger			1		1
Nigeria	10	2	1		13
Paraguay		1			1
<i>Portugal</i>		<i>1</i>			<i>1</i>
Dominican Rep.		1			1
Russian Federation			3	2	3
Senegal		1	1		2
Serbia		1	4	1	5
Sri Lanka					
Tunisia	2	1			3
Ukraine		1			1
<b>TOTAL</b>	<b>52</b>	<b>48</b>	<b>107</b>	<b>36</b>	<b>207</b>
Percentage	25.10%	23.20%	51.70%	17.40%	

Source: Directorate of Immigration; internal working document; 2009

### 3.1.3 More effective control of the external land, sea and air borders (...): Item III (a) of the European Pact

The Luxembourg border nowhere forms part of the external borders of the European Union, except via its airport.

In its wish to contribute to the joint effort to control the external borders of the European Union, Luxembourg has from the outset consistently taken part in the operations run by Frontex on sea and land borders, by deploying surveillance aircraft and temporarily seconded staff.

In 2009, Luxembourg was involved in the following operations:

- Hera 2009 (Canaries and West Africa)
- Poseidon 2009 (Greece and the western Mediterranean)
- Nautilus 2009 (central Mediterranean, Malta, Lampedusa)
- JO Hammer (airport borders)
- JO Amazon Redux (airport borders)
- Jupiter 2009 (Slovakia, Hungary)
- Neptune 2009 (Hungary, Slovenia)
- Saturn 2009 (Greece)
- Rapid Border Intervention Teams (RABIT).

*3.1.4 Generalizing the issue of biometric visas, improving cooperation between Member States' consulates, and setting up joint consular services for visas (...): Item III (b) of the European Pact*

In August 2006 and in application of Council Regulation (EC) No. 2252/2004 of 13 December 2004 on standards for integrated security and biometric features in passports and travel documents issued by Member States, Luxembourg introduced passports with an electronic chip for storing the facial image and alphanumeric data of the holder. Since 28 June 2009, Luxembourg has started to include fingerprints in biometric passport electronic chips.

In 2009, preparatory arrangements for introducing the Visa Information System (VIS) were continued with the result that Luxembourg will be able to comply with the deadlines it has been set.

From the consular angle, Luxembourg is cooperating closely with Belgium, the Netherlands, and other Member States in the Schengen Area which represent the Grand Duchy in many countries.

Luxembourg is also involved in the work of joint centres for visa applications at Chisinau in Moldova, Praia in Cape Verde, and Podgorica in Montenegro.

*3.1.5 Solidarity with Member States subjected to disproportionate influxes of immigrants: Item III (d) of the European Pact*

See sections 3.1.3 and 3.2.2.

*3.1.6 Deploying modern technological means for management of the external border (...): Item III (e) of the European Pact*

In order to enable the integrated management of the external border, members of the Airport Control Service (SCA) carry out checks at border transit areas to ensure that passengers are authorized to enter or leave the territory of the Grand Duchy of Luxembourg. The following checks are performed:

- prior screening of APIS lists for all flights from a 'non-Schengen' Country;

- comparison of photos in the document with the physiognomy of the passenger ('impostor' analysis);
- computer database consultation (Schengen Information System: SIS, Interpol, State Computer Centre, etc.);
- use of the equipment available at passenger counters (ultra-violet lamps, diaphanoscopic lamps, various magnifying devices);
- Verifying the authenticity of an official document using two 'Dokucenter' model 4500 devices. To perform this analysis, several technologies (oblique illumination, detection of invisible security features, analysis of the printing technique) are applied;
- All operational passenger counters in Terminal A are equipped in conformity with the Schengen Borders Code with a Bundesdruckerei passport reader that can be used to check the following:
  - reading of the MRZ (Machine Readable Zone);
  - reading the integrated chip and its content; comparison of the content of the integrated chip with the data contained in the travel document.

Several actions have been implemented in order to install tools for connecting to the European SIS II and VIS system. In addition, one should note the extension of SIS for including the new Member States in 'SISone4all' and the introduction of biometric technology border control tools and tools for picking up biometric information.

Luxembourg has decided to implement the following strategic priorities of the External Borders Fund 2007-2013<sup>47</sup>:

- continued gradual introduction of the common system for integrated border management;
- support for the issue of visas and action against clandestine immigration by the consular services of Member States in third countries;
- introduction of the computerized systems required under Community (EU) regulations concerning the external borders and visas (VIS and SIS);
- application of Community (EU) regulations concerning the external borders and visas, and in particular the Schengen Borders Code and the European Visa Code.

The following two projects have been funded under the 2007 and 2008 Luxembourg annual programmes:

- adaptation of the national computerized system linked to the SIS, which has been made necessary by the inclusion of the new Member States in the Schengen Area;
- improving computerized border control tools at Luxembourg airport, in order to speed up passport checks.

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<sup>47</sup> [http://ec.europa.eu/luxembourg/news/frontpage\\_news/585\\_fr.htm](http://ec.europa.eu/luxembourg/news/frontpage_news/585_fr.htm)



3.1.7 *Intensifying cooperation with the countries of origin or transit in order to strengthen control of the external border (...): Item III (f) of the European Pact*

Nothing to report.

3.1.8 *The control and monitoring of immigration: additional information*

On 28 October 2009, the parliament held a policy debate on the Stockholm Programme. Three motions were tabled during the debate<sup>48</sup>. One of the motions submitted by an opposition deputy requested that the government take action to discontinue schemes for electronically recording the entry and departure of people to and from EU Member State territory. In other motions, deputies expressed concern that the protection of privacy and personal data should be fully upheld. The motion supported by some deputies in the majority called on the government to assist with action “for better and more supportive management of immigration and asylum issues, particularly through the introduction of mechanisms for legal immigration into the European Union”<sup>49</sup>.

## **3.2 The right to asylum and the protection of refugees**

In 2009, 333 applications for international protection were recorded, compared to 299 in 2008, with 45% of them from applicants in European countries. The status of refugee under the Geneva Convention was granted in 75 applications (on behalf of 152 persons), as compared to 93 applications (on behalf of 107 individuals) the previous year.

3.2.1 *Inviting the Commission to present proposals for establishing in 2010 if possible, and in 2012 at the latest, a single asylum procedure comprising common guarantees and for adopting a uniform status for refugees and the beneficiaries of subsidiary protection: Item IV (b) of the European Pact*

In the July 2009 government programme, the government reiterated its determination to support the development of a European policy for asylum<sup>50</sup>. The transposition of the directives is clear evidence of this commitment.

3.2.2 *Solidarity with Member States faced with a massive influx of asylum seekers (...): Item IV (c) of the European Pact*

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<sup>48</sup> Motion of Ms Christine Doerner, *Procedures for developing a European area of freedom, security and justice*, 28 October 2009, Motion of Mr Xavier Bettel, *Introduction of a legal framework on the exchange of information and the protection of personal data before adoption of the Stockholm programme*, 28 October 2009. Motion of Mr Xavier Bettel, *Guaranteeing the principle of free movement and bank confidentiality before adoption of the Stockholm programme*, 28 October 2009, [www.chd.lu](http://www.chd.lu)

<sup>49</sup> Motion of Ms Christine Doerner, *Procedures for developing a European area of freedom, security and justice*, 28 October 2009, [www.chd.lu](http://www.chd.lu)

<sup>50</sup> *Programme gouvernemental*, p. 22.



Luxembourg takes part in the pilot project for the reallocation of refugees recognized in Malta. The Ministry of Labour, Employment and Immigration has announced that it wishes to receive six<sup>51</sup>.

In order to support Member States faced with a massive influx, Luxembourg has temporarily seconded officials from the immigration directorate of the Ministry for Foreign Affairs, as well as from the grand ducal police under the terms of its involvement in Frontex operations<sup>52</sup>.

3.2.3 Strengthening cooperation with the Office of the United Nations High Commissioner for Refugees to ensure better protection for people outside the territory of European Union Member States who request protection (...): Item IV (d) of the European Pact

Luxembourg is taking part in the scheme for reallocation of Iraqi refugees recognized by the United Nations High Commissioner for Refugees (UNHCR). Under this scheme, Luxembourg has taken in 28 persons, including 25 from Syria and three from Jordan. The seven families arrived in Luxembourg between October and December 2009<sup>53</sup>.

In its government programme, the new government has restated its intention of taking part as far as possible in activities to reallocate refugees<sup>54</sup>.

3.2.4 Providing the personnel responsible for external border controls with training in the rights and obligations pertaining to international protection: Item IV (e) of the European Pact

Nothing to report.

3.2.5 The right to asylum and the protection of refugees: additional information

The year 2009 was noteworthy for the publication of two studies whose findings were reported at a one-day study event on asylum, organized on 2 April 2009 by the UNHCR in collaboration with the University of Luxembourg. One of the studies dealt with the access to work and apprenticeship of applicants for international protection (AIPs) and beneficiaries of tolerance status, and the other with case law in the recognition of refugee status.

The access to work of AIPs and beneficiaries of tolerance status is regulated by articles 14 and 22 of the law on asylum. Article 14 of the law provides for access of AIPs to the labour market in cases in which the minister has taken no decision on an application in the nine months following its submission. The minister may issue a

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<sup>51</sup> Interview with the minister, Mr Nicolas Schmit. Zwischen Herz und Verstand, In: *Tageblatt* of 9 November 2009, p. 13.

<sup>52</sup> See section 3.1.3 on making material and human resources available.

<sup>53</sup> On 11 November 2009, 20 persons were taken in; three persons had already arrived beforehand and five arrived on 18 November 2009.

<sup>54</sup> *Programme gouvernemental*, p. 22.

temporary work permit (AOT) for a period of six months renewable, which remains valid until such time as the application is finally rejected.

According to article 22 of the above law, AIPs whose cases are refused may be granted a tolerance measure, if it is physically impossible to carry out the expulsion for practical reasons. Beneficiaries of the tolerance measure may also obtain access to the labour market through the award of an AOT. AOTs are valid for a given employer and a single profession. The minister may refuse to grant an AOT on the grounds that it runs counter to the employment of certain workers as a priority under Community (EU) legislation.

The study on the access to work and apprenticeship of AIPs and beneficiaries of tolerance status<sup>55</sup> shows how the system of accessing employment via temporary work permits (AOTs) has had little impact. Only one-third of those eligible applied for an AOT and only four AIPs actually held one. Those questioned attributed such difficulties to their precarious status, to the cumbersome administrative formalities, and to the uncertainty associated with AOT applications (processing of applications, time involved, etc.).

LFR<sup>56</sup> has requested that various provisions be introduced to facilitate labour market access for AIPs and those benefiting from tolerance measures, in order to improve their situation. These provisions involve enabling them to access employment after six months subsequent to submitting their application, allowing those in question to apply for AOTs themselves (at present employers complete this formality), and improving the information intended for the persons concerned or employers.

A second study carried out by the UNCHR concerns the case law of 131 decisions handed down by the Administrative Court between 15 September 2007 and 15 March 2008<sup>57</sup>. It concludes that there is a need to improve the quality and consistency of the decisions concerned with the European and international right to asylum; it also calls for due regard to be paid to UNCHR guidelines and recommendations regarding interpretation of the various legal concepts contained in the Geneva Convention. It raises once more the questions of the special training and specialization of administrative judges, along the lines of practice in countries bordering Luxembourg, and of the resources required by the jurisdictions concerned.

Finally, the study highlights how the burden of proof lies essentially with the applicant, whereas in the area of international protection, it should lie with both the AIP and the authority responsible. The UNHCR finds that the definition of refugee is interpreted too restrictively, as are the reasonable fear of persecution or other concepts that underlie the award of international protection, with inadequate attention paid to the link between former persecution and present fear of persecution, or to the

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<sup>55</sup> Besch, Sylvain (2009): *Etude sur l'accès à l'emploi et à l'apprentissage des DPI et des bénéficiaires d'une attestation de tolérance*. In: Gerkrath, Jörg (ed.): *Droit d'asile au Grand-Duché de Luxembourg et en Europe. Développements récents*. Editions Larcier, Belgium, Collection de la Faculté de Droit, d'Economie et de Finance, University of Luxembourg, pp. 29-48.

<sup>56</sup> Lëtzebuenger Flüchtlingsrot, document distributed at the press conference of 13 May 2009.

<sup>57</sup> UNHCR, *Etude de jurisprudence du tribunal administratif du Grand-Duché de Luxembourg en matière de protection internationale*, in: Gerkrath, Jörg (ed.): *Droit d'asile au Grand-Duché de Luxembourg et en Europe. Développements récents*. Editions Larcier, Belgium, Collection de la Faculté de Droit, d'Economie et de Finance, University of Luxembourg, pp. 61-132.

individual situation of applicants or the context of the home country.

Often, acts of persecution are not considered sufficiently serious by the court, or regarded as isolated incidents that do not amount to acts of persecution. Thus for example, acts of persecution – such as violence inflicted on someone who resists a forced marriage – which are committed by private persons are not regarded as acts of persecution as defined in the Geneva Convention.

The UNHCR study was also a means of highlighting persistent problems regarding the award of subsidiary protection and, more particularly, the requirement in Luxembourg case law that the individual nature of the threat should be proven.

The first President of the Administrative Court<sup>58</sup> has made the point that, contrary to neighbouring countries, Luxembourg administrative jurisdictions are not specialized and cover individual and regulatory decisions in administrative areas as varied as town planning, direct taxation, public procurement, and law relating to foreigners and immigration, as well as to the right to asylum.

Disputed asylum proceedings represent a heavy burden for administrative jurisdictions; indeed, out of 1002 verdicts handed down by the court in 2007, and 822 in 2008, 314 and 220 respectively involved asylum. If matters regarding law concerned with foreigners (residence, detention, expulsion) are taken into account, the proportion is close to 50%.

With reference to the study on case law, the LFR<sup>59</sup> asked the authorities and jurisdictions to make every effort to improve implementation of the right to asylum in Luxembourg, especially during the procedure for determining refugee status. It was also recommended that they should take account more specifically of the guidelines and opinions of the UNHCR as regards interpretation of the various legal concepts contained in the Geneva Convention.

In its memorandum sent to political parties before the parliamentary elections, the Migration and Integration Platform, for its part, asked for legislation on asylum to be evaluated.

### **3.3 Unaccompanied minors (and other vulnerable groups)**

The law on asylum and the law on immigration contain different measures concerned with unaccompanied minors<sup>60</sup>.

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<sup>58</sup> Sünner, Marc, *Le contentieux de l'asile et le rôle du juge au Luxembourg*. In: Gerkrath, Jörg (ed.): *Droit d'asile au Grand-Duché de Luxembourg et en Europe. Développements récents*. Editions Larcier, Belgium, Collection de la Faculté de Droit, d'Economie et de Finance, University of Luxembourg, pp. 133-154. Sünner, Marc, *Le contentieux de la protection internationale devant les juridictions administratives*. In: Weltflüchtlingstag, Journée Mondiale des Réfugiés, *Luxemburger Wort* of 19 June 2009.

<sup>59</sup> Lëtzebuurger Flüchtlingsrot, document distributed at the press conference of 13 May 2009.

<sup>60</sup> European Migration Network - National Contact Point - Luxembourg. Policy Analysis Report on Migration and Asylum 2008, p. 38.

In 2009, the issue of unaccompanied minors was raised in several opinions concerning the bill on the establishment and organization of the Detention Centre. Thus the LFR deeply regretted the fact that the law<sup>61</sup> does not deal with unaccompanied minors. The Consultative Commission for Human Rights (CCDH)<sup>62</sup> has raised the question of the special needs of vulnerable groups. The two bodies agree that unaccompanied minors should not be detained in closed premises.

The Council of State has enquired whether it would not be better to exclude unaccompanied minors from the disciplinary system<sup>63</sup>. Referring to the provisions of Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, the parliamentary commission has amended the bill, adding a paragraph on the situation of vulnerable persons<sup>64</sup>.

### 3.4 Economic immigration

The internal labour market<sup>65</sup> is largely dominated by cross-border employment from the *Grande Région*. On 31 March 2009, the working population (working employees and the self-employed) in Luxembourg consisted of 69% of foreigners and 31% of Luxembourgers.

Breakdown of the working population on 31 March 2009 (%)	
Luxembourg residents	31
European Union foreign residents	24
Third-country foreign residents	3
Cross-border workers	42
Total	100

Source: IGSS, 31 March 2009

The internal labour market is boosted by a major contribution from foreigners (foreign residents and cross-border workers) and has recorded a big increase in cross-border workers in the last two decades, a basically unchanged proportion of foreign residents (though with a big increase in their real numbers) and a falling proportion of nationals (although again real numbers have risen significantly). The following table shows internal labour market trends from 1997 to 2009.

<sup>61</sup> Opinion of the Lëtzebuurger Flüchtlingsrot, in: *Document parlementaire* No. 5947<sup>2</sup>, p.2.

<sup>62</sup> Opinion of the Consultative Commission for Human Rights (CCDH) In: *Document parlementaire* No. 5947<sup>4</sup>, pp. 2-3.

<sup>63</sup> Opinion of the Council of State, in: *Document parlementaire* No. 5947<sup>3</sup>, p. 8.

<sup>64</sup> Amendments adopted by the Commission for Foreign and European Affairs, Defence, Cooperation and Immigration, 9 April 2009. In: *Document parlementaire* No. 5947<sup>3</sup>, p. 2. Report of the Commission for Foreign and European Affairs, Defence, Cooperation and Immigration of 29 April 2009. In: *Document parlementaire* No. 5947<sup>7</sup> of 8 May 2009.

<sup>65</sup> The internal labour market covers all employees who work in Luxembourg, irrespective of their country of residence, while the national labour market includes all employees living in Luxembourg irrespective of their place of work.

Internal labour market trends: type of employee (in %)															
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2007	2008	2009
<b>Luxembourgers</b>	42	41	39	38	36	35	34	33	33	32	31	29	31	29	29
<b>European Union foreign residents</b>	25	25	25	25	25	24	24	24	24	24	24	24	24	24	24
<b>Third-country foreign residents</b>	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
<b>Cross-border workers</b>	30	32	33	35	37	38	39	39	40	41	43	44	43	44	44

Source: IGSS, at 31 March each year

The growth in cross-border workers is clearly higher than that in foreign residents or Luxembourgers.

Growth in paid employment (in %)										
	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	
<b>Total growth in employment:</b>	5.6	5.6	3.1	2.2	2.5	2.9	3.9	4.1		
<b>Residents only</b>	3.3	2.9	1.6	1.1	1.2	1.2	2.3	1.7		
<b>Luxembourg residents</b>	1.5	1.5	1.1	0.2	0.4	0.5	0.9	0.2		
<b>Foreign residents</b>	4.7	4.7	4.2	2.1	2.2	2.2		3.5		
<b>EU-15</b>								3.1		
<b>NMS (10)</b>								-0.2		
<b>NMS (2)</b>								19.3 <sup>66</sup>		
<b>Non-EU</b>								7.3		
<b>Cross-border</b>	11.2	12.3	7.2	4.0	4.5	5.4	6.2	7.4		

Source: IGSS, *Rapport général sur la sécurité sociale 2006*, tableau 17, p. 45

### 3.4.1 Implementing policies for labour migration (...): Item I (a) of the European Pact

The law on immigration has reformed immigration for the purposes of paid employment or self-employment in Luxembourg.

It introduces authorized residence for paid employment and ends the two-tier system of residence permits and work permits. Furthermore, the application for a residence permit for purposes of employment must be made by the prospective employee or worker, whereas previously the employer had to apply for the work permit. Under the

<sup>66</sup> This in fact means an increase of 49 persons, from 254 in 2006 to 303 in 2007.

former legislation<sup>67</sup>, the first work permit was valid for just one employer and a single profession, whereas under the new law, those allowed to work may undertake professional activity in one sector and profession, but with any employer.

The general system of residence permits for paid employment<sup>68</sup> incorporates four conditions under which they may be obtained, as follows:

- priority goes to the employment of certain workers under EU legislation;
- applicants should be properly qualified to carry out the employment concerned;
- an employment contract should relate to a job vacancy which has been officially registered at the Employment Administration Agency (ADEM);
- the paid activity should serve the economic interests of the country.

Compliance with these conditions is checked by the ADEM and the Advisory Committee for Employees (CCTS), as determined by grand ducal regulation<sup>69</sup>. If the EU employment priority principle is not undermined and the activity serves the economic interests of the country, the minister may issue a residence permit to any third-country national intending to work in a sector or profession experiencing recruitment difficulties, as determined by grand ducal regulation. The applications concerned are not subject to the opinion of the CCTS (article 42.3).

According to the provisional figures available, the immigration directorate of the Ministry for Foreign Affairs in 2009 issued a total of 1339 temporary residence permits (AST) and 8098 residence permits (TS) (including first-time and renewed permits), as well as 427 work permits (AT) for Romanian and Bulgarian citizens, cross-border workers and family members working part time or undertaking an initial apprenticeship, of which:

Category	Type	Temporary residence permit	Residence permit	Work permit
Employed worker		116	1815	471
Seconded employed worker		12	23	1
Transferred employed worker		129	167	12
Highly skilled worker		107	195	13
Self-employed worker		7	87	

Source: Directorate of Immigration; internal working document; 2009

<sup>67</sup> Law of 28 March 1972 concerning the entry and residence of foreigners, the medical surveillance of foreigners, and the employment of foreign labour. In: *Mémorial A* No. 24 of 13 April 1972, <http://www.legilux.public.lu/leg/a/archives/1972/0024/a024.pdf#page=2>

<sup>68</sup> Article 42(1) of the law on the free movement of persons and immigration.

<sup>69</sup> Article 43 of the law on the free movement of persons and immigration.



In the government programme of July 2009, the new government has declared its intention of basing “its immigration policy on a review of needs with regard to the labour market and the country’s economic interests, a review which should be conducted in cooperation with other relevant players, including the ministries responsible for economic affairs, the intermediate classes, labour, research, higher education and social security. The aim is to adapt immigration to the needs of Luxembourg’s economy, in full compliance with its European and international commitments”<sup>70</sup>. To this end, it has set up an inter-ministerial think tank to draw up guidelines and recommendations for a proactive and consistent immigration policy which is responsive to the interests of the national economy and the present and future labour market situation. The first meeting of this think tank took place on 9 December 2009.

3.4.2 *Increasing the attractiveness of the European Union for highly qualified workers and taking new measures to further facilitate the reception of students and researchers: Item II (b) of the European Pact*

The law on immigration sets out a faster procedure and less restrictive conditions for highly qualified workers seeking to enter the labour market<sup>71</sup>. These concessions apply to jobs calling for special knowledge or professional skills, and to third-country nationals with a higher education qualification or at least five years of specialized professional experience who earn a salary at least three times as much as the guaranteed minimum wage for unskilled workers.

In contrast to other paid workers, highly skilled workers have only to satisfy the legal conditions for entry to Luxembourg, an employment contract whose obligations they are qualified to fulfil and the above-mentioned salary requirement<sup>72</sup>. The opinions of the ADEM and the CCTS are not required. In addition, the person concerned may be issued with a residence permit for up to three years, which is renewable on request for a further three-year period. This article seeks to anticipate Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. Unlike other paid workers, highly skilled workers are allowed to bring members of their family with them (spouses or partners and single children aged under 18) when they enter the country.

The law on immigration transposes Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, and Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

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<sup>70</sup> *Programme gouvernemental*, p. 21.

<sup>71</sup> Article 45 of the law on the free movement of persons and immigration.

<sup>72</sup> Article 1 of grand ducal regulation of 26 September 2008 on the minimum level of remuneration for a highly qualified worker, enacting the law of 29 August 2008 on the free movement of persons and immigration, in: *Mémorial A* No. 145 of 29 September 2008.

Student residence permits for purposes of study are granted by the minister to third-country nationals who have been admitted to higher education institutions, provided they have sufficient resources to cover their living costs and health insurance during their stay. Adequate monthly resources must correspond to at least 80% of the minimum guaranteed income<sup>73</sup>. In assessing resources, material benefits such as free accommodation or income from paid activity undertaken by the student concerned are also taken into account. Paid activity is limited<sup>74</sup> to a maximum average of 10 hours a week over a one-month period, provided the person is enrolled on a course leading to a Master's level qualification or a doctorate. Students enrolled on courses leading to the *Brevet de Technicien Supérieur* or a Bachelor's level qualification are allowed to undertake paid activity only after completing the first two semesters of their course, unless this activity is performed within the higher education institution at which they are enrolled. In 2009, 129 student residence permits were renewed, while 204 residence permits (first-time authorizations and renewals) were granted in all.

In addition, the government supports University of Luxembourg student exchange programmes under framework agreements (Erasmus).

The government is planning to develop scientific human capital in order to promote research in Luxembourg. To this end, it is striving to create an environment geared to the rapid development of jobs in science and technology, which will lead to enhanced career prospects and encourage mobility<sup>75</sup>. The law on immigration has introduced authorized residence for the purpose of carrying out research projects. This authorization may be granted by the minister to third-country nationals with higher education qualifications that give access to doctoral programmes, if they submit a signed hosting agreement with an officially approved research organization, as well as a certificate confirming that they will be provided for. If they satisfy these conditions they obtain a residence permit for researchers, which is valid for a year or for the period of the research project. Researchers are allowed to bring members of their family with them (spouses or partners and single children aged under 18) when they enter the country. In 2009, 15 persons were authorized to stay in Luxembourg as researchers, 15 were granted residence permits and 56 obtained work permits as researchers.

The law of 19 August 2008 on financial support for combined training and research<sup>76</sup> enables the government to develop a framework and working conditions likely to attract more young researchers to Luxembourg. A new system of support for training and research (AFR) has introduced two possible administrative approaches: students may be grant-holders without social security, or the paid employees of a research institute with standard social security coverage. The rule requiring proof of a work contract between researchers and their host institution, including social insurance

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<sup>73</sup> Article 4 of grand ducal regulation of 5 September 2008 establishing the criteria for resources and accommodation provided for in the law of 29 August 2008 on the free movement of persons and immigration.

<sup>74</sup> The upper limit of 10 hours a week is not applicable to paid activity undertaken during academic vacations, or to research carried out for a doctorate by students within their higher education institution or an officially approved research organization. Employment contracts between assistants and the University of Luxembourg under the law of 12 August 2003 on the establishment of the University of Luxembourg are also exempt from the foregoing limit.

<sup>75</sup> *Programme gouvernemental*, p.87.

<sup>76</sup> *Mémorial A* No. 136 of 8 September 2008.



coverage, constitutes a key element in the reform of the support system

### 3.4.3 *Additional information*

In December 2009, Luxembourg had an unemployment rate of 6.3%<sup>77</sup>, constituting the highest such rate ever recorded in the country up to then.

The initial figures for the impact of the crisis on the employment situation point to a fall in the rate at which paid employment among Luxembourg residents is increasing<sup>78</sup>.

<b>Employment Rate Variations year by year</b>		
<b>Month</b>	<b>Paid internal employment</b>	<b>National employment</b>
<b>December 2007</b>	5.2	3
<b>December 2008</b>	4	2.9
<b>December 2009</b>	-0.4	0.4

Explanatory note: between December 2007 and December 2008, internal employment increased by 5.2%.

Source: Directorate of Immigration; internal working document; 2009

Since 2009:

- internal employment has been falling significantly;
- employment has been decreasing in the business service sector and financial sectors;
- employment has been rising in non-trade sectors (administration, education, health, etc.);
- temporary employment has dropped markedly;
- the number of cross-border workers who have lost their jobs is increasing.

Cross-border workers, who gained to a greater extent from economic expansion and job creation in recent years, have been the first to be hit by the economic crisis in Luxembourg, as the majority of them work in the sectors worst affected by the crisis, namely industry, finance, business services and above all temporary employment. Conversely, resident workers are more numerous in non-trade sectors.

Third-country nationals are proportionally over-represented among job-seekers with respect to their presence in the working population. The increase in their number among job-seekers is greater than in the case of Luxembourgers, but lower than that for EU citizens<sup>79</sup>.

<sup>77</sup> ADEM, *Bulletin Luxembourgeois de l'Emploi*, No. 12, December 2009.

<sup>78</sup> STATEC, *note de conjoncture*, No. 2-09.

<sup>79</sup> See Annexe: ADEM-registered job-seekers by nationality.

<b>Changes in ADEM-registered job-seekers, 2008-09</b>				
	31 <sup>st</sup> Dec. 2009	31 <sup>st</sup> Dec. 2008	Year-to-year variation (real figures)	Year-to-year rate of variation (%)
<b>Luxembourgers</b>	4466	3619	847	23.4
<b>EU citizens</b>	8432	6390	2042	32
<b>Third-country nationals</b>	1918	1502	416	27.7
<b>Total</b>	14,816	11,511	3305	28.7

Source: ADEM

#### 3.4.4 Avoiding aggravation of the brain drain (...): Item I (c) of the European Pact

With a view to boosting circular migration, the law on immigration includes a provision enabling authorized residence as paid workers to be granted for a maximum (non-renewable) two-year period to third-country nationals who have obtained entitlement to residence as students, if they have satisfactorily completed their studies in Luxembourg. However, the provision applies to students who wish to round off their academic education with an initial period of professional experience that serves the economic interests of both the Grand Duchy of Luxembourg and their home country, with the intention of eventually returning to the latter<sup>80</sup>.

Under the Mobility Partnership between the European Union and Cape Verde signed in 2008<sup>81</sup>, Luxembourg has agreed to study the possibility of establishing circular migration arrangements with Cape Verde.

### **3.5 Family reunification**

#### 3.5.1 More effective regulation of family migration (...): Item I (d) of the European Pact

The 2009 government programme<sup>82</sup> is firmly indicative of how the government wishes to regulate family migration more effectively.

The law on immigration transposes into national law:

<sup>80</sup> Article 59 of the law on the free movement of persons and immigration.

<sup>81</sup> Signature of the Mobility Partnership between the European Union and Cape Verde, Communiqué of 5 June 2008.

<sup>82</sup> *Programme gouvernemental*, p. 21.

- Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

As a result, the law contains the conditions for family reunification applicable to family members of an EU citizen and third-country nationals. It also includes special measures for persons who cannot invoke family reunification as grounds for residence, but whose personal or family ties, particularly in terms of their closeness, longevity and stability, are such that refusal to authorize residence would undermine their right to private and family life and be disproportionate considering the motives for refusal.

In 2009, the Directorate of Immigration in the Ministry for Foreign Affairs issued 1819 new residence cards for the family members of EU citizens, 394 residence authorizations for family members of third-country nationals, and 3391 residence permits for family members of third-country nationals (first-time authorizations and renewals).

Family reunification involving the family member of a third-country national is subject to the conditions of a one-year wait (except in the case of special categories such as highly skilled workers, transferred workers and researchers), stable, regular and sufficient resources, adequate accommodation and health insurance coverage. The law contains no other conditions concerning the integration of members of the reunited family.

The means assessment<sup>83</sup> of third-country nationals applying for members of their family to be reunited is conducted with reference to the guaranteed minimum wage for an unskilled worker. If the level of resources required by applicants is not reached, the minister may however rule in their favour with due regard for how their situation is likely to develop, especially in the light of their job security, their income, or the fact that they may own their accommodation or occupy it free of charge.

The means test takes account of income deriving from paid activity or self-employment, including income substitution benefits and income from property or inheritance. Besides the personal resources of the applicant, the resources of the spouse who contributes regularly to the family budget are also considered.

The condition of adequate accommodation<sup>84</sup> included in the law is specified in the grand ducal regulation of 25 February 1979 determining the requirements as regards leasing, health or hygiene that rented accommodation has to meet. The proof that applicants have adequate accommodation may be in the form of any documents

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<sup>83</sup> Article 6 of the grand ducal regulation of 5 September 2008 specifying the requirements as regards resources and accommodation provided for in the law of 29 August 2008 on the free movement of persons and immigration.

<sup>84</sup> Idem.

testifying to their status as its owner or tenant.

In order to control family reunification, the ‘migrate properly informed’ programme started in 2006 in Cape Verde by the Luxembourg cooperation authorities, aims in part to familiarize prospective Cape Verdean migrants seeking family reunification with the real social, language and other conditions of life in Luxembourg society. A visa counter has been installed in the Luxembourg embassy to provide a reception and information service for them.

One of the outcomes of this programme has been that some young Cape Verdeans have not joined their parents or family in Luxembourg out of fear that they might encounter difficulties with their education<sup>85</sup>.

### **3.6 Other kinds of legal migration**

#### **3.6.1 Improving information on the possibilities and conditions of legal migration: Item I (f) of the European Pact**

From 1 October 2008, when the law on immigration came into force, the Ministry for Foreign Affairs and Immigration circulated helpful information about this law on its own website and the government information service website<sup>86</sup>.

The Ministry for Foreign Affairs and Immigration updated its website and in particular its ‘immigration’ heading on possibilities for migrating legally to Luxembourg, and also updated the forms for entry and residence that can be downloaded on the website.

In addition, one of the aims of the ‘migrate properly informed’ scheme is to enable those members of the Cape Verdean population who are considering emigration to opt for it in full knowledge of the facts, especially by informing them about the opportunities and restrictive aspects of emigration to Luxembourg. The scheme is also tending to strengthen contacts between Cape Verde and the Cape Verdean diaspora in Luxembourg via the civil societies of both countries. On 21 November 2008, Luxembourg and Cape Verde signed a memorandum of agreement on the second phase of the scheme.

#### **3.6.2 Improving information on the possibilities and conditions of legal migration: additional information**

In his 2008/09 annual report<sup>87</sup>, the Ombudsman identified difficulties of a structural nature in the department for foreigners in the Directorate of Immigration. He

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<sup>85</sup> Reply of the minister delegate for foreign affairs and immigration and the minister for cooperation and humanitarian aid, to question No. 2961 of Mr Félix Braz concerning pilot schemes for migrants from Cape Verde and Mali, *Compte rendu des séances publiques* No. 4, session 2008-09, p.71.

<sup>86</sup> <http://www.guichet.public.lu>

<sup>87</sup> Ombudsman: *Rapport d'activités du 1 octobre 2008 au 30 septembre 2009*, <http://www.ombudsman.lu/index.php>.

requested that information provided by the department be made more readily accessible, whether via its information counters or by telephone.

### *3.6.3 Other kinds of legal migration: additional information*

The law on immigration enables the minister to authorize residence for private reasons to third-country nationals<sup>88</sup> who:

- submit proof that they can live on their own resources;
- do not satisfy the conditions for family reunification, but whose personal or family ties, particularly in terms of their closeness, longevity and stability, are such that refusal to authorize residence would disproportionately undermine their right to private and family life, given the motives for refusal;
- can defend their entitlement on exceptionally grave humanitarian grounds.

In 2009, the Directorate of Immigration of the Ministry for Foreign Affairs awarded 101 temporary residence permits for private reasons and 386 residence permits (first-time and renewed permits).

The terms of residence for the medical treatment of EU citizens are set out in Council Regulation (EEC) No. 1408/71<sup>89</sup>. All EU citizens with a European health card can access emergency care services in outpatient and hospital sectors throughout Europe. As regards outpatient health care, patients may consult services in another Member State without prior authorization, though in the knowledge that they may be reimbursed at lower than their normal rate.

As to scheduled treatment authorized in advance, it is reimbursed at the rates of the insuring country. Some of the parents of immigrant workers thus have operations in accordance with “emergency action” arrangements in Luxembourg, which along with Norway and Switzerland, is the country in which health care is dearest.<sup>90</sup> Thus non-resident parent patients turn to emergency forms of provision after staying less than three months in Luxembourg.

## **3.7 Integration**

### *3.7.1 Promoting harmonious integration in line with common principles (...): Item I (g) of the European Pact*

The law on integration defines it as ‘a two-way process in which a foreigner displays willingness to take part in an enduring manner in the life of the host society which, on behalf of that person, takes every action required from the social, political and economic angle to encourage and facilitate his or her endeavour. Integration is a task

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<sup>88</sup> Article 78(1) of the law on the free movement of persons and immigration.

<sup>89</sup> Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community.

<sup>90</sup> OECD (2008).

that the government, the communes and civil society perform jointly'<sup>91</sup>.

The remit of the OLAI has been broadened and provides a legal basis for combating discrimination as an essential part of the policy for reception and integration<sup>92</sup>. The government is asking the OLAI to continue raising people's awareness and informing them about the prevention of all kinds of discrimination and is promoting in particular an integrated approach to issues of discrimination wherever policy-making is involved<sup>93</sup>.

The OLAI is responsible for setting up in cooperation with the inter-ministerial committee on integration policy a national action plan for integration and an end to discrimination. The draft plan which has to be approved by the government identifies the main strategic focal points of intervention as well as policy measures that are ongoing or require implementation<sup>94</sup>.

Based on the common basic principles of EU integration policy, the action plan will focus on the tasks and responsibilities of the OLAI, namely reception, integration, the prevention of discrimination and the monitoring of migration flows.

On Wednesday 9 December 2009, the Minister of the Family and Integration invited all members of civil society to a consultation forum organized by the OLAI.

Almost 200 participants representing Luxembourg associations, organizations and institutions that work to achieve integration or end discrimination met at the Chamber of Commerce to discuss the aim proposed under the foregoing national action plan.

This forum officially opened the process of consultation with civil society in the area concerned. All the partners and stakeholders were invited to contribute to the action plan and forward their further comments and recommendations to the OLAI<sup>95</sup>.

The law on the integration of foreigners makes provision for the introduction of a standard welcome and integration contract (CAI)<sup>96</sup> of up to two years. This contract will be offered to foreigners residing legally in the territory of the Grand Duchy of Luxembourg who wish to remain there on a long-term basis<sup>97</sup>. It essentially involves reciprocal commitments on the part of the State and those concerned with a view to arranging for and facilitating their integration<sup>98</sup>. Thus the state assumes responsibility for language training and civic instruction, along with measures for social and

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<sup>91</sup> Article 2 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg.

<sup>92</sup> Article 3 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg.

<sup>93</sup> *Programme gouvernemental*, p. 89.

<sup>94</sup> Article 6 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg.

<sup>95</sup> <http://www.olai.public.lu>

<sup>96</sup> A grand ducal regulation is being drawn up to fix the conditions governing application of the CAI and procedures for putting it into operation. The OLAI is responsible for its implementation and management.

<sup>97</sup> Article 8 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg.

<sup>98</sup> Article 9 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg.

economic integration, while foreigners undertake to provide for their subsistence by their own means, in line with their skills and possibilities, and to take part in the life of society. The 2009 government programme states that language training is in Letzeburgesch, French or German.

Foreigners who have signed the CAI are granted priority as regards the measures and actions contained in the national action plan for integration. The signature of foreigners and their compliance with what is stated in the CAI are taken into consideration in assessing the extent to which integration has been achieved<sup>99</sup>.

The government is planning an evaluation of the contract prior to introducing it on a broad basis<sup>100</sup>.

The law of 17 February 2009 has introduced language leave<sup>101</sup> involving a maximum of 200 hours devoted to learning Letzeburgesch. It is intended for employees and the self-employed of all nationalities, whether resident or cross-border workers, who have been involved in gainful activity in Luxembourg for at least six months.

The government<sup>102</sup> wishes to upgrade Letzeburgesch as a school subject and improve school language teaching which has to be geared to a very wide variety of pupils, particularly through the development of differentiated provision.

### *3.7.2 Promoting information exchange on best practice, in terms of reception and integration (...):Item I (h) of the European Pact*

On 9 December 2009, the OLAI organized a consultation forum to enable members of civil society to discuss the aims set out under the national action plan for integration and an end to discrimination (see section 3.7.1).

At European level, the OLAI is responsible for the implementation in Luxembourg of:

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

The OLAI is the national contact point:

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

The OLAI represents the Grand Duchy of Luxembourg within the EMN steering committee.

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<sup>99</sup> Article 13 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand Duchy of Luxembourg.

<sup>100</sup> *Programme gouvernemental*, p. 89.

<sup>101</sup> Law of 17 February 2009 on the introduction of language leave. In: *Mémorial A* No.33 of 26 February 2009.

<sup>102</sup> *Programme gouvernemental*, p. 69.



### Integration: additional information

#### 3.7.2.1 *EFI*

Several projects were implemented with EFI support from 2007 to 2009 to improve the integration of third-country nationals<sup>103</sup>.

#### 3.7.2.2 *Political parties and the integration of foreigners*

##### **Integration of foreigners in political organizations**

Foreigners are only marginally present in political parties.

	<b>ADR</b>	<b>CSV</b>	<b>Déi Gréng</b>	<b>DP</b>	<b>LSAP</b>
<b>No. of members</b>	1 850	10 000	550	± 6 500	6 000
<b>Proportion of foreigners</b>	5%	4%	9%	10-12%	7%
<b>Main nationalities</b>	Portuguese	German Portuguese Italian	Portuguese Italian German	Italian Belgian French Portuguese German	Portuguese Italian German French

Source: SESOPI-CI, November 2009

Foreigners are only modestly represented in the administrative and policy bodies of Luxembourg political parties, or at their lower organizational levels. They rarely occupy key posts and none of the parties has a section for foreigners, on the grounds that it might lead to a ghetto mentality or alleged marginalization. There are few, if any, concrete mechanisms for promoting or increasing the presence of foreigners in parties or their decision-making bodies.

The proportion of foreigners in communal commissions is also modest: 91.4% (8635) of their members are Luxembourgers and 8.6% (814) are foreigners; 6% of the foreign members (46) are third-country nationals and 94% (768) EU citizens.

The proportion of foreigners in commune commissions other than the communal commissions for foreigners (which will be known as local Commissions for Integration from 1 June 2010) is 3.5%.

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<sup>103</sup> <http://www.olai.public.lu>



*Distribution of Luxembourgers and foreigners (real numbers and their replacements) in the various communal commissions*

<b>Commissions</b>	<b>No. CC</b>	<b>No. of participants</b>	<b>No. of Luxembourgers</b>	<b>No. of foreigners</b>	<b>% foreigners</b>
School and education	115	772	743	29	4
Rents	73	342	326	16	5
Social office	30	305	294	11	4
Foreigners	85	1119	593	526	47
Environment	86	820	788	32	4
Family and equal opportunities	43	423	391	32	8
Sports and youth	112	1119	1088	31	3
Building	88	799	778	21	3
Finance	47	460	443	17	4
Transport	70	683	665	18	3
Culture	84	806	777	29	4
Third age	39	370	363	7	2
Other	156	1431	1386	45	3
<b>Total</b>	<b>1028</b>	<b>9449</b>	<b>8635</b>	<b>814</b>	<b>9</b>

Source: SESOPI-CI, November 2009

### **The position of political parties vis-à-vis the integration of foreigners**

Different ideas about integration emerge from the study on political parties and foreigners, as well as differing views about factors in integration and the policy for integration. During preparation of this study, political parties were also asked to respond to the common basic principles of the policy for integration, which were adopted by the EU Justice and Home Affairs Council.

The political parties stand for a multi-dimensional view of integration, in which several factors have been regarded as important or very important.

In the view of the parties, the key factors in integration are the sharing on all sides of what each has to offer and the need for reciprocal effort and compromise. All political parties regard these aspects rooted in reciprocity as highly significant or of key importance. The other aspect considered to be of great importance by all parties consists in the fact that foreigners can very easily integrate while retaining their customs and traditions. Integration thus goes hand in hand with respect for the home culture of foreigners.

That said, the parties differ in their appraisal of other factors: thus for all of them, except the ADR, access to double nationality constitutes a very important aspect of integration. The LSAP, Déi Gréng and Déi Lénk are more inclined to emphasize the importance of democratic participation with the same rights and duties.

All political parties represented in the parliament, Social Christian youth (CSJ)<sup>104</sup> and Luxembourg Young Socialists (JSL) draw attention to Letzeburgesch as a language for integration.

For the ADR, Letzeburgesch is the decisive factor in integration and social cohesion and should have the highest possible profile. One of the party's main demands is that it should be enshrined as the national language in the Constitution. The party holds that it should be mandatory in several sectors such as health and medical care. The CSV describes Letzeburgesch as a means of social integration, stating that every encouragement should be given to learning it as early as possible without abandoning multilingualism. Déi Gréng regards Letzeburgesch as a key factor in integration and wants foreigners to be able to learn it under optimal conditions as soon as they arrive in Luxembourg. Like the ADR and the LSAP, Déi Gréng identifies language leave as a provision conducive to the learning of Letzeburgesch, and is also in favour of maintaining multilingualism in the country. The DP refers to the teaching of Letzeburgesch at school and the importance of providing language lessons. It proposes an introduction to reading and writing in French alongside tuition in German. It also calls for the introduction of school curricula in which languages are differently weighted without sacrificing multilingualism, at least in general secondary education.

The LSAP seeks to preserve multilingualism in society and at school without language learning becoming an insuperable barrier in the curriculum. The decisive role of Letzeburgesch but also of native languages should be borne in mind, which is why Portuguese should become an optional subject in secondary education.

Déi Lénk and KPL have taken no formal stand on these matters<sup>105</sup>.

### **The language debate in Luxembourg**

In a country that has been officially trilingual since the law of 24 February 1984, the debate about language has continued throughout 2009, after coexisting alongside debates over the major legislative reforms carried out in 2008 in the area of policy on migration – with the laws on Luxembourg nationality<sup>106</sup> and on integration – and over the 2009 education reform introducing a new weighting of languages and differentiated pupil assessment<sup>107</sup>.

The political authorities have attached far greater importance to learning Letzeburgesch over the last 12 years, as is evident from:

- the introduction and broadening of early childhood education in 1998<sup>108</sup> in order to improve children's familiarity with Letzeburgesch;
- the establishment of the Standing Council on Letzeburgesch<sup>109</sup>;

<sup>104</sup> Catalogue of ideas published before the national elections.

<sup>105</sup> Hartmann-Hirsch, Claudia; Trilling, Annette (2009): Human Rights Issues and Debates during the 2009 EU Parliament Election Campaign: study for the Fundamental Rights Agency. Vienna.

<sup>106</sup> European Migration Network - National Contact Point - Luxembourg. Policy Analysis Report on Migration and Asylum 2008, pp. 44-47.

<sup>107</sup> Law of 6 February 2009 on the provision of basic education; <http://www.men.lu>

<sup>108</sup> This is an optional school year free of charge for all very young children before they begin compulsory education.

- the introduction of language leave<sup>110</sup> to learn Letzeburgesch;
- the establishment of the National Institute for Languages (INL) to replace the former Languages Centre;
- the creation of official posts for teachers of Letzeburgesch<sup>111</sup>;
- the introduction of a new Master's qualification in Letzeburgesch language and literature in the 2009-10 winter semester at the University of Luxembourg.

The study *Baleine Bis* ('Whale A') on the languages market in Luxembourg shows that since the first study *Baleine* (in 1997) the number of those speaking Letzeburgesch has risen to around 400,000, countering the arguments of those who see the presence of foreigners as a threat to Letzeburgesch, or who fear after reading the latest edition of the *Atlas of the World's Languages in Danger* that it might be dying out. Notwithstanding the fact that French remains the foremost language of instruction in Luxembourg, despite increasing competition from English, researchers conclude that Letzeburgesch has gained ground as the second language.

According to *Baleine Bis*<sup>112</sup>, 53% of Luxembourgers say that Letzeburgesch is the most useful language for immigrants, compared to 21% of Portuguese and 34% of other foreigners.

Foreigners (64% of them) emphasize the position of French as the foremost language of instruction, more than do Luxembourgers. On the other hand, foreigners agree strongly about the role of Letzeburgesch as a factor in integration (80% of Portuguese, 79% of other foreigners and 74% of Luxembourgers).

### 3.7.2.3 Access to the public service

The 2009 government programme states that recruitment to the public service will be made more open to EU citizens, thus bringing Luxembourg into line with trends in case law at the EU Court of Justice and the action of the European Commission<sup>113</sup>. In this context, the Commission sent a reasoned opinion to the Luxembourg government dated 27 June 2007. On 22 April 2009, parliament tabled a bill<sup>114</sup> taking account of this opinion. It also submitted a draft grand ducal regulation on changing the organization of competitive and other examinations for placements leading to different careers in the public service, to the Council of State for its opinion and to the Chamber of Civil Servants and Public Employees.

The law of 18 December 2009<sup>115</sup> amends the provisions of the law of 17 May 1999 on access to the public service. While the law of 1999 opened the service to EU citizens

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<sup>109</sup> Grand ducal regulation of 29 July 1999 established the Standing Council on Letzeburgesch. In: *Mémorial A* No. 107 of 6 August 1999.

<sup>110</sup> Law of 17 February 2009 on introducing language leave. In: *Mémorial A* No. 33 of 26 February 2009.

<sup>111</sup> Law of 22 May 2009 on the establishment of a) a National Institute for Languages, and b) the post of teacher of Letzeburgesch. In: *Mémorial A* No. 112 of 26 May 2009.

<sup>112</sup> Fehlen, Fernand (2009): *Baleine Bis, Une enquête sur le marché linguistique multilingue en profonde mutation, Luxemburgs Spachenmarkt im Wandel*. RED No. 12. Sesopi-CI. Luxembourg; in particular pp. 204-210. The *Baleine Bis* study questioned residents throughout the country about the most useful languages; it was also interested in people's motives for learning Letzeburgesch.

<sup>113</sup> *Programme gouvernemental*, p. 99.

<sup>114</sup> *Document parlementaire* No. 6031 of 7 May 2009.

<sup>115</sup> *Mémorial A* No. 248 of 22 December 2009.

in six specific sectors – namely research, education, health, land transport, posts and telecommunications, and the supply of water, gas and electricity – it retained the nationality requirement in other sectors.

With the adoption of the new law, parliament is aiming to establish generally open entry to the public service, while restricting posts implying involvement in the exercise of public power to Luxembourg nationals. As in 2004, a grand ducal regulation will determine those posts open to Luxembourgers alone. In addition, the new law continues to require that public service employees should have a good knowledge of the country's three official languages, Letzeburgesch, French and German. To cope with the growing number of foreign applicants for entry to the public service, the law has established a new department within the National Institute for Public Administration to test knowledge of these three languages. Following the threat of firm opposition from the Council of State<sup>116</sup>, parliament has also brought employment for the communes within the scope of the law.

In addition, a measure has been introduced enabling the Luxembourg government under exceptional circumstances to employ EU citizens to posts calling for some involvement in the exercise of public power.

The draft grand ducal regulation on changes in the organization of competitive and other examinations for entry to the public service has been presented as the “compromise reached by the government in its dispute on this subject with the General Confederation of Civil Servants”<sup>117</sup>. The draft regulation proposes introducing an examination in Luxembourg history and culture into the competitive examination syllabus.

The Council of State has reservations about this. While able to accept the fact that applicants for public service posts should have some knowledge of the history of the country, “it wishes to prevent the examination from being seen, rightly or wrongly, as a barrier meant to deter or even eliminate applicants not originally from a Luxembourg background”<sup>118</sup>.

The CSDD has recommended that political parties should drop the nationality condition of eligibility for entrance to the public service<sup>119</sup>.

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<sup>116</sup> *Document parlementaire* No. 6031<sup>2</sup> of 27 October 2009.

<sup>117</sup> Statement of reasons: draft grand ducal regulation amending 1) the amended grand ducal regulation of 30 January 2004 on the organization of competitive and other examinations for placements leading to administrative and scientific appointments in the higher echelons of government administration and public institutions; 2) amended grand ducal regulation of 30 January 2004 on the organization of competitive and other examinations for placements leading to the intermediate-level careers of *rédacteur, ingénieur technicien, technicien diplômé, éducateur gradué* and *informaticien diplômé* (qualified administrators, engineering technicians, technicians, instructors and computer scientists); 3) amended grand ducal regulation of 30 January 2004 on the organization of competitive and other examinations for placements leading to the careers of *expéditionnaire administratif, expéditionnaire technique, expéditionnaire-informaticien, éducateur, artisan, cantonnier, concierge, huissier de salle, garçon de bureau* and *garçon de salle* (mainly lower-level administrative, clerical, and manual occupations, including craftspeople, caretakers and roadworkers).

<sup>118</sup> Opinion 48.480 of the Council of State of 10 November 2009, [http://www.conseil-etat.public.lu/fr/avis/2009/11/48\\_480/index.html](http://www.conseil-etat.public.lu/fr/avis/2009/11/48_480/index.html)

<sup>119</sup> CSDD, *Législature 2009-2014: eng nohalteg Politik fir Letzebuerg an Europa. 5 Préifsteng fir d'Parteien*, 1 May 2009, [http://www.csdd.public.lu/fr/avis/2009/04/5\\_preifsteng/index.html](http://www.csdd.public.lu/fr/avis/2009/04/5_preifsteng/index.html)

The ADR, CSV and DP have included entry to the public service in their electoral manifestos. While the ADR has expressed its opposition as a matter of principle to any further opening up of the public service to non-Luxembourgers<sup>120</sup>, the CSV and DP have come out in favour of general openness, except in the case of posts associated with the exercise of sovereign power. While the DP has sought to limit such general eligibility to EU citizens<sup>121</sup>, the CSV considers that they should be eligible along with third-country nationals who were born or have grown up in Luxembourg<sup>122</sup>.

While welcoming the draft proposal which was intended to lead in practice to a real opening up of the public service to EU citizens by overturning the current principle of entry to the service on an exceptional basis, the platform of associations and trade union organizations<sup>123</sup> has called for equality of treatment between third-country nationals and EU citizens as regards access to the public service at either national or communal level. It has also highlighted how it is important that the level of language proficiency required should be reasonable and necessary for the effective performance of duties, with due regard for the proportionality principle.

#### *3.7.2.4 The law on social welfare*

The law of 18 December 2009<sup>124</sup> on the organization of social welfare services establishes entitlement to social welfare for all those resident in the Grand Duchy of Luxembourg, so that they can lead a life consistent with human dignity. However, certain categories of foreigner are not eligible for cash financial support, such as AIPs (who have their own status), persons allowed residence on the basis of a formal commitment to provide for them, and foreign students.

#### *3.7.2.5 Controlling racism and discrimination*

The law of 28 November 2006 on:

1. Transposition of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
2. Transposition of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation,

has established the Equality Commission. This centre can in particular:

- publish reports, issue opinions and recommendations and carry out studies on all questions linked to discrimination;

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<sup>120</sup> *Programme électoral*, p. 63.

<sup>121</sup> *Programme électoral*, p. 60.

<sup>122</sup> *Programme électoral*, p. 66.

<sup>123</sup> APL, ASTI, CCPL, FAAL, FAEL, FNCTTFEL Landesverband, LCGB, OGBL, SeSoPi – CI, SYPROLUX, Opinion on bill 6031 concerning access to the public service, 18 November 2009; see: [www.asti.lu](http://www.asti.lu) and [www.sesopi-ci.lu](http://www.sesopi-ci.lu)

<sup>124</sup> *Mémorial A* No. 260 of 29 December 2009.

- produce and submit any item of information or documentation in the performance of its duties;
- provide assistance to persons who consider they have been victims of discrimination by offering them an advisory and guidance service aimed at informing victims about their personal rights, legislation, case law and means of asserting their rights.

Between 1 October 2008 and 31 October 2009<sup>125</sup>, 124 case files were referred to the Equality Commission (CET), including 22 concerned with alleged ‘race’ discrimination. The CET has emphasized that some people thought they suffered discrimination on the grounds of nationality, which falls outside the scope of the CET. According to a poll <sup>126</sup> commissioned by the CET, 27% of Luxembourgers, 33% of persons of Portuguese nationality and 27% of those of other nationalities felt they had been victims of discrimination over the preceding three years.

### 3.8 Citizenship and naturalization

Since the law of 19 December 2008<sup>127</sup>, EU citizens have been able to take part in European elections if they satisfy the two-year residential requirement, instead of the previous five-year one. Prospective voters have up to the 13th Friday before the ballot (roughly three months) to register for the electoral roll.

The Luxembourg government provided a budget of EUR 100,000 to encourage people to register for the EU electoral roll. Against this background, the CGE, in cooperation with the associations, launched an awareness campaign aimed at getting foreigners to vote. According to an initial report, the number of registrations<sup>128</sup> rose by around 50%. Whereas in 2004, 11,739 EU citizens were registered on the electoral roll for the European elections of 7 June, 17,579 were registered in 2009. Foreign voters accounted for 7.3% of the total electorate and the registration rate for foreigners stood at 11.5%, compared to their potential electoral strength.

The CSDD has recommended that the political parties should abolish the nationality condition for participation in parliamentary elections<sup>129</sup>. In their election manifestos, all parties represented in parliament, as well as Déi Lénk<sup>130</sup>, who support the concept of citizenship based on residence, consider the question of foreigners taking part in national elections. For the first time in the history of the country, several political parties state that they are open to the debate on granting foreigners the right to vote in national elections. The DP and the LSAP adopt a cautious attitude, referring to the fact that almost half of Luxembourg residents are barred from taking part in

<sup>125</sup> CET, *Rapport d'activités 2009*.

<sup>126</sup> CET, TNS-ILRES, *Enquête « Observatoire des discriminations », décembre 2008-janvier 2009*. Press conference of 21 April 2009. In: CET, *Rapport d'activités 2009*.

<sup>127</sup> *Mémorial A* No. 210 of 24 December 2008.

<sup>128</sup> SESOPI-Centre Intercommunautaire (2009): *Bilan des inscriptions sur les listes électorales pour les élections européennes du 7 juin 2009*.

<sup>129</sup> CSDD, *Législature 2009-2014: eng nohalteg Politik fir Letzebuerg an Europa. 5 Préifsteng fir d'Parteien*, 1 May 2009, [http://www.csdd.public.lu/fr/avis/2009/04/5\\_preifsteng/index.html](http://www.csdd.public.lu/fr/avis/2009/04/5_preifsteng/index.html)

<sup>130</sup> *Programme électoral*, p. 44.



parliamentary elections, and wish to evaluate over an initial period the measures for integration (DP)<sup>131</sup> and the impact of the law on nationality (LSAP)<sup>132</sup>.

As regards the communes, the 2009 government programme plans to extend passive voting rights to third-country nationals. It also plans to extend eligibility for the posts of *bourgmestre* or *échevin* – positions hitherto reserved solely for Luxembourg citizens on the grounds that both are involved in the exercise of sovereign power – to those who have been democratically elected, irrespective of their nationality<sup>133</sup>.

The law on nationality came into force on 1 January 2009. In their election manifestos, all political parties except the CSV expressed firm opinions on the issue: the ADR asked for maintenance of the *status quo* (especially as regards language requirements), while other parties criticized the restrictive provisions in the law. The LSAP and the DP called for the conditions governing the acquisition of Luxembourg nationality to be made more flexible.

On 25 November 2009, a first report<sup>134</sup> on implementation of the law was given at a press conference organized by the Minister of Justice. From January to October 2009, 4299 applications were submitted compared to 1065 in 2008. EU citizens accounted for 71% of them.

Portuguese citizens constituted the largest group of applicants (1405, or 32.7%). Applications from nationals of the seven republics of former Yugoslavia accounted for 19.9% of the overall number (856).

Children with a parent who has acquired Luxembourg nationality automatically become Luxembourg nationals themselves. Young foreigners are over-represented by comparison with their real presence in the foreign population, with the 18-27 and 28-37 age groups alone accounting for 61.6% of 'new' Luxembourgers.

If one considers solely cases of acquired nationality in October 2009, it would appear that only 12% of applicants had to take the language test: 40% of them were exempted because they had lived in the country since earlier than 31 December 1984, and 48% because they had spent at least seven years of their school education in Luxembourg.

Among the 837 candidates registered for the language test, the pass rate was close to 78%.

In 2009, 4022 people obtained Luxembourg nationality, 1352 (33.6%) of whom were third-country nationals.

To the foregoing persons should be added those with a 'dual ground right' to nationality: 4209 persons became Luxembourgers because they were born in Luxembourg between 1 January 1991 and 31 December 2008 to non-Luxembourger parents, at least one of whom was also born in Luxembourg.

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<sup>131</sup> *Programme électoral*, p. 29.

<sup>132</sup> *Programme électoral*, p. 96.

<sup>133</sup> *Programme gouvernemental*, pp. 102-103.

<sup>134</sup> Ministry of Justice, *Double nationalité. Bilan des dix premiers mois*. Press conference of the Minister of Justice, François Biltgen, 25 November 2009.



According to the results of a poll<sup>135</sup> which covered several aspects of Luxembourgers and foreigners living together in the same community, it should be noted that Luxembourg is regarded by a large majority of Luxembourgers (78%) and foreigners (77%) as the country in which they prefer to live.

Over half of the foreigners living in Luxembourg (56%) say they wish to acquire Luxembourg nationality 'so that I can integrate in the country'<sup>136</sup>.

As regards the granting of:

- passive right to vote to foreign residents in local elections, 49% of Luxembourgers were in favour, with 48% against;
- active right to vote to foreign residents in parliamentary elections, 48% of Luxembourgers were in favour, with 50% against;
- passive right to vote in parliamentary elections, 31% of Luxembourgers were in favour, with 66% against.

### **3.9 Unlawful immigration**

#### **3.9.1 *Case-by-case regularization: Item II (a) of the European Pact***

The law of 29 August 2008 on immigration enables the minister responsible for immigration to authorize residence on an exceptional basis to persons unlawfully resident in Luxembourg if they satisfy clearly defined requirements<sup>137</sup>. Similarly, regularizations are possible in extremely exceptional cases associated with very grave humanitarian considerations or the family circumstances of the person concerned. Regularization is not conducted on a general basis.

In 2009, the minister of immigration decided to regularize the situation of a certain number of AIPs whose cases were refused, by authorizing them to remain in the country provisionally after obtaining a work permit. In all, this amounted to 35 cases involving 75 persons who could claim they had stayed in Luxembourg for several years.

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<sup>135</sup> ASTI, TNS-ILRES (2009): *Sondage à l'occasion du 30<sup>ème</sup> anniversaire de l'ASTI*, Luxembourg. <http://www.asti.lu/?s=sondage++anniversaire>. This opinion poll was conducted using two separate samples representing the country's resident population; the first consisted of Luxembourg nationals, and the second of foreign nationals. The results were processed in accordance with the main nationalities of EU citizens (Portuguese, French, Italian, Belgian and German), while the 'others' category covered, as is often the case in Luxembourg, the other nationalities of EU Member States and third-country nationals.

<sup>136</sup> Given as the first reason: 33%; the second reason: 25%; the third reason: 12%.

<sup>137</sup> Article 89 of the law on the free movement of persons and immigration.

Country	Cases	Persons
Kosovo	9	33
Nigeria	8	8
Somalia	4	4
Bosnia	2	8
Liberia	2	3
Albania	1	4
Russia	1	4
Burundi	1	3
Ethiopia	1	2
Afghanistan	1	1
Algeria	1	1
Brazil	1	1
Ghana	1	1
Iraq	1	1
Cameroon	1	1
<b>Total</b>	<b>35</b>	<b>75</b>

Source: Directorate of Immigration; internal working document; 2009.

*3.9.2 Taking rigorous action, also in the interests of the immigrants, by way of dissuasive and proportionate penalties, against those who exploit illegal immigrants: Item II (g) of the European Pact*

In its 2009 programme, the government asserts<sup>138</sup> its determination to combat illegal employment, which is closely associated with the organization of illegal immigration, and to apply very rigorously its legislation based on the European directive concerned with the issue.

The law on immigration provides the government with the necessary means, by strengthening the penalties applicable to those who employ foreigners without the residence permit required by wage-earners: the possible prison sentence has been increased<sup>139</sup>. In addition, further sentences may be handed down, such as temporary exclusion from professional activity or the temporary closure of the business<sup>140</sup>. In adopting the law on immigration, Luxembourg has partly anticipated the transposition of the directive laying down disciplinary action against those who employ unlawfully resident third-country nationals, by obliging the former to cover any outstanding payments (wages, social contributions, taxes, etc.).

That said, a significant part of 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 still has to be transposed. This applies particularly to excluding employers from entitlement to

<sup>138</sup> *Programme gouvernemental*, p. 21.

<sup>139</sup> Article 144 of the law on the free movement of persons and immigration.

<sup>140</sup> Article 145 of the law on the free movement of persons and immigration.

public benefits, aids or subsidies and from participation in public procurement procedures, as well as to recovery of the public subsidies they have been awarded.

The inter-administrative unit for the prevention of illegal drug trafficking to which both the Labour and Mining Inspectorate and the Customs Board are attached has pursued surveillance of construction sites or businesses, notably through the organization of unannounced spot checks<sup>141</sup>.

### 3.9.3 Unlawful immigration: additional information

In his 2008/09 annual report<sup>142</sup>, the Ombudsman requested that the minister should specify and make public the criteria that guided decisions concerning applications for regularization based on article 89 of the law on immigration. As regards complaints by Kosovo nationals for whom the tolerance measure was not extended, the Ombudsman suggested that the minister should be guided by the criteria set out in article 103<sup>143</sup> of the above law, even if that article does not apply to them.

The issue of regularizing the position of foreigners whose situation is unlawful was not considered in the party manifestos for the parliamentary elections of 7 June 2009. However, the CLAE questionnaire<sup>144</sup> gives some slight idea of party positions on this matter. The ADR, the CSV and the LSAP are opposed to the collective regularization of those in unlawful situations. In this context, the ADR argues that it would encourage clandestine immigration. The CSV and the LSAP both invoke the law on immigration.

The CSV envisages a review of each individual case. The LSAP draws attention to the opportunities the law provides for legal immigration (including scope for people to regularize their position on the basis of an eight-year period of residence, authorized residence for persons who are sick or victims of human trafficking, authorized residence for private reasons for those capable of living on their own resources or those who obtain it to overcome a temporarily difficult situation). Déi Gréng, Déi Lénk and KPL support regularization under such circumstances. Various political parties (ADR, LSAP) said in their electoral manifestos that they were in favour of combating illegal immigration.

## **Action to combat human trafficking**

### 3.9.4 Stepping up cooperation with the countries of origin and of transit, in particular to follow with them an ambitious policy on police and judicial cooperation to combat international criminal organizations engaged in

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<sup>141</sup> Documented for 2008: The Labour and Mining Inspectorate, *rapport annuel 2008*, pp. 73 and 77.

<sup>142</sup> Ombudsman, *Rapport d'activités du 1 octobre 2008 au 30 septembre 2009*, <http://www.ombudsman.lu/index.php>

<sup>143</sup> This article specifies in particular that, prior to any expulsion decision, the minister takes account of various criteria such as the length of the stay, the family and economic situation, and social and cultural integration.

<sup>144</sup> CLAE: *Les partis politiques se prononcent sur les droits des étrangers*. op. cit., pp. 6-9.

trafficking migrants and in human trafficking, and to provide better information to communities under threat (...): Item II (e) of the European Pact

The Grand Ducal Police belongs to the Europol Phoenix AWF which is responsible for gathering and analysing information on human trafficking.

Aside from conventional police cooperation channels, EU countries are increasingly seeking to organize joint survey teams.

*3.9.5 Action to combat human trafficking: additional information*

In 2009, two laws concerned with human trafficking came into force. They were the laws of 13 March 2009<sup>145</sup> on human trafficking, which approved the additional protocol referring to the United Nations Convention, and of 8 May 2009<sup>146</sup> on the assistance, protection and security of victims of human trafficking.

### **3.10 Return migration**

*3.10.1 Concluding readmission agreements at EU bilateral level with those countries with which this is necessary: Item II (b) of the European Pact*

Readmission agreements with third countries have been negotiated primarily with the Benelux Member States. The readmission agreement<sup>147</sup> and its protocol of application between the Benelux States and Armenia were signed on 3 June 2009. The law of 18 December 2009<sup>148</sup> approved this agreement and its protocol of application.

Even where there is no written readmission agreement, the authorities seek to cooperate with the home country authorities to facilitate readmission, as in the case of Nigeria, with which a memorandum of understanding<sup>149</sup> was signed on 28 March 2006. This establishes procedures for the repatriation of Nigerian citizens who are no longer entitled to remain in the Grand Duchy of Luxembourg.

The Mobility Partnership between the European Union and Cape Verde also seeks to promote an effective policy for return and readmission, while ensuring respect for human rights and with due regard for the situation of migrants.

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<sup>145</sup> *Mémorial A* No. 51 of 20 March 2009.

<sup>146</sup> *Mémorial A* No. 129 of 9 June 2009.

<sup>147</sup> This agreement is based on the format of other Benelux readmissions agreements, most notably the ones with Macedonia and Bosnia, which were ratified by the laws of 10 April 2007.

<sup>148</sup> *Mémorial A* No.258 of 28 December 2009.

<sup>149</sup> This memorandum will enable the Luxembourg authorities to obtain support from the Nigerian embassy in Brussels, in identifying and, where appropriate, repatriating asylum seekers from Nigeria. "For example, it indicates precise deadlines for processing readmission applications, and provides for the preparation of travel tickets for those involved in a repatriation procedure", explained Jean Asselborn. Under the memorandum of understanding, Luxembourg states its willingness to support programmes of assistance conducted in Nigeria by different international organizations, especially in the fight against organized cross-border crime and human trafficking.

[http://www.gouvernement.lu/salle\\_presse/actualite/2006/03/28nigeria/index.html](http://www.gouvernement.lu/salle_presse/actualite/2006/03/28nigeria/index.html)

3.10.2 *Devising incentive systems to assist voluntary return and to keep each other informed on this point (...): Item II (f) of the European Pact*

The new government has stated its intention to promote the voluntary return of persons in unlawful situations to safeguard their human dignity<sup>150</sup>. It is considering stronger cooperation with associations active in the field of immigration and the international organizations that specialize in this field, such as the UNHCR and the IOM.

Following an initial cooperation project with the IOM in 2008 for Kosovo AIPs whose cases were refused, the minister delegate for foreign affairs and immigration signed on 29 May 2009 a new agreement with the IOM, concerning support for the voluntary return of foreign nationals and their reintegration in the home country. This assistance is neither bound by any geographical limit nor confined to any single group of beneficiaries<sup>151</sup>. The project focuses on AIPs whose cases have been refused and on persons unlawfully resident in the country for at least 12 months who have not applied for international protection.

Support includes help with the return (during the departure from Luxembourg, the period of transit and on arrival in the home country), assistance with reintegration, and provision for the immediate needs of those who return, such as accommodation and clothing, etc. (up to a maximum EUR 1500). It may also include assistance with supplementary reintegration in terms of support of up to EUR 1500 for the development of remunerated activity or for job seeking (a maximum EUR 600). IOM monitoring in the country lasts for six months after the return. The 2009 project had a budget of EUR 185,000. The agreement continues until 31 December 2009 and may be renewed from one year to the next with an annual reassessment of the sums allocated. Furthermore, as assistance is offered by the IOM, those who return voluntarily to their home country may obtain financial support from the Ministry of the Family and Integration of EUR 1190 per adult and EUR 590 per child.

So that voluntary return proceeds smoothly, someone in the IOM has been regularly available each week in Luxembourg since August 2009. Dialogue has been sought with LFR member associations so as to inform persons affected by the IOM programme.

Between August (when the programme was actually launched) and the end of December 2009, 61 requests for information on it were referred to the IOM, while 39 persons registered for it, all of whom have returned (36 in 2009 and three in January 2010). The great majority of those who returned were from Kosovo and the other Balkan countries. Those who did so received financial support for reintegration to cover their immediate needs on return, and in particular accommodation. In addition, the IOM offered assistance in 24 cases for the setting up of micro-businesses and, in two others, support with job-seeking. Two persons obtained further medical assistance for those whose situation was vulnerable.

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<sup>150</sup> *Programme gouvernemental*, p.21.

<sup>151</sup> A first convention concerned solely with the voluntary return of Kosovo nationals was signed with the IOM a year earlier.

In 2009, out of 207 persons who had to leave Luxembourg, 107 in all returned voluntarily and thus unaccompanied (52%).

The Luxembourg government also supports development projects in several regions originally home to many AIPs (such as Kosovo and Montenegro), in order to improve the living conditions of the local population and facilitate return.

Under the law of 28 May 2009 on the establishment and organization of the Detention Centre, one of the tasks of the Centre – besides the reception and accommodation of those officially placed in it – is to prepare them for return to their home country or the country from which they came to Luxembourg, by providing them where necessary with individual psychosocial counselling.

### 3.10.3 Return migration: additional information

On several occasions, the LFR<sup>152</sup> has expressed concern over the return, under proper security conditions, of ethnic minorities from Kosovo present in Luxembourg, asking that both the time they have spent there and their degree of integration should be taken into account, whether this means families with or without children at school, or single people.

On 5 February 2009, the minister delegate for foreign affairs and the Red Cross signed a framework agreement concerning the mission of observer referred to in article 6 of grand ducal regulation of 26 September 2008 establishing rules of good conduct. This agreement provides for the Red Cross to be informed with 72 hours' warning, before anyone is deported.

The law of 28 May 2009<sup>153</sup> on the establishment and organization of the Detention Centre was adopted on 7 May 2009 (see section 3.11.2.).

In the past, the detention issue was regularly criticized by national or international human rights organizations. When the law was passed, the parliament took a vote on a motion<sup>154</sup> asking the government to begin the procedure for recruiting officials to the Centre as quickly as possible so that it could become operational as soon as its construction was completed.

Generally speaking, the various organizations have welcomed the fact that a detention centre has been built separately from the penal institution and that its regulations are specified in a law. They also welcome the references to respect for human dignity and basic individual rights, as well as the intention of providing psychosocial counselling. Criticism has focused in particular on the considerable powers conferred on the director of the Centre and the lack of clarity regarding grounds for appeal, especially as regards decisions to impose disciplinary measures (Council of State, Chamber of

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<sup>152</sup> Lëtzebuerger Flüchtlingsrot, document at the press conference of 13 May 2009. Open letter addressed to the government; see *Journal Är Meenung*, 16 July 2009, p.6.

<sup>153</sup> *Mémorial A* No. 119 of 29 May 2009.

<sup>154</sup> The Chamber of Deputies (parliament): *Compte rendu des séances publiques*, No.16, session 2008-09, pp. 624, 625 and 628.



Civil Servants and Public Employees, CCDH)<sup>155</sup>, and insufficient regard paid to the needs of vulnerable groups (Council of State, LFR<sup>156</sup>, CCDH). The parliamentary commission has responded to these criticisms by introducing several amendments<sup>157</sup>.

It should be further noted that the opinions of the Council of State and the CCDH take account of proposed directives or directives: thus the Council of State comments that article 17 of the 'return directive' concerning the right to family privacy during work on the accommodation should be taken into account when drawing up the grand ducal regulation determining the conditions and practical procedures in the system of detention. The CCDH, for its part, refers to article 11 of the proposed directive on reform of the 'reception' directive to support its request for the introduction of a procedure, prior to any detention measure, to review the individual situation of persons for whom detention would aggravate their mental, psychic or physical state of health.

### **3.11 External relations and the overall approach**

#### ***3.11.1 Concluding EU-level or bilateral agreements with the countries of origin and of transit, containing clauses on the opportunities for legal migration, the control of illegal migration, and the development of the countries of origin and of transit: Item V (a) of the European Pact***

The aims of the Mobility Partnership between the European Union and Cape Verde are to facilitate the movement of persons and legal migration between Cape Verde and EU countries, to generate real cooperation on migration and development, and to prevent and control clandestine migration, and the trafficking of migrants and human trafficking. This strategy also includes the promotion of an effective policy for return and readmission, while ensuring respect for human rights and paying due regard to the situation of migrants.

Countries undertook to do everything to promote a better framework for legal mobility, in particular by informing prospective migrants about channels of legal migration towards the European Union and by developing a dialogue on matters concerned with short-term visas with the aim of facilitating mobility for certain categories of person.

Similarly, in order to lessen the negative effects of emigration among highly qualified persons, countries will develop appropriate responses and in particular policies to encourage temporary or permanent return specifically targeting Cape Verdean migrants and highly qualified European nationals of Cape Verdean origin. Circular migration may have an important part to play in this respect.

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<sup>155</sup> Opinion of the Council of State. In: *Document parlementaire* No. 5947<sup>3</sup>, pp. 5 and 8. Opinion of the Chamber of Civil Servants and Public Employees. In: *Document parlementaire* No. 5947<sup>1</sup>, pp. 3-4. Opinion of the CCDH. In: *Document parlementaire* No.5947<sup>4</sup>, pp. 3-4.

<sup>156</sup> Opinion of the Lëtzebuerger Flüchtlingsrot. In: *Document parlementaire* No. 5947<sup>2</sup>.

<sup>157</sup> Report of the Commission of Foreign and European Affairs, Defence, Cooperation and Immigration of 29 April 2009. In: *Document parlementaire* No. 5947<sup>7</sup> of 8 May 2009.



The ‘migrate properly informed’ programme aims to achieve legal immigration in full knowledge of the facts and to prevent illegal immigration.

Beyond the mobility partnership, Luxembourg has not reached bilateral agreements with a third country on aspects of legal immigration or the control of illegal immigration or on readmission. Under the Benelux framework, it has however concluded bilateral readmission agreements (see section 3.11.1.)

3.11.2 *Offering the nationals of partner countries to the east and south of Europe opportunities for legal immigration (...): Item V (b) of the European Pact*

The possibility of circular migration is envisaged in the mobility partnership with Cape Verde without it yet having been formally expressed in a bilateral agreement (see sections 3.4.3 and 3.12.1).

3.11.3 *Cooperation with the countries of origin and of transit in order to deter or prevent illegal immigration (...): Item V (c) of the European Pact*

See sections 3.1.1 and 3.12.1.

3.11.4 *Integrating migration and development policies more effectively (...): Item V (d) of the European Pact*

While Luxembourg is involved in the mobility partnership with Cape Verde, this country is also a privileged partner in its policy for development cooperation.

In general, Luxembourg policy in this area reflects an approach focused primarily on the most disadvantaged countries. At the same time, any action geared to improving the standard of living in the target countries is liable to have a secondary and indirect effect on migration, by occurring prior to any emigration and thus possibly controlling it, and also by constituting a central factor in subsequent reintegration. These actions are of foremost importance in implementing the Millennium Development Goals by 2015. Thus the main sectors with which cooperation is concerned are the social ones of health, education, including training and social integration, and integrated local development. The programmes set in motion seek to improve the general living conditions of the population.

3.11.5 *Promoting co-development actions that enable migrants to take part in the development of their home countries, and supporting the adoption of specific financial instruments for transferring migrants' remittances securely and more cheaply: Item V (e) of the European Pact*

Luxembourg cooperation in Montenegro, Kosovo and Serbian Sanjak developed at a time when a great many asylum seekers flocked to Luxembourg. Since then, it has supported local development projects which benefit the local population, but also those who return to their countries.

The ‘migrate properly informed’ project is aimed at establishing partnerships between Cape Verdean NGOs or others in Luxembourg, and Cape Verdean NGOs in Cape Verde to implement cooperation schemes.

The government has appointed the Luxembourg NGO Appui au Développement Autonome (Support for Autonomous Development) to implement a 2009-11 action plan in Cape Verde, one of the aims of which is to develop funding for the microfinance sector with input from savings at local level and in the diaspora.

*3.11.6 Speeding up the deployment of the key tools of the Global Approach to Migration (migration balances, cooperation platforms, partnerships for mobility and circular migration programmes) (...): Item V (g) of the European Pact*

Luxembourg is involved in the Mobility Partnership with Cape Verde (see above).

*3.11.7 External relations and the overall approach: additional information*

As part of Luxembourg support for cooperation, various schemes have been initiated, such as projects to support the reintegration of asylum seekers whose cases have been refused, which are conducive to the voluntary return of people originally from Montenegro and Kosovo and improvements in local living conditions. While the target groups consisted at the outset of persons returning to their home country, projects now focus on the entire local community, including those who return to it. Special importance is attached to reintegrating children and young people.

Other schemes are supported such as the following:

- a rural development project run by the association Amitiés Luxembourg-Montenegro which has established a local tourism component with families who have returned to their home country;
- a Fondation Caritas project aimed at promoting education for children from underprivileged families in Kosovo, an initiative which is also open to those who return to Kosovo.

#### **4 TRANSPOSING EUROPEAN LEGISLATION INTO NATIONAL LAW**

The law of 28 May 2009 on the establishment and organization of the Detention Centre seeks to transpose certain provisions of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Thus the legislature has transposed into article 6(3) the measure in article 17(1) of the foregoing directive, by limiting the period of detention for families with children to 72 hours. Similarly article 7(2) of the law takes account of the measure in article 16(3) of the directive, which is concerned with the situation of vulnerable persons.

Under the legislation process for the above law, several organizations (Council of State, CCDH) have referred to directives or proposed directives.

## 5 ANNEXE

### 5.1 Methodology

The first two sections focus, first, on changes in the political and legal system and, secondly, on political and institutional developments with a bearing on asylum and migration.

While highlighting changes that occurred during 2009, there are several references to the 2008 policy analysis report when providing detailed information on the legislative framework.

Reference is also made to several legal measures adopted during 2008 (the law on nationality and the law on the reception and integration of foreigners), although they only came into force in 2009.

Section 3 of the report is structured as follows:

It refers, first of all, to declarations of intent and to measures taken by the government or the public authorities to respond to the various commitments contained in the European Pact on Immigration and Asylum.

In so far as a government or ministerial action has been able to meet one or more of the commitments in the Pact, we have either quoted the latter in each such case or supplied a cross-reference to the action concerned.

Secondly, mention has been made under the 'additional information' headings of actions or aspects of policy debate that originated in civil society and which related directly or otherwise to items in the Pact.

Thirdly, the additional information also includes significant elements in the policy debate which are unrelated to the commitments in the Pact.

In deciding which events or discussions were significant, several criteria were taken simultaneously into account:

- the extent to which debates received media coverage;
- the impact they had on the policy discussions that were part and parcel of legislative activity;
- the numbers and types of player (NGOs, trade unions, political parties, deputies, parliamentary groups, media outlets, members of the government, etc.) who contributed to or were involved in the debate.

We have also taken account of reference documents, studies and reports on migration and asylum, which have fed into the debate on migration policy in Luxembourg.

The main sources of information used for the report were the following:

- information obtained from government and non-governmental national experts;
- regular follow-up from parliamentary debates and questions;
- all articles in Luxembourg's main daily or weekly newspapers which were systematically consulted;
- carefully identified reference documents (studies, and annual reports from various players, etc.);
- contacts with NGOs active in the field of migration and asylum;
- the opinions and positions of NGOs;
- the websites of ministries and NGOs etc., which were consulted systematically.

As regards the terminology, we have relied on the terms used in the EMN Glossary.

The term *étranger* ('foreigner') is the one used in the definition in article 3a) of the law on immigration which states that a 'foreigner' is 'any person who does not have Luxembourg nationality, either because he or she possesses another single nationality, or because (s)he is stateless'.

## List of abbreviations:

ADEM	<i>Administration de l'Emploi</i> (Employment Administration Agency)
ADR	<i>Alternativ Demokratesch Reformpartei</i> (Alternative Democratic Reform Party)
AFR	<i>Aides à la formation-recherche</i> (support for combined training and research)
AIP	Applicant for International Protection
AOT	<i>Autorisation d'occupation temporaire</i> (temporary work permit)
ASP	<i>Autorisations de séjour provisoires</i> (residence permit for humanitarian reasons)
AST	<i>Autorisation de séjour temporaire</i> (temporary residence permit)
ASTI	<i>Association de soutien aux travailleurs immigrés</i> (Association for the Support of Immigrant Workers)
AT	<i>Autorisation de travail</i> (work permit)
CAI	<i>Contrat d'accueil et d'intégration</i> (Welcome and Integration Contract)
CCDH	<i>Commission consultative des Droits de l'Homme</i> (Consultative Commission for Human Rights)
CCTS	<i>Commission consultative pour travailleurs salariés</i> (Advisory Committee for Employees)
CET	<i>Centre pour l'égalité de traitement</i> (The Equality Commission)
CGE	<i>Commissariat du Gouvernement aux étrangers</i> (Government Commission for Foreigners)
CLAE	<i>Comité de liaison et des Associations d'Étrangers</i> (Liaison Committee of Foreigners' Associations)
CNE	<i>Conseil national pour étrangers</i> (National Council for Foreigners)
CSDD	<i>Conseil Supérieur pour le Développement Durable</i> (Higher Council for Sustainable Development)
CSV	<i>Parti Chrétien Social</i> (Christian Social Party)
DP	<i>Parti démocratique</i> (Democratic Party)
EMN	European Migration Network
KPL	<i>Parti Communiste Luxembourgeois</i> (Luxembourg Communist Party)
LCGB	<i>Lëtzebuenger Chrëschtliche Gewerkschaftsbond</i> (Luxembourg Confederation of Christian Trade Unions)
LFR	<i>Collectif Réfugiés - Lëtzebuenger Flüchtlingsrot</i> (The Refugee Group)
LSAP	<i>Parti ouvrier socialiste luxembourgeois</i> (Luxembourg Socialist Workers' Party)
IOM	International Organization for Migration
NMS	'New' EU Member States
OLAI	<i>Office luxembourgeois de l'accueil et de l'intégration</i> (Luxembourg Agency for Reception and Integration)
STATEC	<i>Service central de la Statistique et des Études économiques</i> (Central Department for Statistics and Economic Research)
TS	<i>Titre de séjour</i> (residence permit)
UNHCR	United Nations High Commissioner for Refugees

## **Statistics**

5.1.1 *The right to asylum and the protection of refugees*

5.1.2 *Trends in job-seekers by nationality*

5.1.3 *Electoral participation of foreigners: registration on the local electoral roll*

5.1.4 *Acquisition of Luxembourg nationality*

5.1.5 *Acquisition of Luxembourg nationality, by former nationality and type of procedure, 2009*



### 5.1.1 The right to asylum and the protection of refugees

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Applications: cases</b>	893	1425	365	423	671	1210	1346	669	380	291	299	333
<b>Applications: individuals</b>	1707	2920	627	690	1048	1550	1577	803	523	426	463	505
<b>Individual/case ratio</b>	1.91	2.05	1.72	1.63	1.56	1.28	1.17	1.20	1.38	1.46	1.55	1.52
<b>Home country (%)</b>												
<b>Former Yugoslavia</b>	93.6	95.5	66.5	59.0	64.6	44.6	29.1	37.5	43.4	65.7	57.0	38.8
<b>African country</b>	1.4	0.7	6.9	10.8	12.8	32.3	53.8	38.5	24.1	13.6	17.0	19.8
<b>Country (former Soviet Union and former eastern bloc countries)</b>	2.2	2.6	20.0	20.2	15.3	15.9	10.3	11.4	18.6	14.5	5.4	14.5
<b>Others</b>	2.8	1.2	6.6	10.0	7.3	7.2	6.8	12.6	13.9	6.2	20.6	26.9
<b>Recognitions, authorized residence for humanitarian reasons, tolerance measures, temporary work permits</b>												
<b>Recognition of refugee status: cases</b>	18	-	7	39	25	38	47	40	30	90	93	67
<b>Recognition of refugee status: individuals</b>	43	29	17	89	44	62	82	97	37	160	107	141
<b>Recognition of subsidiary protection status: cases</b>										5	0	8
<b>Recognition of subsidiary protection status: individuals</b>										7	0	11
<b>Authorized residence for humanitarian reasons: individuals</b>			26	353	35	106	219	206	121	224	139	0
<b>Tolerance measures: individuals</b>			16		43	43	88	368	230	155	200	30
<b>Temporary work permits</b>									67	176	170	

Source: Directorate of Immigration, Ministry for Foreign Affairs

NB: The minister regularly grants authorized residence for humanitarian reasons to persons, AIPs or AIPs whose cases have been refused. While, in 2009, no such authorizations were granted, the minister offered 75 persons the prospect of obtaining a provisional residence permit for humanitarian reasons, provided they obtained a work permit.

The tolerance measure was introduced under article 14 of the law of 18 March 2000 – on the creation of temporary protection arrangements – modifying the amended law of 3 April 1996 – on the establishment of a procedure for reviewing applications for asylum. According to amended article 22 of the amended law of 5 May 2006 on the right to asylum and supplementary forms of protection, the minister may decide to grant a tolerance measure to AIPs whose cases have been refused and whose transfer to another country would be impossible in practice because of *de facto* circumstances beyond the control of the applicant. Data refer to the first tolerance measures granted and the first AOTs issued, without taking renewals into account.

Article 14 of the law on the right to asylum makes provision for access to the labour market for AIPs where the minister has not ruled on the application within the nine months following its submission. The minister may issue an AOT for six months renewable which remains valid until such time as the application is finally refused. According to article 22 of the same law, the AIP whose case has been refused may be granted a tolerance measure if it is impossible in practice to complete his or her transfer to another country because of *de facto* circumstances. Those who are granted a tolerance measure may

also access the labour market when issued with an AOT. The AOT may be issued by the minister to the AIP. The data relate to the first AOTs issued, without taking renewals into account.

### 5.1.2 Trends in job-seekers by nationality

	On 31 December 2009		On 31 December 2008		On 31 December 2007	
<b>Total</b>	14,816	100.00%	11,511	100.00%	9815	100.00%
<b>Total EU-15</b>	12,609	85.10%	9,827	85.40%	8,415	85.70%
<b>Total New Member States (12)</b>	289	2.00%	182	1.60%	155	1.60%
<b>Total EU</b>	12,898	87.10%	10,009	87.00%	857	87.30%
<b>Total third country</b>	1,918	12.90%	1,502	13.00%	1,245	12.70%
<b>Portugal</b>	4,835	32.60%	3,810	33.10%	3,017	30.80%
<b>Luxembourg</b>	4,466	30.10%	3,619	31.40%	3,389	34.60%
<b>France</b>	1,198	8.10%	864	7.50%	706	7.20%
<b>Italy</b>	668	4.50%	507	4.40%	439	4.50%
<b>Belgium</b>	581	3.90%	426	3.70%	336	3.40%
<b>Germany</b>	406	2.80%	292	2.50%	271	2.70%
<b>United Kingdom</b>	119	0.80%	60	0.50%	32	0.30%
<b>Netherlands</b>	97	0.70%	95	0.80%	86	0.90%
<b>Spain</b>	92	0.60%	68	0.60%	72	0.70%
<b>Denmark</b>	31	0.20%	21	0.20%	9	0.10%
<b>Sweden</b>	29	0.20%	10	0.10%	9	0.10%
<b>Greece</b>	25	0.20%	19	0.20%	29	0.30%
<b>Ireland</b>	23	0.20%	12	0.10%	6	0.00%
<b>Austria</b>	20	0.10%	10	0.10%	10	0.10%
<b>Finland</b>	19	0.10%	14	0.10%	4	0.00%
<b>Poland</b>	102	0.70%	63	0.50%	57	0.60%
<b>Romania</b>	59	0.40%	37	0.30%	36	0.40%
<b>Bulgaria</b>	26	0.20%	20	0.20%	12	0.10%
<b>Hungary</b>	25	0.20%	14	0.10%	18	0.20%
<b>Slovakia</b>	21	0.10%	11	0.10%	14	0.20%
<b>Slovenia</b>	17	0.10%	5	0.10%	4	0.00%
<b>Lithuania</b>	12	0.10%	11	0.10%	7	0.10%
<b>Latvia</b>	11	0.10%	5	0.10%	3	0.00%
<b>Czech Republic</b>	8	0.10%	8	0.10%	3	0.00%
<b>Estonia</b>	6	0.00%	6	0.10%	1	0.00%
<b>Cyprus</b>	1	0.00%	1	0.00%	0	0.00%
<b>Malta</b>	1	0%	1	0.00%	0	0.00%

Source: ADEM

NB: Data relate to unemployed persons, who are resident in national territory and available for the labour market, or to seek appropriate employment, but not allocated to a measure for employment, compensated or non-compensated, and who have complied with ADEM monitoring obligations.

### 5.1.3 Electoral participation of foreigners: registration on the local electoral roll

Nationalities	Registrations 1999	Registrations 2005	Differences		Foreigners ≥ 18 years of age	Registration rate (approx.)
			Real figures	%		
<b>Registration of EU citizens</b>						
Germany	1,197	1,665	468	39%	10,252	16%
Austria	45	73	28	62%	599	12%
Belgium	1,510	2,205	695	46%	14,472	15%
Denmark	142	183	41	29%	1,752	10%
Spain	260	333	73	28%	2,853	12%
Finland	4	34	30	750%	703	5%
France	1,631	2,471	840	52%	20,475	12%
Great Britain	311	498	187	60%	4,434	11%
Greece	94	128	34	36%	1,150	11%
Ireland	51	93	42	82%	1,064	9%
Italy	3,131	3,579	448	14%	17,340	21%
Netherlands	534	676	142	27%	3,516	19%
Portugal	4,896	10,622	5,726	117%	52,215	20%
Sweden	29	78	49	169%	1,095	7%
Cyprus		1			5	20%
Estonia		1			147	1%
Hungary		6			405	1%
Latvia		1			57	2%
Lithuania		0			54	0%
Malta		1			28	4%
Poland		39			821	5%
Czech Republic		10			175	6%
Slovakia		1			123	1%
Slovenia		8			96	8%
<b>Total EU citizens</b>	<b>13,835</b>	<b>22,706</b>	<b>8,871</b>	<b>64%</b>	<b>133,828</b>	<b>17%</b>
<b>Registration of third-country nationals</b>						
Bosnia		243			1,935	13%
Bulgaria		7			170	4%
Cape Verde		115			1,418	8%
China		15			1,078	1%
Croatia		15			319	5%
United States		49			1,423	3%
Macedonia		16			343	5%
Romania		24			509	5%
Switzerland		62			471	13%
Turkey		4			271	1%
Yugoslavia		380			5,381	7%
Others		321			8,663	4%
<b>Total third-country nationals</b>		<b>1,251</b>			<b>21,981</b>	<b>6%</b>
<b>GRAND TOTAL</b>		<b>23,957</b>			<b>155,809</b>	<b>15%</b>

Source: SESOPI-Centre Intercommunautaire, RED 9, *Bilan des inscriptions aux élections communales d'octobre 2005 et aux élections européennes de juin 2004*, Luxembourg, February 2005.

NB: In order to register on the local electoral roll, candidates should have reached their majority by the day of the elections and demonstrate that they have been residents for five years when they register. The approximate registration rate has been calculated with reference solely to the age requirement, without taking account of the residence period of foreigners in Luxembourg.

#### 5.1.4 Acquisition of Luxembourg nationality

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Naturalizations (former procedure)</b>	338	278	228	204	307	198	396	316	373	372	328	487	526	436
<b>Options (former procedure)</b>	517	336	499	393	375	263	419	396	468	612	745	815	597	479
<b>Recovered nationality (former procedure)</b>	19	15	16	15	10	13	11	9	7	11	11	9	6	
<b>Naturalizations (new procedure)</b>														3,039
<b>Recovered nationality (new procedure)</b>														68
<b>Total</b>	874	629	743	612	692	474	826	721	848	995	1,084	1,311	1,129	4,022

Source: Ministry of Justice

NB: Ministry of Justice statistical data on acquiring Luxembourg nationality differ slightly from those of the STATEC, because the figures are inputted at different points in time. The figures do not take account of the children of persons who have acquired Luxembourg nationality. The figures for 2009 do not take account of the 4209 persons who automatically became Luxembourgers given that they were born in Luxembourg between 1 January 1991 and 31 December 2008 of foreign parents, at least one of whom was also born there ('dual ground right' to nationality).

The new law on nationality, which came into force on 1 January 2009 has abolished the 'option' procedure.

5.1.4.1 Acquisition of Luxembourg nationality, by former nationality and type of procedure, 2009

Former nationality (country)	Nationality, Articles 6, 7 and 10	Nationality (former procedure)	'Option' (former procedure)	Recovered nationality, Article 14	Recovered nationality, Article 29	Recovered nationality, Article 31	Total acquisitions of nationality
Afghanistan	0	1	0	0	0	0	1
South Africa	4	3	1	0	0	0	8
Albania	9	17	7	0	0	0	33
Algeria	2	2	2	0	0	0	6
Germany	259	28	29	3	2	1	322
Argentina	1	0	0	0	0	0	1
Austria	4	0	0	0	0	0	4
Azerbaijan	0	1	0	0	0	0	1
Bangladesh	2	1	0	0	0	0	3
Belarus	2	1	0	0	0	0	3
Belgium	176	17	16	1	9	5	224
Bosnia-Herzegovina	214	32	24	0	0	0	270
Brazil	3	1	3	0	0	0	7
Bulgaria	5	1	0	0	0	0	6
Burundi	0	1	1	0	0	0	2
Cameroon	4	5	2	0	0	0	11
Canada	6	0	0	3	0	0	9
Cape Verde	31	30	16	0	0	0	77
China	8	22	3	0	0	0	33
Colombia	0	0	2	0	0	0	2
Croatia	17	6	2	0	0	0	25
Cuba	0	0	1	0	0	0	1
Egypt	0	1	0	0	0	0	1
Ecuador	0	1	1	0	0	0	2
Eritrea	0	1	0	0	0	0	1
Spain	43	0	4	0	0	1	48
United States of America	33	1	1	10	2	0	47
Ethiopia	0	3	0	0	0	0	3
Finland	4	0	0	0	0	0	4
France	209	20	29	10	6	3	277
Ghana	0	0	1	0	0	0	1
Greece	6	0	0	0	0	0	6
Guinea	0	1	0	0	0	0	1
Hungary	2	0	0	0	0	0	2
India	2	10	0	0	0	0	12
Iran	4	9	1	0	0	0	14
Iraq	0	6	0	0	0	0	6
Ireland	4	0	0	0	0	0	4
Iceland	1	0	0	0	0	0	1
Israel	1	0	0	0	0	0	1
Italy	267	10	77	0	0	8	362
Japan	2	0	0	0	0	0	2
Kosovo	36	36	5	0	0	0	77

Liechtenstein	1	0	0	0	0	0	1
Macedonia	38	6	7	0	0	0	51
Malaysia	2	0	0	0	0	0	2
Mali	0	0	1	0	0	0	1
Morocco	2	8	7	0	0	0	17
Mauritius	3	1	0	0	0	0	4
Mexico	0	0	1	0	0	0	1
Moldova	1	0	0	0	0	0	1
Montenegro	114	12	12	0	0	0	138
Nigeria	0	3	1	0	0	0	4
Uzbekistan	0	0	2	0	0	0	2
Pakistan	0	2	0	0	0	0	2
Netherlands	19	2	10	0	0	0	31
Peru	0	3	0	0	0	0	3
Philippines	0	4	4	0	0	0	8
Poland	25	2	3	0	0	0	30
Portugal	1,082	14	146	0	0	0	1,242
Democratic Republic of Congo	0	7	2	0	0	0	9
Dominican Republic	1	0	3	0	0	0	4
Republic of Congo	0	1	0	0	0	0	1
Czech Republic	2	0	0	0	0	0	2
Romania	15	12	1	0	0	0	28
United Kingdom	59	1	0	1	1	0	62
Russia	28	10	2	0	0	0	40
Rwanda	0	1	1	0	0	0	2
Stateless	4	3	1	0	0	0	8
Senegal	0	0	1	0	0	0	1
Serbia	217	11	21	0	0	0	249
Serbia and Montenegro	3	35	0	0	0	0	38
Sierra Leone	0	1	0	0	0	0	1
Slovakia	6	1	0	0	0	0	7
Slovenia	2	1	0	0	0	0	3
Somalia	1	3	0	0	0	0	4
Sweden	6	0	0	0	0	0	6
Switzerland	27	1	0	0	2	0	30
British Overseas Territories	0	2	1	0	0	0	3
Thailand	8	1	0	0	0	0	9
Togo	1	1	1	0	0	0	3
Tunisia	1	5	4	0	0	0	10
Turkmenistan	0	1	0	0	0	0	1
Turkey	8	4	2	0	0	0	14
Ukraine	1	8	16	0	0	0	25
Uruguay	0	1	0	0	0	0	1
Vietnam	1	0	1	0	0	0	2
<b>TOTALS</b>	<b>3,039</b>	<b>436</b>	<b>479</b>	<b>28</b>	<b>22</b>	<b>18</b>	<b>4,022</b>

Source: Ministry of Justice









The objective of the European Migration Network (EMN) is to provide up-to-date, objective, reliable and comparable information on migration and asylum to Community Institutions, Member States' authorities and institutions, and the general public, with a view to supporting policy-making in the European Union in these areas.



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Office luxembourgeois de l'accueil  
et de l'intégration