

**European Migration Network - National Contact Point
Luxembourg (LU EMN NCP)**

2013 Policy Report on Migration and Asylum

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PREFACE

The opinions and interpretations expressed in this report belong exclusively to their authors. They do not necessarily reflect the positions of the Ministry of Family, Integration and the Greater Region, nor of the Ministry of Foreign and European Affairs.

The present report was drawn up by Lisa Li and David Petry, members of the National Contact Point Luxembourg within the European Migration Network (LU EMN NCP) under the responsibility and coordination of Christel Baltes-Löhr, University of Luxembourg, with the ongoing support of Sylvain Besch, CEFIS - Centre for Intercultural and Social Study and Training; Marc Hayot, Luxembourg Reception and Integration Agency, Ministry of Family, Integration and the Greater Region; Géry Meyers and Sylvie Prommenschenkel, Directorate of Immigration, Ministry of Foreign and European Affairs and Germaine Thill, STATEC - National Statistics Institute.

PRELIMINARY CONSIDERATIONS

1. Methodology

The first chapter relates to the general evolution of the political and legal system in Luxembourg as well as to the political and institutional developments in relation to asylum and migration.

The following chapters are thematically divided. For each subject, under the heading “The general context before 2013”, we first of all include general information considered important in order to better understand developments which have occurred more recently. Secondly, we deal with national developments concerning policies, legislative changes and specific debates under the heading “National developments”. Finally, developments associated with the implementation of European policies and the transposition of European directives, have been included under the heading “Developments in the European context”.

In order to determine the significance of the events or debates, account has been taken of the following criteria:

- media coverage;
- impact of the debate on the political discussions accompanying the legislative process;
- number and type of actors (non-governmental organisations, unions, political parties, deputies, parliamentary groups, media, members of government, etc.) intervening or involved in the debate.

Account has also been taken of reference documents such as studies and reports in relation to migration and asylum which have fed the debate on asylum and migration policies in Luxembourg.

The principal sources of information used are:

- Information provided by national governmental and non-governmental experts;
- Information provided by non-governmental organisations active in the field of migration and asylum;
- Systematic monitoring of parliamentary debates and questions;
- Systematic consultation of all the press articles written in the main daily and weekly newspapers in Luxembourg;

- Consultation of reference documents (studies, activity reports from various actors, etc.);
- Consultation of the positions taken by non-governmental organisations;
- Systematic consultation of relevant internet sites (ministries, non-governmental organisations, etc.);
- Consultation of the database on administrative case law regarding migration and international protection established by the Luxembourg National Contact Point within the European Migration Network.¹

Luxembourg has some specific characteristics regarding migration and its population: 86.2% of non-Luxembourgish nationals are European Union citizens (214.390) and 13.8% are third-country nationals (34.524).² 44.2% of the domestic employment consists of cross-border workers.³ Politics and the debates on immigration, asylum, as well as integration issues cannot be understood without taking into consideration this specific reality. We have mentioned these dimensions whenever they appeared relevant for the policies and general debates on immigration, asylum and integration.

2. Terminology and definitions

As for terminology, we refer to the terms used in the Asylum and Migration Glossary 2.0 of the European Migration Network⁴.

The term *foreigner* is the one defined in Article 3(a) of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, which stipulates that a foreigner is “any person who does not possess the Luxembourg nationality, who either exclusively possesses another nationality, or who possesses none”⁵.

¹ Please see: www.emnluxembourg.lu

² Information provided by STATEC. Please see:

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=9396&IF_Language=fra&MainTheme=2&FldrName=1

³ Information provided by STATEC. Please see:

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=7255&IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=92

⁴ The EMN Asylum and Migration Glossary 2.0 is available on the following website: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en.htm

⁵ Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

1. INTRODUCTION

1.1. Structure of the political system and the institutional context

The structure of the political system and the institutional context of Luxembourg were described in detail in the previous policy reports on migration and asylum.⁶ However, as anticipated national elections took place in October 2013, some important changes are provided under the following points.

1.1.1. National elections

The year 2013 was marked by the anticipated national elections of 20 October 2013, which followed a no-confidence motion by the Luxembourg Socialist Workers' Party (LSAP). They requested the dissolution of the Chamber of Deputies and the Government fell after an espionage scandal, the so-called "SREL (Intelligence Service of the State) case". This case was part of a series of cases (*Bommeleeër case, Livange case, Cargolux case*) that undermined the confidence in politics and various politicians.

The debates during the legislative campaign focused primarily on the institutional reform, the modernisation of democracy and the fight against unemployment. The issue of immigration and asylum was only rarely addressed, with the exception of the question of the right of foreign residents to vote, this in relation to the idea of a modernisation of democracy.

1.1.2. A new Government

After the elections a new Government was formed and the coalition between the Christian Social Party (CSV) and the Luxembourg Socialist Workers' Party (LSAP), a coalition which held 39 seats in the Chamber of Deputies (CSV 26, LSAP 13), was replaced by a new three-party coalition consisting of the Democratic Party (DP), the Luxembourg Socialist Workers' Party (LSAP) and the Green Party (Déi Gréng). The new coalition holds a total of 32 out of 60 seats in the Chamber of Deputies (DP 13, LSAP 13, Déi Gréng 6).

⁶ LU EMN NCP, Policy report on migration and asylum, 2008, 2009, 2010, 2011 and 2012 are available on our website: <https://www.emnluxembourg.lu/PUBLICATIONS/policy-reports>

This situation is in many respects particular:

- Never in its entire post-World War II history, was Luxembourg ruled by more than two political parties.
- Only once the CSV, who led all governments since 1944, was put out of play. This was after the elections of May 1974.⁷
- Even though CSV has ten seats more than the two main Government parties, it was forced to go into opposition.

The new Government consists of 15 ministers and 3 secretaries of State, most of them having no governance experience. This also has consequences for the Chamber of Deputies, because many of the CSV ministers are for the first time deputies and new members have emerged from the coalition parties.

1.1.3. Institutional changes

Several institutional changes have occurred since the new Government has been formed. The most significant changes in terms of immigration and asylum policies are the appointments of a new Minister in charge of Immigration and Asylum, Mr Jean Asselborn, as well as a new Minister for Family, Integration and Greater Region, Ms Corinne Cahen.⁸

The Ministry of Foreign Affairs has been renamed into Ministry of Foreign and European Affairs and the Ministry for Family and Integration has been renamed into Ministry for Family, Integration and the Greater Region.⁹

The actions of the new Government will focus upon the modernisation of the country and it puts particular emphasis on the reform of the functioning of the State and its institutions. In its programme it calls for a democratic renewal including the desire to broaden the electoral base as well as a greater use of direct democracy.¹⁰

Regarding immigration, asylum and integration the change of government includes the following modifications:

The Ministry of Foreign and European Affairs remains responsible for immigration and asylum issues but the functions now come under the jurisdiction of the Minister in charge of Immigration

⁷ Wort.lu, « *Coalition à trois inédite au Luxembourg* », 22 October 2013,

<http://www.wort.lu/fr/view/coalition-a-trois-inedite-au-luxembourg-52664130e4b0ff388169e703>

⁸ Grand-Ducal Decree of 4 December 2013 attributing Ministerial Competences to Members of Government, Memorial A N°210 of 6 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0210/a210.pdf>

⁹ Grand-Ducal Decree of 23 December 2013 listing the Ministries, Memorial A N°226 of 27 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0226/a226.pdf>

¹⁰ Gouvernement.lu, Government Programme, p.7,

<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

and Asylum¹¹, who is also the Minister of Foreign and European Affairs, Mr Jean Asselborn (LSAP).

The functions that fall within the competences of the Minister in charge of Immigration and Asylum are as follows:

- National, European and international policies on immigration and asylum;
- Free movement of persons and immigration: entry and stay of foreigners;
- International protection and temporary protection;
- Return of irregularly staying migrants;
- Retention Centre;
- Granting of statelessness status;
- Travel documents for foreigners;
- Relations with international organisations and NGOs.¹²

Previously, these functions came under the jurisdiction of the Minister of Labour, Employment and Immigration, Mr Nicolas Schmit (LSAP).

The Ministry of Family, Integration and Greater Region remains responsible for integration issues. The new minister is Ms Corinne Cahen (DP).¹³

The functions regarding integration that fall within the competences of the Minister for Family, Integration and Greater Region are:

- Integration of foreigners and social action in favour of foreigners;
- Luxembourg Reception and Integration Office (OLAI);
- Reception facilities for asylum applicants;
- Reception homes for immigrants;
- National Council for Foreigners.¹⁴

The education of foreign children remains with the Ministry of National Education, now called the Ministry of National Education of Children and Youth. The new Minister is Claude Meisch (DP)

¹¹ Grand-Ducal Decree of 4 December 2013 attributing Ministerial Competences to Members of Government, Memorial A N°210 of 6 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0210/a210.pdf>

¹² Grand-Ducal Decree of 23 December 2013 listing the Ministries, Memorial A N°226 of 27 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0226/a226.pdf>

¹³ It should be noted that under the previous Government, there were several cabinet reshuffles following the departure of former CSV ministers. Mr Marc Spautz replaced Ms Marie-Josée Jacobs as Minister for Family and Integration and Ms Octavie Modert replaced Mr François Biltgen as Minister of Justice.

¹⁴ Grand-Ducal Decree of 23 December 2013 listing the Ministries, Memorial A N°226 of 27 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0226/a226.pdf>

assisted by a Secretary of State André Bauler (DP).¹⁵

The Office in charge of Luxembourg Nationality (*Service de l'indigénat*) continues to fall within the competences of the Ministry of Justice. The new Minister of Justice is Mr Felix Braz (Déi Gréng).¹⁶

1.1.4. Reform of the Constitution

Work on the constitutional reform continued in 2013 within the responsible parliamentary committee. The reform was discussed in the various election programmes of the political parties and later on in the new Government Programme. Thus, in the chapter “Democratic Renewal”, the coalition parties state that they want to “finalise the adoption of a new Constitution based on an institutional modernisation and based on a strengthening of human rights and fundamental freedoms.”¹⁷

In view of the constitutional reform, the coalition parties plan to organise citizens’ forums in order to guarantee a wide-ranging debate on the challenges and objectives for change. They also plan several referendums on key issues, including:

- The financing of the ministers of religion;
- The political rights of non-Luxembourgish citizens;
- Young people’s involvement in the political process from the age of 16;
- The limitation in time of ministerial mandates.

End of 2015, after the first parliamentary vote, the text of the new Constitution should be submitted, according to the constitutional procedure, to a second vote of approval by referendum.

The right of non-Luxembourgish citizens to vote was taken up by various civil society organisations ahead of the national elections and was addressed in different electoral programmes. In the process of the constitutional reform, the Government intends to submit the issue to a vote by referendum in 2015. It should be noted that the draft reform of the Constitution already contains an innovation regarding the right to vote. Article 65 provides that “a law adopted by a qualified majority, may, under the conditions it determines, grant qualified elector status to people not having the

¹⁵ Grand-Ducal Decree of 4 December 2013 attributing Ministerial Competences to Members of Government, Memorial A N°210 of 6 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0210/a210.pdf>

¹⁶ Grand-Ducal Decree of 4 December 2013 attributing Ministerial Competences to Members of Government, Memorial A N°210 of 6 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0210/a210.pdf>

¹⁷ Gouvernement.lu, Government Programme, p.6, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

Luxembourg nationality.”¹⁸

Regarding the access to political rights, spurred by the evaluation of the reform of the legislation on the acquisition of the Luxembourg nationality in 2008, the conditions and procedures for obtaining the Luxembourg nationality will be reduced. Changes concern in particular the lowering of the level of language skills with the aim of ensuring social equity.¹⁹

1.1.5. Asylum and migration policy

The new Government reaffirmed its full support for the unimpeded exercise of the freedom of movement for European citizens in the Schengen area. The asylum and migration policy of the European Union should be marked by the principles of solidarity, of humanity towards the most vulnerable and of firmness against networks or States that promote irregular migration. In order to deal with particular labour and skills shortages, a legal framework for the management of legal migration should also be created at EU level.²⁰

¹⁸ The draft of the new Constitution as discussed by the Committee on Institutions and Constitutional revision, Version n°3 A, PV IR n° 43, 26 June 2013, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/133/256/123525.pdf

¹⁹ Gouvernement.lu, Government Programme, p.6, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>
Please also see 2.4.4. Citizenship and Naturalisation, p.45.

²⁰ Gouvernement.lu, Government Programme, p.195, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

1.2. Overview of asylum and migration policy developments

1.2.1. Political participation of foreign residents

Although the debates during the election campaign hardly focused on issues of immigration and asylum, the issue of the political participation of foreigners, fuelled by statements from different actors of civil society, was gradually put on the political agenda during the campaign. Almost all political parties took position on this matter in their election programme. The fact that only 57.4% of Luxembourg's residents can participate in the elections²¹ is indeed considered by some political and economic entities as a democratic deficit which represents a threat to the social cohesion of the country. Others were opposed to the idea of extending the right to vote to residents of foreign nationality when it comes to the national elections. The new Government has already announced its intention to organise citizen's forums on the issue, as well as to submit it to a national referendum in 2015.²²

1.2.2. Single regularisation process

In the context of the transposition of the "Sanctions" Directive into national law, a unique regularisation measure was implemented from 2 January to 28 February 2013.²³ The intention was to allow individuals residing without authorisation in Luxembourg to apply for a residence permit as salaried workers and consequently regularise their administrative status. The uniqueness of this measure resided in the limited time period the measure was implemented, as well as the strengthening of sanctions and controls in the aftermath. Indeed, employers were given the possibility to declare within two months their illegally employed workers. Once the deadline had passed, within the framework of the implementation of the law transposing the "Sanctions" Directive, employers were more heavily punished and controls were multiplied. In a second phase, family members of third-country nationals who have obtained a residence permit as a salaried worker under the single regularisation process were able to apply for a residence permit within the first two months of the date of issue of the residence permit of the salaried worker.

²¹ STATEC, *Regards n°15 sur les profils des électeurs*, 7 October 2013, <http://www.statistiques.public.lu/catalogue-publications/regards/2013/PDF-15-2013.pdf>

²² Gouvernement.lu, Government Programme, p.6, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

²³ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2012, pp.93-96, <https://www.emnluxembourg.lu/sites/default/files/Policy%20report%20on%20migration%20and%20asylum%20WEB.pdf>

The measure generated reactions from associations which work in the field of immigration, some of whom actually played an active role in helping the concerned persons with the submission of their files. The measure also sparked a public debate and media reactions on the issue of irregular labour migration in Luxembourg.

1.2.3. Reform of the Nationality Law

In 2012, the reform of the Nationality Law and the debate that surrounded it was among the topics that dominated the policy discussions on immigration and asylum. Due to the early elections, the file was put on hold in 2013. Although a bill, that responds to the evaluation report of the Law of 23 October 2008 on the Luxembourg Nationality by the Ministry of Justice, was introduced to the Chamber of Deputies, it was considered premature to legislate before the parliamentary elections. Therefore, there has been no major public debate on the issue, even though the bill received several reactions from different actors of civil society as well as from political parties.

1.2.4. Business-friendly environment

The new Government has already provided some indication on what will be among their priorities in terms of labour migration for the next five years. By considering creating two new categories of residence permits, that of the investor and of the CEO, and by setting up “fast track” procedures for certain categories of employees (highly-qualified workers - EU Blue Card holders, transferred workers), the Government clearly intends to create a more business-friendly environment. The legal and regulatory framework will therefore be reviewed and adapted if necessary.²⁴

²⁴ Gouvernement.lu, Government Programme, p.203,
<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

2. LEGAL MIGRATION AND MOBILITY

2.1. Promoting legal migration

In 2013, the Directorate of Immigration has issued a total of 4.711 first residence permits and has renewed 4.720 residence permits, whereas in 2012, 4.390 first residence permits were issued. This represents a progression of 7.5%. When the data is disaggregated by nationality, different profiles appear among the various nationalities regarding the reason for migrating to Luxembourg.

First residence permits issued in 2013		
Category	Number	Top 3 nationalities
EU Blue Card	306	USA (98) India (34) Japan (27)
Researcher	46	China (7) USA (7) India (6)
Pupil	240	USA (229) Vietnam (10) China (1)
Student	153	China (22) Russia (13) India (10)
Young Au pair	5	Philippines (2) Mexico (1) Bosnia (1)
Family member	912	USA (158) Montenegro (124) China (86)
International protection	162	Iran (31) Iraq (31) Albania (14)
Long term resident	1.637	Montenegro (532) Serbia (280) Bosnia (175)
Athlete or trainer	32	USA (26) Serbia (3) Tunisia (1)
Trainee	9	Morocco (2)

		Mauritius (1) Tunisia (1)
Posted worker	15	Canada (5) India (3) Israel (3)
Self-employed person	31	Russia (9) USA (5) Ukraine (3)
Employee	798	China (246) Brazil (75) Cape Verde (62)
Transferred worker	107	USA (39) China (22) India (15)
Private reasons	226	Japan (33) Kosovo (28) Russia (24)
Volunteer	2	Turkey (1) Moldova (1)
Total of first residence permits issued	4.711	

Source: Directorate of Immigration, 2014

2.1.1. Students and researchers

In 2013, 393 first residence permits were issued for educational reasons. 153 permits were issued to pupils and 240 permits were issued to students. The data is almost identical to the 2012 figures: in total 388 first residence permits were issued.

In 2013, 46 first residence permits as researchers were issued, compared to 28 in 2012.

Residence permits (first and renewals) issued in 2012 and 2013		
Category	2012	2013
Researcher	58	73
Student	346	343
Pupil	239	241

Source: Directorate of Immigration, 2014

2.1.1.1. National developments

A. The University of Luxembourg

The Ministry for Higher Education and Research supports the University of Luxembourg in its international strategy, which is founded on the desire to attract international students, the mobility of students, teachers and researchers, and multilingualism.²⁵ Regardless of its independence in its pedagogical, scientific, administrative and financial management, the University's administration cooperates closely with the authorities, and in particular with the Directorate of Immigration, concerning procedural matters related to the mobility of international students, e.g. the issue and renewal of residence permits.²⁶

The goal of attracting international students is pursued by means of international agreements targeting third-country universities and by partnerships with universities in the EU. The University of Luxembourg has signed a number of framework agreements²⁷ concerning partnerships outside of the ERASMUS agreement covering student exchanges, researcher exchanges and research partnerships. Existing framework agreements have been concluded with the following countries: Canada, Cape-Verde, China, India, Japan, Mali, Russia, Thailand, Uruguay and USA.²⁸

B. National Research Fund

On 3 April 2012, the Minister for Higher Education and Research introduced to the Chamber of Deputies the Bill amending the amended Law of 31 May 1999 concerning the creation of a National Research Fund.²⁹

The bill rewords the duties of the National Research Fund (FNR) by highlighting its significance as a central tool for the implementation of Government research policy and its contribution to the socio-economic development of the country.³⁰ In order to maximise the economic, social or cultural impact of the research activities, the application and exploitation of the results of public research must be given top priority in the next few years. The bill also aims to increase the number of

²⁵ University of Luxembourg, "5 good reasons", http://www.eni.lu/universite/presentation/5_bonnes_raisons

²⁶ LU EMN NCP, Immigration of International Students to Luxembourg, 2012, 3.5.2 and 3.7.4, <https://www.emnluxembourg.lu/type-documentation/immigration-international-students-eu>

²⁷ University of Luxembourg, International agreements, http://www.eni.lu/international/accords_interuniversitaires

²⁸ These framework agreements date from prior to 2012.

²⁹ Bill N°6420 amending the amended Law of 31 May 1999 concerning the Creation of a National Fund for Research in the Public Sector; amending the amended Law of 12 August 2003 concerning the Creation of the University of Luxembourg, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/108/112/110171.pdf

³⁰ In addition to the activities supporting research and researchers.

institutions eligible for funding and support from the FNR to non-profit organisations and foundations involved in research in relevant fields, provided that they have a ministerial approval.³¹

On 30 April 2013, the Council of State gave a complementary opinion³² on the bill, which was analysed by the responsible Parliamentary Commission. According to the Government amendments³³, only non-profit organisations and foundations involved in research of relevant fields must have the ministerial approval, while Government agencies and institutions are excluded.

C. International Baccalaureate

The International Baccalaureate classes continue to be developed. The English and French International Baccalaureate are recognised as equivalent to the secondary school leaving diploma by Luxembourg law.³⁴

D. Secondary education in English

As the demand for secondary education in English is growing in Luxembourg, the Lycée Michel Lucius started setting up a two-year program with a curriculum for students with English as a first or second language in the academic year 2011/12. For the academic year 2012/13 the LML offered classes, which aim to prepare students for the International GCSE (General Certificate of Secondary Education) exams. In 2013/14 the Lycée Michel Lucius is offering the second year of the International GCES exam preparation classes.³⁵

³¹ At present, eligible institutions are the University of Luxembourg, public research centres and public establishments. Approval procedures for research bodies as set out in Article 65(4) of the Law of 29 August 2008 on the Free Movement of Persons and Immigration (implemented by the Grand-Ducal Regulation of 14 November 2008) also apply to approving eligibility for the FNR. This approval sanctions eligibility for the FNR and the conditions for institutions receiving a third-country national for research purposes.

³² Complementary opinion of the Council of State, 30 April 2013, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/116/299/121958.pdf

³³ Government amendments to Bill N°6420, 17 December 2013, http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1230435&fn=1230435.pdf

³⁴ Law of 14 May 2002 on the recognition of equivalence of the International Baccalaureate with the Luxembourgish secondary school leaving diploma, Memorial A N°67 of 9 July 2002, <http://www.legilux.public.lu/leg/a/archives/2002/0067/a067.pdf#page=2>

³⁵ Information provided by the Ministry of National Education and Vocational Training.

2.1.1.2. Developments in the European context

A. Access to higher education and recognition of diplomas

Academic diplomas and higher education access may be granted to third-country nationals if they fall under the Council of Europe Conventions of Paris and Lisbon, regulating the access to higher education. For other countries, recognition can be granted if the diplomas match certain conditions in national regulations.³⁶

Diplomas and qualifications certifying professional skills of third-country nationals can be recognised if they fall under the Directive 2005/36/CE. If not, recognition is generally not possible. Refugees' diplomas and qualifications can be granted recognition on the same basis as for Luxembourgish citizens. Furthermore, the Law of 19 June 2013, amending the Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection transposed Article 28(2) of the Directive 2011/95/EU and now provides a facilitated access to a system recognising professional qualifications for beneficiaries of international protection.³⁷

B. Financial aid for students following the decision of the CJEU

The abolition of financial assistance for higher education for cross-border workers' children through the Law of 26 July 2010 had been the subject of significant criticism from trade unions and associations of cross-border workers in 2010 and 2011. Hundreds of appeals had been lodged before the Administrative Tribunal and a preliminary ruling had been requested.³⁸

On 20th June 2013, the Court of Justice of the European Union decided upon the request for a preliminary ruling from the Administrative Tribunal concerning the financial aid for higher education students whose parents are cross-border workers.³⁹ The Court of Justice considered the provisions introduced by the Law of 26 July 2010 to be incompatible with EU law and the principle of the free movement of workers. The Court recognised the need to take into account a certain degree of attachment of the applicant to the society and the labour market but held that the

³⁶ Information provided by the Ministry of National Education and Vocational Training.

³⁷ Law of 19 June 2013, Memorial A N°106 of 25 June 2013,
<http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=2>

³⁸ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2010, 2011 and 2012,
<https://www.emnluxembourg.lu/sites/default/files/Policy%20report%20on%20migration%20and%20asylum%20WEB.pdf>

³⁹ Case C-20/12, *Elodie Giersch and others*, Judgment of the Court (5th Chamber) of 20 June 2013,
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=138699&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=357768>

residence condition gave rise to a difference in treatment amounting to an indirect discrimination between the children of resident workers and the children of cross-border workers.

As a consequence a bill was introduced to the Chamber of Deputies on 5 July 2013 and was rapidly adopted as the Law of 19 July 2013 amending the Law of 22 June 2000 concerning the Financial Aid of the State for Higher Education.⁴⁰ This law now provides access to financial assistance for higher education to the children of a worker who has been employed in Luxembourg for at least 5 years.

In its opinion on the bill the Council of State suggested that the entire text should be reworked and that the system should be “in tune with the European framework”.⁴¹ The Council of State stated that the judgment of the Court of Justice raised additional questions, new to the existing text, which had not been addressed by the bill. It referred to “the case of a Luxembourgish student or family member of a Luxembourgish citizen who is not resident in the Grand Duchy of Luxembourg and of whom at least one parent is working in Luxembourg” as well as the case of a “child of a self-employed EU citizen who is not resident in Luxembourg”. The Council of State also referred to the bill as seeking to “mend fragile legislation based on paradigms fundamentally questioned by the judgment C-20/12” and disagreed with this approach.⁴² On the other hand, the Council of State did not question the strict application of the five-year clause of continuous work in Luxembourg, which may exclude those who, for which ever reason, had a short period of inactivity, even if it was only for several days between different jobs or in the case of pensioners. This clause was however heavily criticised by trade unions and the students union.⁴³

On 14th October 2013 the Administrative Tribunal followed the judgment of the Court of Justice and annulled the decision of the Ministry of Higher Education and Research to refuse granting financial aid to students whose parents are cross-border workers.⁴⁴

The new Government has already announced that it seeks to make further amendments regarding financial aid for students. On 3 March 2014, the Minister of Higher Education, Claude Meisch,

⁴⁰ Law of 19 July 2013 amending the Law of 22 June 2000 concerning the Financial Aid of the State for Higher Education, Memorial A N°168 of 13 September 2013,

<http://www.legilux.public.lu/leg/a/archives/2013/0168/a168.pdf#page=8>

⁴¹ Opinion of the Council of State on the Bill N°6585 amending the amended Law of 22 June 2000 on Financial Aid from the State for Higher Education, 2 July 2013, http://www.conseil-etat.public.lu/fr/avis/2013/07/50_260/50260.pdf

⁴² Ibidem.

⁴³ Wort.lu, « *Loi sur les bourses d'études: UNEL et OGBL dénoncent des "injustices"* », 11 July 2013, <http://www.wort.lu/fr/view/loi-sur-les-bourses-d-etudes-unel-et-ogbl-denoncent-des-injustices-51de633ce4b032c93c838d40>

⁴⁴ Administrative Tribunal, Decision of 14 October 2013, N°27689a du rôle.

presented to the Parliamentary Committee for Higher Education the proposed reform of the financial aid system for higher education.⁴⁵

C. Policy priorities for the new Government

The new Government intends to develop the sector of information technology and communication as well as a coherent and comprehensive strategy to increase the skills available in the country, both in attracting talent and by improving education, training, career transition and research in order to develop the skills necessary for the development of the digital society.⁴⁶

It also attaches great importance to research which on the one hand should further economic wealth by boosting competitiveness and growth through innovation, and on the other hand, help find answers to the problems of today's society, whether in the field of education, integration and social cohesion, or when it comes to the preservation of the natural and human environment.⁴⁷ Therefore, the Government intends to continue its commitment to the national reform programme "Luxembourg 2020" in order to increase its 2020 investment in research to an amount falling within a range of 2.3% to 2.6% of its GDP.

To stimulate research and innovation the Government also intends to better integrate national actors into international networks. Furthermore, it seeks to improve the working conditions of researchers and to strengthen ties between leading researchers and national research institutions by better integrating foreign students and researchers into the Luxembourg society, and consequently enabling them to better understand the conditions and challenges of our society.⁴⁸ According to the Government Programme, the recruitment of researchers and teachers of the University of Luxembourg must continue to strive for international excellence all the while practicing a consistent internal promotion and hosting researchers and resident teachers.⁴⁹

⁴⁵ Chamber of Deputies, « *Le nouveau système de bourses présenté aux députés* », 3 March 2014, <http://chd.lu/wps/portal/public>

⁴⁶ Gouvernement.lu, Government Programme, p.68, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

⁴⁷ Gouvernement.lu, Government Programme, p.115, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

⁴⁸ Gouvernement.lu, Government Programme, p.117, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

⁴⁹ Ibidem.

2.1.2. Other legal migration

2.1.2.1. National developments

A. Law on the hosting of young au pairs

On 18 February 2013, the draft bill⁵⁰ on the hosting of young au pairs was passed into law.⁵¹ The main changes are the following:

- Young au pairs now have to be insured under the statutory health insurance scheme, rather than to resort to private insurance;
- Working hours are limited to 5 hours per day;
- The child of whom the au pair takes care has to be registered in a day care facility if it is below the age of 6;
- Young au pairs have a right to free evenings as well as to an individual room for accommodation;
- There is no employment contract concluded, which means that there is no relationship of subordination;
- The au pair needs an approval by the Ministry of Family, Integration and Greater Region with whom s/he signs a convention.

Since the entry into force of the new law, 5 residence permits as young au pairs have been issued by the Directorate of Immigration.⁵²

B. Travel permits for foreigners

The Grand-Ducal Regulation of 19 June 2013 has modified the Grand-Ducal Regulation of 26 January 2005 setting the Terms for obtaining a Travel Permit as a Foreigner.⁵³ The competence for issuing such a permit has been transferred to the Directorate of Immigration.

⁵⁰ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2012, p. 54, <https://www.emnluxembourg.lu/type-documentation/rapport-politique-sur-les-migrations-et-lasile-2012>

⁵¹ Law of 18 February 2013 on the Hosting of Young Au Pairs, Memorial A N°44 of 11 March 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0044/a044.pdf>

⁵² Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p. 17, <http://www.gouvernement.lu/3508079/bilan.pdf>

⁵³ Coordinated Text of the Grand-Ducal Regulation of 26 January 2005 setting the Terms for obtaining a Travel Permit as a Foreigner, Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

The terms for obtaining a travel permit for foreigners have also been softened. A travel permit can now not only be issued to a person in possession of an authorisation of stay but also to a person who has obtained the minister's approval concerning the issuance of an authorisation of stay.

In exceptional circumstances, individuals for whom it is impossible to obtain or prolong their national passport may also apply for a travel permit for foreigners.⁵⁴

Since 29 June 2013, 66 applications for such a permit have been handled by the Directorate of Immigration.⁵⁵

2.1.2.2. Developments in the European context

A. Access for Croatian citizens to the Luxembourgish labour market

At its Council meeting on 14 June 2013, the Government decided to opt for an initial period of two years, starting on 1 July 2013, the date of accession of the Republic of Croatia to the European Union, during which transitional measures require that Croatian citizens need to have a work permit in accordance with Article 42(1) of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration in order to enter the Luxembourgish labour market.⁵⁶

The following Croatian citizens are exempted from the requirement to have a work permit:

- Employees admitted to the Luxembourgish labour market for a continuous period of no less than twelve months before the date of accession;
- Employees admitted to the Luxembourgish labour market between 1 July 2012 and 30 June 2013 after an uninterrupted period of work equal to twelve months;
- Salaried workers who are a family member of an EU citizen who himself is not subject to an authorisation;
- Highly-qualified workers, researchers and students, as defined by the Law of 29 August 2008 on the Free Movement of Persons and Immigration;
- Students who primarily study at a public or private school in Luxembourg and who wish to exercise, on an ancillary basis, a salaried activity.

⁵⁴ Guichet.lu, Conseil de gouvernement : nouvelles modalités pour les titres de voyage pour étrangers, <http://www.guichet.public.lu/citoyens/fr/actualites/2013/05/27-titres-voyage/index.html>

⁵⁵ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p. 14, <http://www.gouvernement.lu/3508079/bilan.pdf>

⁵⁶ Luxembourg.lu, Press release: « *Décision du Conseil de gouvernement concernant l'accès des citoyens croates au marché du travail luxembourgeois* », 1 July 2013, <http://www.luxembourg.public.lu/fr/actualites/2013/07/01-croatie/index.html>

For a stay of less than 3 months per calendar year, the relevant provisions of the Law of 29 August 2008 on the Free Movement of Persons and Immigration are applicable.⁵⁷

2.2. *Economic migration*

In 2013, 1.257 first residence permits were issued for economic reasons compared to 661 in 2012, which represents an increase of 90%. This progression can, in particular, be attributed to a significant increase from 267 to 798 first residence permits for employees (+200%).

Residence permits (first and renewals) issued in 2012 and 2013		
Category	2012	2013
EU Blue Card	183	306
Highly-qualified worker	45	2
Posted worker	36	24
Transferred worker	325	272
Employee	1.590	1.879
Self-employed person	106	83

Source: Directorate of Immigration, 2014

2.2.1. General context before 2013

There has been no major policy re-orientation regarding labour migration. Luxembourg does not apply a policy of quotas, nor a labour shortage list. It rather pursues its policy of adapting immigration to the needs of its economy, all the while trying to attract highly-qualified workers.

2.2.2. National developments

The year 2013 was marked by the implementation of the “Single Permit” Directive and the “Sanctions” Directive⁵⁸, as well as the fight against social dumping and illegal immigration.⁵⁹

⁵⁷ Ibidem.

⁵⁸ Please also see 7.3. Developments in the European context, p.81.

⁵⁹ Please also see B. The fight against social dumping, p.24.

A. Easing of the restrictions of the access to the labour market

The legislator took advantage of the transposition of the “Single Permit” Directive⁶⁰ in order to remove some of the restrictions of the access to the labour market:

- The restriction on third-country nationals to be employed in a single sector and profession only applies now for the first year of their legal employment. Renewed residence permits as salaried workers give beneficiaries the right to carry out a salaried activity in any sector or profession.⁶¹ Previously, the restriction to a single sector and profession could be imposed for a maximum of three years.⁶²
- After one year, residence permits for salaried workers may be renewed for a maximum of three years if the concerned person has a contract for a post advertised as vacant with the Employment Agency (ADEM). Previously, the title and the work permit could be renewed for a maximum period of two years.

The Law of 21 December 2012, which transposes the “Sanctions” Directive⁶³, entered into force in January 2013 and modifies the procedure of renewal of the residence permit for self-employed workers.⁶⁴ The advice of the Advisory Committee for the Self-employed Workers (*Commission consultative pour travailleurs indépendants*) will no longer be required and therefore simplifies the procedure and makes the renewal process more efficient.

B. The fight against social dumping

Social dumping and exploitation are widespread practices in the EU, and on the rebound understandably a major issue in Luxembourg. A key pull factor of irregular immigration is the possibility of obtaining work without the required legal status, which leads to huge collateral effects on the labour market. Thus, there is for the time being no doubt that increasing of rules and

⁶⁰ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State,

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0098&from=EN>

⁶¹ Article 43 of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N° 113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

⁶² Article 63 of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N° 138 of 10 September 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/2008A2024A.html>

⁶³ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>

⁶⁴ Law of 21 December 2012 on the Illegal Employment of Irregular Third-country Nationals staying Irregularly, Memorial A N° 296 of 31 December 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0296/index.html>

measures against this phenomenon will be fruitful in a near future. Luxembourg has launched two separate and complementary instruments targeting the fight against social dumping: the transposition of the “Sanctions” Directive and the introduction of a “Social Badge”.

These new measures are assigned as a priority to the Inspectorate of Labour and Mines (ITM) which will be given greater human resources as well as better means to monitor and control social dumping, which should lead to more efficient inspections. Nevertheless, one should bear in mind that cases are often complex and have connections abroad which require a lot of expertise and resources.⁶⁵

Due to an elevated level of wrongdoing on site, the competent authorities and the social partners at the national level are in favour of reducing social dumping and preventing accidents which occur at work.⁶⁶ Inspections are increasing and controllers of the Inter-administrative Unit for the Fight against Illegal Work (*CIALTI - Cellule inter administrative de lutte contre le travail illégal*) noted for example a number of irregularities on the restoration worksite of the furnaces in Belval. During an inspection, CIALTI verified compliance with regards to safety and health of the 52 workers, as well as their working conditions (wages, contracts, duration of work, rest periods, accommodation, allowances etc.).⁶⁷ Among other violations and irregularities noted, 13 Romanian nationals who did not have a single permit (residence & working) issued by the Directorate of Immigration or the Member State of the employer’s head office had been detected.

The so-called “Social Badge” was launched in a trial period on 2 October 2013 and it is foreseen to be officially inaugurated in the beginning of 2014.⁶⁸ This badge is intended to fight social dumping and facilitate the posting of workers. The employer has to register the employees with the ITM and subsequently the posted worker will obtain such a badge before being posted. Only the name and a bar code will figure on the badge. During an inspection the code can be scanned and the inspector will have all the necessary information regarding the posted worker.

The fight against social dumping also remains among the priorities of the employment policy of the new Government.⁶⁹

⁶⁵ Information provided by the Inspectorate of Labour and Mines.

⁶⁶ Ministry of Labour and Employment, Press release, « *Lancement du badge social d’identification* », 2 October 2013, <http://www.gouvernement.lu/2821273/02-badge-social?context=971660>

⁶⁷ Information and Press Service of the Government of the Grand Duchy of Luxembourg, Press Release, « *Les travaux de restauration des hauts fourneaux dans le collimateur* », 24 July 2013, http://www.gouvernement.lu/2819797/Communique_de_presse.pdf

⁶⁸ Ministry of Labour and Employment, Press release, « *Lancement du badge social d’identification* », 2 October 2013, <http://www.gouvernement.lu/2821273/02-badge-social?context=971660>

⁶⁹ Gouvernement.lu, Government Programme, p.53,

C. Promoting integration on the labour market through the Validation of Acquired Experience

Luxembourg aims to adapt its offer to a very heterogeneous population and continues to promote the Validation of Acquired Experience (VAE). This procedure was introduced with the vocational training reform.⁷⁰ It is a way of acknowledging professional and extra-professional experience by certifying them. All experiences achieved for a cumulative period of 5000 hours in three years or less can be validated. If the applicant qualifies, s/he may obtain, in whole or in part, a certificate of technical and vocational initiation (CITP), a certificate of manual capacity, a certificate of technical and professional competence (CATP), a degree of professional competence (DAP), a master's qualification (*brevet de maîtrise*), a technician diploma (DT) or a diploma of secondary technical education.

The procedure of validating the experience has been operational since spring 2010 and has aroused great interest. In total, 950 files were introduced until 31 August 2013. 743 of them were deemed admissible. 285 files of validation on substance (second step of the procedure) were analysed by the relevant committees. 91 candidates received a total validation, 60 a partial validation and 134 a refusal.

Total and partial validations relate to:

- 66 certificates of technical and professional competence (CATP);
- 38 diplomas of secondary technical education;
- 26 masters qualifications (*brevet de maîtrise*);
- 21 technician diplomas (DT).⁷¹

D. Bilateral agreements on social security

Because Luxembourg depends on its foreign workforce to satisfy the economic needs of the labour market, the country has put in place measures within their social security framework which facilitate the mobility of migrants. These measures are incorporated not only into the Social Security Code but also figure in bilateral agreements signed by Luxembourg with certain third countries.

<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

⁷⁰ Law of 19 December 2008 on the Reform of Vocational Training; Memorial A N°220 of 30 December 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0220/a220.pdf> and Grand-Ducal Regulation of 11 January 2010 on the Validation of Acquired Experience, Memorial A N°6 of 19 January 2010, <http://www.legilux.public.lu/leg/a/archives/2010/0006/a006.pdf#page=2>

⁷¹ Ministry of National Education and Vocational Training, Press Release, « *Rentrée scolaire 2013-2014, Fërderen, Fuerderen, Virukommen* », 12 September 2013, <http://www.men.public.lu/catalogue-publications/systeme-educatif/dossiers-presse/2013-2014/130912-rentree.pdf>

Most of these agreements incorporate the rules of customary international coordination of social security rights, such as equal treatment of nationals of the States concerned, the aggregation of insurance periods and the export of cash benefits.

Luxembourg currently has 18 bilateral agreements.⁷² During the year 2013, Luxembourg approved three new bilateral agreements with Brazil⁷³, Uruguay⁷⁴ and Tunisia.⁷⁵

E. Measures concerning highly-qualified workers

An administrative practice is in place which allows a student, who after completion of his/her studies has pursued a work experience for two years, to request a residence permit in Luxembourg as highly-qualified worker if the wage conditions are met.

In July 2013, the Minister of Communications and Media also announced the establishment of a task force for the development of the ICT sector, bringing together public and private stakeholders.⁷⁶

Every year, the Government readjusts minimum wages for highly-qualified workers.⁷⁷

The salary thresholds for applying as a highly-qualified worker are:

- At least 1.5 times the average gross salary Luxembourg (45.228 x 1.5 = 67.842 Euros in 2013) or;
- At least the equivalent of 1.2 times the average gross annual salary Luxembourg (45.228 x 1.2 = 54.273,60 Euros in 2013) for jobs belonging to groups 1 (managers) and 2 (professionals) of the “International Standard Classification of Occupations” (ISCO)⁷⁸, for which a particular need for workers from third countries is recognised by the Government. It should be noted that until now the Government has not opted for this measure, even though,

⁷² LU EMN NCP, Migrant access to social security and healthcare: policies and practice, p.64,

<https://www.emnluxembourg.lu/type-documentation/migrant-access-social-security-policies-and-practice-luxembourg>

⁷³ Law of 30 July 2013 approving the Convention on Social Security between the Grand Duchy of Luxembourg and the Federal Republic of Brazil, Memorial A N°153 of 23 August 2013,

<http://www.legilux.public.lu/leg/a/archives/2013/0153/a153.pdf>

⁷⁴ Law of 30 July 2013 approving the Convention on Social Security between the Grand Duchy of Luxembourg and the Oriental Republic of Uruguay, signed at Luxembourg, Memorial A N°154 of 23 August 2013,

<http://www.legilux.public.lu/leg/a/archives/2013/0154/a154.pdf#page=2>

⁷⁵ Convention on Social Security between the Grand Duchy of Luxembourg and the Republic of Tunisia, Memorial A N°42 of 8 March 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0042/a042.pdf#page=4>

⁷⁶ Innovation.public.lu , « *Le ministre Frieden annonce la création d'une taskforce pour le développement du secteur ICT* », 23 July 2013, <http://www.innovation.public.lu/fr/actualites/2013/07/task-force-itc/index.html>

⁷⁷ Ministerial regulation of 5 February 2013 fixing the average gross annual salary in respect of the Grand-Ducal Regulation of 26 September 2008 determining the level of minimum wages for highly qualified workers pursuant to the Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N°23 of 12 February 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0023/a023.pdf#page=2>

⁷⁸ International Standard Classification of Occupations,

<http://www.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf>

according to the Council of State, Luxembourg is confronted with shortages of a highly-qualified workforce⁷⁹.

F. Policy priorities for the new Government

The new Government intends to promote Luxembourg as a welcoming country for foreign investments, attracting investors and thereby meeting the growing demand from third-country nationals who wish to take full advantage of the central location of Luxembourg, the quality of infrastructure and the proximity to neighbouring markets. The Government will strengthen its efforts to attract international businesses that wish to centralise its headquarters in Luxembourg. The legal and regulatory framework applicable to headquarters will be reviewed and, if necessary, adapted.⁸⁰

To this end, the Government explicitly states that it intends to create two new categories of residence permits, namely that of the investor and of the CEO and will consider setting up “fast track” procedures for certain categories of employees (highly-qualified workers - EU Blue Card, transferred workers). It also intends to grant priority status to researchers, to develop “privileged partnerships” with high performing companies in economic sectors, as well as to ensure a smooth processing of applications for residence permits through an increased collaboration between the relevant ministries, embassies and consulates.⁸¹

2.2.3. Developments in the European context

A. Single Permit Directive

The Law of 19 June 2013⁸², amending the Law of 29 August 2008 on the Free Movement of Persons and Immigration, transposed the “Single Permit”⁸³ Directive into national law. Since the

⁷⁹ Opinion of the Council of State, Parliamentary document N°6306, 11 October 2011, p. 2, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/141/041/1044_00.pdf

⁸⁰ Gouvernement.lu, Government Programme, p.35, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

⁸¹ Ibidem, p.203.

⁸² Law of 19 June 2013, Memorial A N°106 of 25 June 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=2>

⁸³ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:343:0001:0009:EN:PDF>

Law on Immigration had already introduced the single permit for salaried workers, only slight modifications had to be made.

The deadline for processing the dossier for a salaried worker is now reduced to 4 months from the time the file is complete. This deadline may be extended in exceptional circumstances where the examination of the application is particularly complex. If the applicant has not received a reply before the deadline, s/he may consider his/her application rejected and may lodge an appeal before the Administrative Tribunal.⁸⁴

The indication of an applicant's authorisation to work must appear on all the residence permits issued to third-country nationals, regardless of their category.⁸⁵

The Chamber of Commerce, in its opinion⁸⁶ on the bill transposing Directive 2011/98/EU, considered the transposition as complementary to the EU Blue Card for highly-qualified third-country nationals, because it would allow the employment of foreign nationals who are long term residents but do not fall within the category of highly-qualified workers. The Chamber of Commerce stated that immigration from third countries is an important asset for Luxembourg and the European Union as a whole, because it contributes to the growth and strengthening of the economy, to the renewal of the workforce and to the sustainability of the pension system.⁸⁷ The increase in the creation of companies and requests for an authorisation of establishment represents 5% of all the cases filed with the Chamber of Commerce.

The Chamber of Trades also welcomed the transposition of the "Single Permit" Directive and highlighted the importance of implementing a policy for the economic and social integration of third-country nationals in the Member States. The Chamber of Trades also noted the fundamental nature of the opportunity for third-country nationals to access employment.⁸⁸

B. Posting of workers

On 9th December 2013, following the EPSCO Council meeting, the Minister for Labour and Employment, Mr Nicolas Schmit, explained to the media that the principle of a joint and several liability will be introduced by a new law. A working group composed of the social partners will

⁸⁴ Article 42(3) of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

⁸⁵ Article 40(3) of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

⁸⁶ Opinion of the Chamber of Commerce on the Bill N°6507, 21 December 2012, http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1171253&fn=1171253.pdf

⁸⁷ *Ididem*, p.2.

⁸⁸ Opinion of the Chamber of Trades on Bill N°6507, 28 August 2013, http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1215184&fn=1215184.pdf

have to deal with the transposition into practice of these measures.⁸⁹ Although according to the Minister of Labour and Employment the reform of the EU Directive on posted workers could be described as minimalistic, the text encountered the opposition of those who advocate a more liberal line during the Council of Ministers. According to them, the country of destination should have a limited right to look at the working conditions of posted workers.⁹⁰

⁸⁹ Europaforum.lu, « *Conseil EPSCO - Compromis sur le détachement des travailleurs* », 9 December 2013, <http://www.europaforum.public.lu/fr/actualites/2013/12/conseil-epsco-resultats-detachement/index.html>

⁹⁰ WOXX, « *Badge social, Europe anti-sociale* », 18 October 2013.

2.3. Family Reunification

In 2013, 1.100 residence cards were issued to third-country nationals who are family members of Luxembourgish citizens, EU citizens or nationals of assimilated countries, compared to 1.274 in 2012. The main countries of origin of these persons are Brazil, Cape Verde and the United States of America.

Top 10 nationalities – First residence cards in 2013	
Nationality	Number
Brazil	129
Cape Verde	88
United States of America	67
Montenegro	62
Russia	54
China	47
Serbia	46
Morocco	44
Kosovo	41
Bosnia-Herzegovina	39

Source: Directorate of Immigration, 2014

In 2013, 912 first residence permits for family members were issued. Immigration for family reasons represents the second highest category, only preceded by the category of long-term residents (1.637). The main countries of origin of these persons are The United States of America, Montenegro and China. If one includes the renewals, 3.041 residence permits for family reasons were issued, compared to 3.443 in 2012.

2.3.1. National developments

A. Implications of the Single Permit Directive

With the entry into force of the Law of 19 June 2013, which transposes the “Single Permit” Directive into national law, the work permit for a third-country national, who holds a residence permit as a “family member” or for “private reasons”, and who is employed as a secondary activity,

will no longer be delivered as a separate document. Due to the single permit, information regarding work and residence are regrouped into one permit.⁹¹

B. Regularisation process for family members

Family members of third-country nationals who have obtained a residence permit as an employee under the single regularisation process from 2 January to 28 February 2013, have been able to apply for a residence permit within the first two months of the date of issue of the residence permit of the employee. This option is however limited to the spouse, the partner and the minor children.⁹² Furthermore, they have to prove that they have stayed in Luxembourg and in the same household as the employee, since at least 1 September 2012. If all the conditions are fulfilled, they can obtain a residence permit for “private reasons” on the basis of Article 78(1) c) of the amended Law of 29 August 2008.⁹³ The period of validity of the residence permit is the same as for the residence permit issued to the third-country national who benefited from the single regularisation process.

A total of 111 applications were made and 69 residence permits as family members were granted. Furthermore, 16 temporary residence permits were granted and 7 applications were still being considered at the time the figures were published. 19 applications were rejected.⁹⁴

C. Problems related to a tourist visa

The Ombudsman cites several situations of a tourist visa refusal for family members, often because financial resources are found to be insufficient, the purpose and conditions of stay are imprecise or the commitment of those in charge of welcoming the third-country national is deemed insufficient. She notes procedures that are often complex and quite difficult to understand for claimants for whom it is simply unconceivable that their immediate family members are not allowed to visit them.⁹⁵

⁹¹ Law of 19 June 2013, Memorial A N°106 of 25 June 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=2>

On the transposition of the “Single Permit” Directive, please see p.28.

⁹² Directorate of Immigration, Memorandum, Authorisation to stay for family members of persons who have obtained a residence permit as an employed person within the single regularisation measure from 2 January to 28 February 2013, 14 March 2013,

<http://www.mae.lu/Site-MAE/VISAS-Immigration/Autorisation-de-sejour-pour-les-membres-de-famille-des-personnes-ayant-obtenu-un-titre-de-sejour-en-qualite-de-travailleur-salarie-dans-le-cadre-de-la-mesure-unique-de-regularisation-du-2-janvier-au-28-fevrier-2013>

⁹³ Law of 29 August 2008 on the Free Movement of Persons and Immigration as amended by the Law of 19 June 2013, Memorial A N°106 of 25 June 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=2>

⁹⁴ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p.14, <http://www.gouvernement.lu/3508079/bilan.pdf>

⁹⁵ Ombudsman, Activity Report from 1 January 2013 to 31 December 2013, p.29, http://www.ombudsman.lu/doc/doc_accueil_151.pdf

D. Judgments of the Court of Justice of the European Union

In the case *Alopka and Moudoulo*, involving Luxembourg, the Court of Justice of the European Union ruled that a Member State may refuse a third-country national with dependent EU citizen children to reside in its territory, in so far as such a refusal does not deprive those citizens of an effective enjoyment of the substance of the rights conferred by virtue of the status of European citizenship.⁹⁶

In a similar case, *Ymeraga and Ymeraga-Tafarshiku*, the Court of Justice ruled that a Member State may refuse to allow a third-country national to reside in its territory, where that third-country national wishes to reside with a family member who is a European Union citizen residing in the Member State of which s/he holds the nationality and has never exercised his or her right of freedom of movement as a Union citizen, provided such refusal does not lead, for the Union citizen concerned, to the denial of the genuine enjoyment of the substance of the rights conferred by virtue of his or her status as a Union citizen.⁹⁷

⁹⁶ Case C-86/12, *Alopka and Moudoulou*, Judgment of the Court (2nd Chamber) of 10 October 2013, §37:

“In a situation such as that at issue in the main proceedings, Articles 20 TFEU and 21 TFEU must be interpreted as meaning that they do not preclude a Member State from refusing to allow a third-country national to reside in its territory, where that third-country national has sole responsibility for her minor children who are citizens of the European Union, and who have resided with her in that Member State since their birth, without possessing the nationality of that Member State and making use of their right to freedom of movement, in so far as those Union citizens do not satisfy the conditions set out in Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, or such a refusal does not deprive those citizens of effective enjoyment of the substance of the rights conferred by virtue of the status of European Union citizenship, a matter which is to be determined by the referring court.”

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=142826&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=243031>

⁹⁷ Case C-87/12, *Ymeraga and Ymeraga-Tafarshiku*, Judgment of the Court (2nd Chamber) of 8 May 2013,

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=137302&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=247001>

2.4. Integration

2.4.1. General context before 2013

A. *The National Action Plan for Integration and Against Discrimination 2010-2014*

The National Action Plan for Integration and Against Discrimination⁹⁸ calls for the involvement of 14 ministries and government administrations whose combined efforts enhance the inter-ministerial harmonisation of the actions they lead, implement, and financially support, in the field of the integration of foreigners in Luxembourg and in the fight against discrimination. The coordination and execution of this multi-annual Action Plan is made by the Luxembourg Reception and Integration Agency (OLAI). The costs of this plan are covered by an annual budget of the OLAI.

However, the implementation and development of this Action Plan is based on a strategy of co-responsibility and participation between the State, the municipalities and civil society. The plan identifies the key strategic intervention areas on which to base its objectives and actions. These key areas of focus are based on the Common Basic Principles of the European Union's integration policy for immigrants (CBP). Every year, the Government fixes the yearly priorities to implement the Action Plan.⁹⁹

B. *2013 Priorities of the National Action Plan for Integration and Against Discrimination*

In 2013, the Government focused on three CBPs, which were already considered priorities in 2011 and 2012¹⁰⁰:

- CBP 1: Two-way process;
- CBP 4: Basic knowledge of the language(s) and institutions of the host society;
- CBP 7: Intercultural dialogue.

Via the inter-ministerial Committee on Integration and after its consultation the Government continues to implement CBP 5: Education.

⁹⁸ OLAI, National Action Plan for Integration and Against Discrimination 2010-2014, http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/plan/olai_plan_daction_fr.pdf

⁹⁹ OLAI, Priorities for 2013, National Action Plan for Integration and Against Discrimination 2010-2014, <http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/plan/priorites-2013-fr.pdf>

¹⁰⁰ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2012, pp.57-59, <https://www.emnluxembourg.lu/sites/default/files/Policy%20report%20on%20migration%20and%20asylum%20WEB.pdf>

Furthermore, actions and objectives concerning two additional CBPs were fixed this year:

- CBP 3: Employment;

Employment is considered as a key element in the integration process which enables migrants to participate and contribute in the host society. Therefore, access to employment should be facilitated by encouraging employers to recognise the added value of diversity at the workplace.

Within the framework of the Action Plan the non-governmental organisation CLAE (*Comité de liaison des associations d'étrangers*) in collaboration with the OLAI organised workshops to reflect on possible ways forward in the areas of education and employment. These workshops were held in June 2013 as a follow-up of a series of information sessions on the Action Plan as well as an online consultation of the priorities and actions to be developed in 2014. The aim of the workshops was to form concrete ideas for projects and activities that will help achieve the goal of the Action Plan, namely an increased participation of foreigners in Luxembourg's society.¹⁰¹

- CBP 11: Collection of statistics, elaboration of indicators and evaluation mechanisms;

This CBP is essential for the future development of integration policies. In order to ensure its success, an assessment of the Action Plan's priorities is essential. The Economic and Social Council (CES) has been mandated to monitor the implementation regarding the priorities and the actions taken. The assessment helps to check the outcome of the actions against their initial objectives, to identify hurdles and formulate appropriate adjustments. At the moment, the CES, based on an initial report written by the University of Luxembourg, is conducting an evaluation and will make recommendations as to the next steps to take after the completion of the Action Plan.¹⁰²

In addition, every five years, a national report will be submitted to the Chamber of Deputies on the state of play on the reception and integration of foreigners and on the social aid available to them, on the fight against discrimination, and on the follow-up of migration.

¹⁰¹ OLAI, News, Reflection workshops organised by CLAE in the framework of the multi-annual national action plan on integration, 3 June 2013, <http://www.olai.public.lu/fr/actualites/2013/06/clae-pan/index.html>

¹⁰² OLAI, National Action Plan for Integration and Against Discrimination 2010-2014, p.23, http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/plan/olai_plan_daction_fr.pdf

2.4.2. National developments

2.4.2.1. Institutional changes

A. Elections of the professional chambers

There are currently five elected professional chambers in Luxembourg.¹⁰³ Each of them represents the interests of a specific occupational category. The professional members elect their members every five years.

On 13 November 2013, around 430.000 people, active workers in Luxembourg and retirees who have worked in Luxembourg, irrespective of their nationality or country of residence were invited to participate in the election of the representatives for the Chamber of Employees¹⁰⁴ as well as the members for the staff representations in their companies if they have at least 15 employees.¹⁰⁵

The competences of the Chamber of Employees are to give written opinions on proposed legislative amendments, to represent the interests of the employees and retirees before public administrations, to provide vocational training programmes, to publish studies, to organise conferences and to offer a counselling service.

B. Composition of the Economic and Social Council

On the 22 January 2013, the plenary assembly of the CES unanimously adopted a decision to repeal, as soon as possible, the provision which reserved the mandates of the Council to Luxembourgish nationals and to extend the mandates to EU citizens.¹⁰⁶ This decision was motivated by the increasing importance of non-Luxembourgish employees, resident as well as non-resident, on the labour market. It was also motivated by the increased number of non-Luxembourgish business managers.

A bill was introduced into the Chamber of Deputies in order to follow up on this decision. The bill takes the decision one step further, as it intends not only to open the mandates to EU citizens, but also to third-country nationals.¹⁰⁷

¹⁰³ Chamber of Agriculture, Chamber of Commerce, Chamber of Trade, Chamber of Civil Servants and Public Employees and Chamber of Employees.

¹⁰⁴ Chamber of Employees Luxembourg, I am voting, <http://www.csl.lu/files/Election-dep-EN-sep.pdf>

¹⁰⁵ Elections sociales.lu, Staff representation in companies, http://www.electionssociales.lu/html/index_en.html

¹⁰⁶ Economic and Social Council, Decision of CES on the opening of the mandates of CES for EU nationals, 22 January 2013, <http://www.ces.public.lu/fr/actualites/2013/01/ass-pleniere-22-01-2013/ouverture-mandats-22-1-2013.pdf>

¹⁰⁷ Bill N°6564 amending the Law of 21 March 1966 creating the Economic and Social Council, introduced to the Chamber of Deputies on 20 February 2013,

If the Chamber of Employees welcomed the bill by stressing that the presence of non-Luxembourg national employees in professional chambers has significantly contributed to the enrichment of the discussions within the institutions¹⁰⁸, the Chamber of Civil Servants and Public Employees noted on the contrary that the bill, by repealing any nationality conditions, goes beyond what the Plenary Assembly of the CES had suggested on 22 January 2013. According to the Chamber of Civil Servants and Public Employees, the provision which reserves mandates at the CES to Luxembourg nationals, should only be extended to EU citizens.¹⁰⁹ As for nationality requirements for the position of Secretary General of the Economic and Social Council, the Chamber of Civil Servants and Public Employees is not in favour of an opening to EU citizens.

The Chamber of Commerce, for its part, was very clear in its opinion on the bill. It stated that the country should prepare for major reforms in order to ensure the orderly and democratic cohesion between natives, who will soon probably be in a minority situation, and foreigners. Thus, it welcomed the initiative to open the CES up for EU citizens and third-country nationals to the appointment of full and alternate members. According to the Chamber of Commerce, this decision sends a strong signal to the Luxembourgish society and will help to ensure that the socio-economic contribution of foreigners has its fair counterweight on the political level.¹¹⁰ It also explicitly welcomed opening the position of Secretary General to non-Luxembourgish nationals.

C. The National Council for Foreigners

The National Council for Foreigners (CNE) is a consultative body which studies on its own initiative or after a request on behalf of the Government problems related to foreigners and their integration.¹¹¹

The Law of 16 December 2008 on the Reception and Integration of Foreigners¹¹² modified the composition of the CNE: it is composed of 34 members who are representatives of foreigners, refugees, SYVICOL, employer organisations, trade unions and civil society. The number of foreign representatives is increased to 22, of which 7 are third-country national representatives.

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexdpata/Mag/196/158/119557.pdf

¹⁰⁸ Opinion of the Chamber of Employees on the Bill N°6544 amending the amended Law of 21 March 1966 on the Establishment of an Economic and Social Council, 23 April 2013,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1200042&fn=1200042.pdf

¹⁰⁹ Opinion of the Chamber of Civil Servants and Public Employees on the Bill N°6544 amending the amended Law of 21 March 1966 on the Establishment of an Economic and Social Council, 17 May 2013,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1204564&fn=1204564.pdf

¹¹⁰ Opinion of the Chamber of Trade on the Bill N°6544 amending the amended Law of 21 March 1966 on the Establishment of an Economic and Social Council, 22 May 2013,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1207746&fn=1207746.pdf

¹¹¹ OLAI, *Conseil national pour étrangers*,

http://www.olai.public.lu/fr/relations-nationales/organismes_consultation/conseil-nat-etrangers/

¹¹²

For the period 2013-2017, special commissions were put into place.¹¹³ Each commission has another main focus:

- Cross-border workers;
- Racial discrimination;
- Consultative Communal Commissions on Integration;
- Third-country nationals and refugees;
- Education.

2.4.2.2. Developments regarding the Welcome and Integration Contract

The Welcome and Integration Contract (CAI) was officially launched on 29 September 2011 and is offered to any foreigner of at least 16 years of age who legally resides on the territory of Luxembourg and who wishes to remain on a permanent basis. It is aimed as much at European Union citizens as at third-country nationals, at new arrivals as well as at people who have been living in Luxembourg for many years. The general aim is the integration of the target population in the Luxemburgish society.¹¹⁴

In 2013, five orientation days took place. Each one had about 150 participants and they were offered information on everyday life in Luxembourg by representatives from the public and private sector as well as from civil society. 41 citizenship training courses of six hours each allowed for participants to learn about the values and traditions, the institutional framework and the democratic process and the history of the country. These classes also offer room for exchanging experiences and for thinking about the living together in a multicultural society.¹¹⁵

In October 2013, the OLAI, in collaboration with the Embassy of China, the Chinese-Luxembourg Chamber of Commerce and the non-governmental organisation ASTI (*Association de soutien aux travailleurs immigrés*), organised an information session on the CAI for Chinese citizens living in Luxembourg.¹¹⁶

The Bill N°6561 on the Reform of the Luxembourg Nationality Law, which was introduced to the Chamber of Deputies on 11 April 2013, foresees in its Article 7 that persons applying for the

¹¹³ Information provided by the OLAI.

¹¹⁴ OLAI, *Contrat d'accueil et d'intégration*, <http://www.olai.public.lu/fr/accueil-integration/mesures/contrat-accueil/index.html>

¹¹⁵ Information provided by OLAI.

¹¹⁶ OLAI, News, Invitation to an information session for Chinese Residents on the CAI, 4 October 2013, <http://www.olai.public.lu/fr/actualites/2013/10/elections/index.html>

Luxembourg nationality can benefit from a reduced residence period of three years before being able to apply if they have completed the CAI.¹¹⁷

2.4.2.3. The promotion of integration at the local level

A. Local integration strategy

Since 2008, the OLAI collaborates with actors at the local level since integration usually happens in the neighbourhoods, villages or cities. The commune is generally the first contact point for the non-Luxembourgish citizen and offers multiple opportunities for exchange. Currently, OLAI is working, in collaboration with SYVICOL (*Syndicat des villes et communes luxembourgeoises*), on a guide for a Communal Integration Plan, which will be finalised in 2014.¹¹⁸

B. Funding for municipal integration projects

On 7 February 2013, a circular was addressed to the communes with regards to funding for integration programmes.¹¹⁹ This action was repeated on 16 October 2013, where the OLAI again launched an offer for integration projects they would support financially.¹²⁰ This time the focus was on projects which try to raise awareness among EU citizens to register for the voting lists with regards to the European elections in May 2014.

EU citizens, who are residing in Luxembourg, can vote for the Luxembourgish candidates for the European Parliament. For the previous elections EU citizens a residence clause of at least 2 years was imposed before they were allowed to vote for the Luxembourgish candidates. This clause was however abolished by the Law of 20 December 2013 modifying the Electoral Law.¹²¹ The deadline for registering was the 28 February 2014.

¹¹⁷ Bill N°6561 amending the Law of 23 October 2008 on the Luxembourg Nationality, introduced to the Chamber of Deputies on 11 April 2013, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/120/221/121290.pdf

¹¹⁸ Information provided by the OLAI.

¹¹⁹ OLAI, Circular N°3056, Subsidies to municipal governments for projects having as their object integration of foreigners, 7 February 2013, http://www.olai.public.lu/fr/formulaires/relation-nationale/circulaire_commune_subside-2013.pdf

¹²⁰ OLAI, News, Call for proposals to municipalities, 14 October 2013, <http://www.olai.public.lu/fr/actualites/2013/10/appel/index.html>

¹²¹ Law of 20 December 2013 modifying the Electoral Law, Memorial A N°223 of 24 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0223/a223.pdf>

C. Integration Kit

In June 2013, SYVICOL, in collaboration with the OLAI, published an “Integration Kit” which regroups all the information available concerning integration in Luxembourg. It contains the legal framework, statistics, a presentation about the various institutions and the main national associations who work in favour of the integration of all citizens as well as a presentation on the programmes which exist in the various communes.¹²² This kit was distributed to all the communes, to the Consultative Communal Commissions on Integration (CCCI) and to the social offices, and its intention is to help communes with the elaboration of a structured and sustainable integration policy.

Currently SYVICOL and the OLAI also collaborate on the creation of a guide for the elaboration of a communal integration plan. This guide should be finalised and presented to the communes at the beginning of 2014.¹²³

D. National conference on integration at the local level

On 16 November the first “national conference on integration at the local level” took place.¹²⁴ This conference was organised by ASTI in collaboration with the OLAI, SYVICOL and the Ministry of National Education. It was addressed to local elected officials, to the members of the CCCIs in the communes, to municipal employees who deal with the non-Luxembourgish population as well as to the members of other consultative commissions and more than 250 persons attended the conference. Its objective was firstly to present good practices of integration thanks to exchange workshops and discussions as well as information and exposition spaces. Secondly, it presented the on-going project of the elaboration of a communal plan on integration. Finally, it intended to discuss the integration policies of the various communes during a round table with elected local officials.

E. Trainings for the Consultative Communal Commissions on Integration

Every commune has a Consultative Communal Commission on Integration (CCCI) which focuses on the interests of foreigners and on the living together. CEFIS (*Centre d'étude et de formation interculturelles et sociales*) and CLAE, within the framework of their respective conventions, are organising workshops for the members of these commissions in order to provide them with

¹²² SYVICOL, Integration Kit, <http://www.syvicol.lu/kit-de-lintegration-2/contenu-detaille-du-kit-de-lintegration>

¹²³ OLAI, News, Publication of the integration kit to municipal officials and members of the municipal Integration Advisory Committee, 13 June 2013, <http://www.olai.public.lu/fr/actualites/2013/06/integration-niveau-local/index.html>

¹²⁴ OLAI, News, National conference on local integration, 8 November 2013, <http://www.olai.public.lu/fr/actualites/2013/10/invitation-assises/index.html>

information, ideas and the methodology so that they can fulfil their missions. These workshops are divided into six different modules. Between September 2012 and July 2013, module 3 on the commune and the CCCI, module 4 on questioning integration and module 5 on developing a project, were held. From September 2013 onwards the focus will be on module 2 on citizenship and participation and on module 6 on electoral participation with the European elections coming up in May 2014.¹²⁵

2.4.2.4. School integration

The results of the PISA 2012¹²⁶ study, which the Minister of National Education and Vocational Training, Mady Delvaux-Stehres, presented together with the University of Luxembourg to the public on 3 December 2013¹²⁷, show that the management of social and cultural diversity of students remains one of the main challenges for the Luxembourgish school system. Student performances vary considerably depending on the primary language spoken at home: students who speak Luxembourgish or German at home scored higher than their peers who speak French (between 25 and 39 points scores difference), Portuguese (between 62 and 84 points) or a language of the Balkans (between 47 and 61). The report also states that Luxembourg has the largest percentage of students aged 15 years old with a migration background (43%). In the first cycle of basic education, 62.6% of the children do not speak Luxembourgish as their first language at home. Yet, the report adds in its conclusion that the school system remains designed for having a homogeneous population whose mother tongue is Luxembourgish.¹²⁸

2.4.2.5. Promoting social and political participation

A tool named “Je vote” (I vote), which was developed by ASTI and financed by the OLAI, presents in an interactive way the European elections, the legislative elections, the local elections and the elections of the professional chambers. It is available in French, German, English and Portuguese

¹²⁵ CEFIS, Formation CCI, <http://www.cefis.lu/page4/page5/page5.html> and CLAE, Training course for municipal integration advisory committees, <http://www.clae.lu/html/m3sm4.html>

¹²⁶ The Programme for International Student Assessment (PISA) is a triennial international survey which aims to evaluate education systems worldwide by testing the skills and knowledge of 15-year-old students. For further details please see: <http://www.oecd.org/pisa/keyfindings/PISA-2012-results-overview-FR.pdf>

¹²⁷ Ministry of National Education and Vocational Training and University of Luxembourg, Press pack, Results of the PISA study 2012, 3 December 2013,

<http://www.men.public.lu/catalogue-publications/systeme-educatif/dossiers-presse/2013-2014/131203-pisa.pdf>

¹²⁸ Ibidem, p.7.

and can be used by the communes during their awareness raising campaigns as well as during their training courses.¹²⁹

A user manual for the CCCIs on the registering on the voters lists has been elaborated by CEFIS.¹³⁰ On 2 and 3 December 2013, the OLAI, in collaboration with the European Parliament, CEFIS and the Migration Policy Group offered a training course on multipliers in the context of an information and awareness raising campaign “Je vote” for foreigners to register on the voters lists for the upcoming European elections. It was addressed to members of NGOs, trade unions, CCCIs and other organisation committed to the integration of foreigners.¹³¹

The Diversity Charter¹³² which has been in place since 2012, is open to signatures from companies in Luxembourg in order for them to commit themselves to the promotion of diversity by taking specific measures that go further than the legal obligations. The Diversity Charter continues to be promoted by the OLAI as well as the European Commission, the Ministry for Equal Opportunities, the Centre for Equal Treatment (CET), the Union of Luxembourg Enterprises and the American Chamber of Commerce in Luxembourg.

So far, 92 Charters have been signed, of which 52 in 2013. It should also be noted that 3 communes have signed the Charter.

2.4.2.6. Other measures in favour of integration and social cohesion

CLAE, in collaboration with the OLAI, is currently offering a training course for persons who want to found an NGO, association or other community group. This course is intended to enhance theoretical and practical knowledge on non-governmental projects.¹³³

The competition “Miselerland Integration Couch” was launched by the LEADER Miselerland¹³⁴, in collaboration with the OLAI, ASTI and the communes of the Miselerland and their Consultative Communal Commissions on Integration. The aim of this competition was to create seats for at least

¹²⁹ ASTI, Participate to elections in Luxembourg, <http://www.asti.lu/media/je-vote/>

¹³⁰ CEFIS, User manual for the municipal Integration Advisory Committees, <http://www.cefis.lu/files/archive-nov-2013.html>

¹³¹ Information provided by the OLAI.

¹³² Charter of Diversity Luxembourg, <http://www.chartediversite.lu/>

¹³³ OLAI, Imbrication 8 – Training to associative Directors, <http://www.olai.public.lu/fr/actualites/2013/09/imbrication8/Imbrication8.pdf>

¹³⁴ LEADER (Liaisons Entre Actions de Développement de l’Economie Rurale) is an EU initiative which aims to promote development in rural areas. For more information please see: <http://www.leader.miselerland.lu/leader-in-luxemburg/>

two persons in public spaces, hereby inviting them to discuss and get to know each other and as a consequence favour the integration and living-together. Twelve communes participated and fifteen creative projects were submitted.¹³⁵

On 1 January 2013, the Luxembourgish Red Cross took over the intercultural interpreting services from ASTI. Since its creation in 2008, the service has noted a significant rise in demands for interpretation. Due the success of the service, ASTI no longer had the necessary resources to manage it accordingly.

The "Intercultural Interpreting" service aims to make available to public administrations, to medical institutions, as well as to assistance and aid agencies in Luxembourg a professional support in situations of difficult communication and/or cultural lag. In order to achieve this mission, the service has a pool of interpreters, technical forms of communication and the management of cultural codes. Currently the service counts a total of two permanent employees and around fifty interpreters speaking more than 25 languages and ensuring professional interpreting.¹³⁶

The National Institute for Public Administration, in collaboration with CEFIS, organised a training course for state and municipal employees on discrimination at the workplace. The objectives were to understand the mechanisms and to identify situations of discrimination in order to be able to avoid them in the future.¹³⁷

The media awareness-raising campaign called "Making Luxembourg"¹³⁸ launched by ASTI and to which a vast range of partners from civil society, economics and the media adhered, continued its success throughout the year 2013. Although there were no doubts about the visibility of the campaign, problems were detected when it comes to efficiency. Thus, for instance, ASTI would have liked more interest among politicians.¹³⁹

« 2030.lu - Ambition pour le futur » (Ambition for the future) is a broad public debate encouraging people to discuss the future of Luxembourg and the challenges it faces. It is an open and participative platform and enables direct interaction between economic and social leaders,

¹³⁵ LEADER Miselerland, Miselerland Integration Couch 2012-2013, <http://leader.miselerland.lu/aktuelles/miselerland-integration-couch-2012-2013/>

¹³⁶ Red Cross Luxembourg, Press release, « *Reprise du Service Interprétariat Interculturel de l'Asti par la Croix-Rouge luxembourgeoise* », 23 January 2013.

¹³⁷ Portal of the Public Service, « *La discrimination sur le lieu de travail* », <http://www.fonction-publique.public.lu/fr/formations/catalogue/secteur-etatique/04ORGANISAT/04-5-GRH/04-5-3-04/index.html>

¹³⁸ Initiative bringing together a multitude of partners from civil society which are united by the idea that Luxembourg is held together by residents of all nationalities and the cross-border workers. « *Nous tous faisons le 100% Lëtzebuerg* » (We all make up 100% of Luxembourg). For further details please see : <http://www.makingluxembourg.lu>

¹³⁹ WOXX, « 100% », Luc Caregari, 17 May 2013.

representatives of the civil society as well as the broad public. Its aim is to challenge public authorities as well as all citizens in a non-partisan debate.¹⁴⁰

2.4.2.7. Policy priorities for the new Government

Promoting integration has more and more become an issue over recent years in Luxembourg as it can be demonstrated by the implementation of the multi-annual National Action Plan for Integration and Against Discrimination¹⁴¹, based on the participation and co-responsibility between ministries, municipalities and civil society and which is exemplary of the willingness of different actors (public sector, civil society, NGOs and private sector) to work together in this field.

The new Government indicated its willingness and commitment to continue promoting integration and social cohesion and would like to take additional measures to strengthen the political integration of foreigners in particular based on the actions and recommendations from the five-year report 2009-2013.”¹⁴² For this purpose, the Government considers it necessary to analyse whether the objectives of the various measures, actions and activities are consistent with the general guidelines of Government policies, whether the goals have been achieved and whether the allocated funds are adapted and used appropriately.¹⁴³ A review of the functioning and needs of the OLAI will therefore be realised.¹⁴⁴

In the field of education the Government emphasises in its programme the importance of adapting the educational system to the heterogeneity of the students. Training should therefore be adapted to the linguistic and demographic reality of the country by providing the vocational training courses in German and French. Language teaching should be such that it allows students to gain a qualification without having the same level in all the different languages. The Government also wants to investigate whether a parallel literacy in French and German is possible for children of different linguistic backgrounds, as well as to analyse whether the vehicular languages constitute barriers to learning in basic and secondary education.

¹⁴⁰ Please see: <http://www.2030.lu/en/home/>

¹⁴¹ Please also see A. The National Action Plan for Integration and Against Discrimination 2010-2014, p.34.

¹⁴² Gouvernement.lu, Government Programme, p.130,

<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

¹⁴³ Ibidem, p.120.

¹⁴⁴ Ibidem, p.130.

Finally, by recognising the importance of the Luxembourgish language as an instrument of integration and social cohesion, the Government would like further the possibilities to learn Luxembourgish. In this context, the provisions concerning “linguistic leave” will be evaluated.¹⁴⁵

2.4.3. Developments in the European context

A. The European Refugee Fund and the European Integration Fund

The OLAI continues to implement the European Refugee Fund and the European Integration Fund according to its general programme on “Solidarity and the Management of Migration Flows”.¹⁴⁶

From 2014 onwards, the two funds will be integrated into the Asylum, Migration and Integration Fund (AMIF).

B. The Asylum, Migration and Integration Fund

The OLAI, in collaboration with the Directorate of Immigration, consulted civil society on their needs with regards to asylum, migration, integration and return, in the framework of the establishment of the Asylum and Migration and Integration Fund. A questionnaire was available on their websites and the comments provided will be taken into account for the elaboration of the next multiannual national programme 2014-2020.¹⁴⁷

On June 6 2013, the policy dialogue with Luxembourg on the new Multi-annual Financial Framework was held in order to issue the priorities for future financing.¹⁴⁸

2.4.4. Citizenship and naturalisation

2.4.4.1. National developments

A. Data on naturalisations

In 2013, a significant number of new acquisitions of the Luxembourgish nationality have been recorded, totalling to 4.411 acquisitions. However, this number represents a decrease of -5.7% compared to 2012 (4.680). The re-acquisition of the Luxembourg nationality also continues to grow

¹⁴⁵ Ibidem, p.130.

¹⁴⁶ OLAI, Fonds, programmes et initiatives communautaires, <http://www.olai.public.lu/fr/fonds-programmes/index.html>

¹⁴⁷ OLAI, News, Consultation of civil society in the framework of the implementation of the European fund « Asylum, Migration and Integration (2014-2020) », 11 July 2013, <http://www.olai.public.lu/fr/actualites/2013/07/amf/index.html>

¹⁴⁸ Information provided by the OLAI.

and reached a total of 1.969 re-acquisitions, an increase of 16.6% compared to 2012 (1.689). Re-acquisitions¹⁴⁹ of the Luxembourg nationality relate mostly to Belgian (1.428) and French (409) nationals who do not necessarily reside in Luxembourg.

Conversely, naturalisations on the basis of the Law of 23 October 2008 on the Luxembourg Nationality have declined to 2.437¹⁵⁰ against 2.919 in 2012, a decrease of -16.5%. Naturalisation on the basis of this law mainly concerns Portuguese nationals (981), which are well ahead of Italian (301) and French (214) nationals.

The share of third-country nationals among all acquisitions of Luxembourg nationality continues to decline. Naturalised persons from third countries¹⁵¹ originate from Montenegro (98), Bosnia-Herzegovina (60), Serbia (49), Cape Verde (43), Kosovo (22) and Russia (22).

B. Towards a new law on nationality

The Bill on the Luxembourg Nationality was introduced to the Chamber of Deputies on 11 April 2013.¹⁵² It responds to the evaluation report of the Law of 23 October 2008 on the Luxembourg Nationality by the Ministry of Justice and the public debate launched in September 2012 by the Minister of Justice.¹⁵³

By taking into account many of the proposals made by civil society, the bill aims to facilitate the acquisition of the Luxembourg nationality. Its objective is to consolidate integration in Luxembourg, to promote an inclusive approach to facilitating access while ensuring social cohesion, hence the importance of language requirements.

It should also be noted that Luxembourg continues its efforts to prevent statelessness and various actors have asked the legislator to accede to the Convention on the Reduction of Statelessness.

To qualify for a naturalisation, you must provide proof of a sufficient level of integration; which means that you have to satisfy the age and residence conditions; you have to have sufficient active and passive knowledge of at least one official language and you have to pass an evaluation test in Luxembourgish language as well as participate in at least three courses in civic education.

¹⁴⁹ Re-acquisitions based on Article 29 of the Law of 23 October 2008 on the Luxembourg Nationality allow people with a Luxembourgish ancestor at the date of 1st January 1900, of whom they are descendants in direct paternal or maternal line, to obtain the Luxembourg nationality.

¹⁵⁰ Are not counted here the five naturalisations/options under the former procedure.

¹⁵¹ For third-country nationals, nearly all of the acquisitions are done by the ordinary procedure of acquisitions, except for 25 American nationals who acquired the Luxembourg nationality via the re-acquisition procedure.

¹⁵² Bill N°6561 approving the European Convention on Nationality, done at Strasbourg on 6 November 1997, and amending the Law of 23 October 2008 on the Luxembourg Nationality, introduced to the Chamber of Deputies on 11 April 2013,

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6561>

¹⁵³ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2012, pp.80-87, <https://www.emnluxembourg.lu/type-documentation/rapport-politique-sur-les-migrations-et-lasile-2012>

C. Easing of residence conditions

According to the bill, the length of residence will be reduced from 7 to 5 years. The criterion of uninterrupted residence will be modified in the sense that it will only be required for the year preceding the introduction of the application. The duration of residence can be reduced to 3 years in some specific cases that reflect either a link with Luxembourg (birth, residence before the age of 18, married to a Luxembourgish spouse, completion of the CAI), or the belonging to a particular group (refugee, subsidiary protection status, statelessness).

No period of residence is required in the following cases:

- If a person is married to a Luxembourg national and has a child of Luxembourg nationality;
- If a person is a descendant of a Luxembourg ancestor at the date of 1 January 1900.

D. Review of language requirements

An active and passive knowledge in at least one of the official languages is required and one needs to pass a test evaluation in Luxembourgish in order to acquire the Luxembourg nationality. The same level of knowledge will be maintained for the evaluation test, but a compensatory measure is planned between the oral comprehension and the oral expression test. Three cases of exemption from the evaluation test are planned:

- Persons who have completed at least 7 years of schooling in Luxembourg;
- Persons who can justify 20 years of residence in the country;
- Persons affected by a severe disability.

In its opinion on the bill, the Consultative Commission on Human Rights (CCDH) recommended widening the categories of persons who would be exempted from the language test, including the elderly or literacy disadvantaged people.¹⁵⁴ It also suggested exempting refugees, beneficiaries of subsidiary protection and stateless persons from having to produce official documents from their country of origin.

The Chamber of Commerce proposed to lower the level of language requirements to better reflect the linguistic realities of the country. It also proposed to maintain exemptions for the civic

¹⁵⁴ Opinion of the Consultative Committee on Human Rights on Bill N°6561 approving the European Convention on Nationality, done at Strasbourg on 6 November 1997, and amending the Law of 23 October 2008 on Luxembourgish Nationality, 10 July 2013, http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1212393&fn=1212393.pdf

education for people who have had 7 years of schooling in Luxembourg or who have been residing in Luxembourg since before 31 December 1984.¹⁵⁵

Finally, several actors of civil society (ASTI¹⁵⁶, CLAE¹⁵⁷) as well as trade unions in Luxembourg (LCGB¹⁵⁸) were in favour of a more prominent right of soil than that which is actually proposed in the bill.

The electoral programmes of the political parties also all mentioned the reform of the Law on the Luxembourg Nationality. If the KPL (Communist Party) pleads for a period of residence of three years, the ADR (Alternative Democratic Reform Party) wants to maintain the seven year residence clause and its opposed to lower the language requirements. The Government Programme has taken up the idea of alleviating the conditions and procedures for acquiring the Luxembourg nationality and proposes to lower the level of language skills.¹⁵⁹

E. Political participation of foreigners

The debate on the political participation of foreigners has been fuelled by various actors of civil society (Chamber of Commerce, ASTI, CLAE, Alliance EYCA.lu, initiative 5 vir 12, 2030.lu – Ambition pour le futur) to the point that it has gradually been put on the political agenda.

Already in January 2013, the Chamber of Commerce organised a conference on the political participation of foreigners based on the results of a survey.¹⁶⁰

On 7 August 2013, the Federation of Craftsmen presented their recommendations for the elections. Based on the observation that in the field of artisan craftwork, where more than 50% of the entrepreneurs and 85% of the employees are foreign nationals, the Federation considered that this part of the population, which contributes to the productivity of the country, could not be ruled out of

¹⁵⁵ Opinion of the Chamber of Trade on Bill N°6561 approving the European Convention on Nationality, done at Strasbourg on 6 November 1997, and amending the Law of 23 October 2008 on Luxembourgish Nationality, 28 August 2013,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1215181&fn=1215181.pdf

¹⁵⁶ ASTI, Press Release, « Réforme de la loi de la nationalité (projet de loi 6561) Prise de position de l'ASTI », 11 October 2013, http://www.asti.lu/wp-content/uploads/2013/10/position_conference_presse1.pdf

¹⁵⁷ CLAE, Press Release, « Avis du CLAE sur le Projet de loi 6561 portant approbation de la Convention européenne sur la nationalité et modification de la loi du 23 octobre 2008 sur la nationalité luxembourgeoise », April 2013 http://www.clae.lu/pdf/actualite/communiqu%C3%A9_clae/2013/avis_clae_reforme_loi_nationalite.pdf

¹⁵⁸ LCGB, Press release, « Réforme de la loi sur la nationalité: L'acquisition de la nationalité luxembourgeoise doit servir de motivation pour encourager l'intégration », 2 April 2013, <http://lrgb.lu/fr/2013/04/02/reforme-de-la-loi-sur-la-nationalite-lacquisition-de-la-nationalite-luxembourgeoise-doit-servir-de-motivation-pour-encourager-lintegration/>

¹⁵⁹ Gouvernement.lu, Government programme, p.7, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

¹⁶⁰ One of the main results of the survey was that 2/3 of residents are open to the idea of granting the right to vote to foreigners, but only 1/2 of the Luxembourgish citizens were in favour. For further information please see: http://www.cc.lu/uploads/media/TNS_ILRES_sondage_OUR_VISION_presentation_du_29_janvier_2013.pdf

political decision-making process indefinitely.

The Luxembourg Confederation of Trade considered that granting the right to vote to non-Luxembourgish residents is indispensable for guaranteeing social cohesion in Luxembourg. These claims were consistent with several citizens' initiatives as for example the "initiative 5 vir 12".¹⁶¹

For the anticipated elections in October 2013, the "2030.lu - Ambition for the Future" initiative sent a dossier to all the political parties. The initiative pointed out governance challenges because the cultural diversity is not reflected in the way the country is governed and because most people who create wealth cannot express their views through the democratic process.¹⁶²

ASTI met with the parliamentary fractions¹⁶³ to discuss the issue of the voting rights for the national elections. Thus, ASTI proposed the right to vote in the national elections for non-Luxembourgish citizens, EU citizens as well as third-country nationals, after two years of residence in Luxembourg. According to ASTI those who qualify should be listed automatically on the electoral lists and compulsory voting would be maintained.

During a convention of the LSAP, the head of the list, Etienne Schneider, pleaded for reforms including the greater involvement of the non-Luxembourgish nationals in the policy making process. When presenting their candidates for national elections, the President of the ADR, Jean Schoos, stated that his party would not agree to a right for foreigners to vote in the national elections and put forward the argument that those who wish to vote may acquire the Luxembourg nationality.

In all electoral programmes the question of the right to vote for foreigners in the national elections was raised. Several political groups argued in favour of a residence-based citizenship. The Green Party supported the right to vote in the national elections after 5 years of residence. They also proposed to delete the condition of a certain length of residence for European citizens in order to be able to participate in the European elections.¹⁶⁴ The LSAP was in favour of the idea of the right to vote in the national elections for foreign nationals who are registered on the communal or on the European electoral lists.¹⁶⁵ The DP proposed to close the debate on extending the right to vote in the national elections until 2016, suggesting an agreement between the political parties to address the

¹⁶¹ This initiative was created in 2012 and brings together entrepreneurs, business leaders and members of the political world with the aim of stimulating debates on questions concerning the future of the country.

¹⁶² 2030.lu - Ambition for the future, File prepared for political parties in the context of early legislative elections of 20 October 2013 - Part 1 29 July 2013, p.21, <http://www.2030.lu/en/publications/>

¹⁶³ ADR website, ADR-ASTI Interview, <http://www.adr.lu/ENTREVUE-ASTI-ADR-DESACCORD-IWWERT-DWALRECHT-FIR-DAUSLANNER/>

¹⁶⁴ *Déi Gréng* election programme 2013, p.21, <http://www.greng.lu/sites/greng/files/files/2013ProgrammdeigrengDEkl.pdf>

¹⁶⁵ LSAP election programme 2013, p.7, http://www.lsap.lu/lsap_Wahlprogramm.139-5.html

issue in a non-confrontational manner.¹⁶⁶ The Left (*Déi Lénk*) was in favour of voting rights for all (the idea of having a “residence-based citizenship”) who have reached 16 years of age.¹⁶⁷ The Pirate Party (*Piratepartei Lëtzebuerg*) was in favour of abolishing compulsory voting and extending the right to vote (active and passive) to persons who have reached 16 years and foreigners who have resided in Luxembourg for at least 1 year.¹⁶⁸

Only the CSV¹⁶⁹ and the ADR¹⁷⁰ were opposed to the idea of extending the right to vote to foreigners in the national elections.

The study on the 2011 municipal elections confirmed the growing democratic deficit that exists in Luxembourg, while at the same time the gap that exists between the resident population and the electoral population continues to grow.¹⁷¹ The study analysed the evolution of the persons who registered according to various socio-demographic factors as well as the mobilisation activities implemented in order to facilitate a registration on the electoral lists. Furthermore, it set priority areas where awareness for election registration should be raised and issued a range of recommendations to encourage a higher voter turnout.

¹⁶⁶ DP election programme 2013, pp. 105-106, http://www.dp.lu/docs/wahlen2013/dp_wahlprogramm_2013.pdf

¹⁶⁷ *Déi Lénk* election programme 2013, p.11, http://elodeilenk.files.wordpress.com/2013/09/wahlprogramm_de_web.pdf

¹⁶⁸ *Pirate Partei* election programme 2013, p.39, <http://piratepartei.lu/Wahlprogramm-Piraten.pdf>

¹⁶⁹ CSV election programme 2013, p.46,

https://wahlen.csv.lu/files/2013/09/CSV_Wahlprogramm_2013_def_Versioun.pdf

¹⁷⁰ ADR election programme 2013, p.113, <http://www.adr.lu/wp-content/uploads/2013/10/WALPROGRAMM.pdf>

¹⁷¹ CEFIS, « *Les élections communales de 2011* », RED 17, Luxembourg, 2013.

2.5. *Managing migration and mobility*

2.5.1. Visa policy and Schengen governance

2.5.1.1. Developments in the European context

A. Visa Information System

Since 14 November 2013, the Visa Information System (VIS) is operational in 11 regions. It is foreseen to reach its complete roll-out in 2015. The cooperation between the various Member States is coordinated through EU-LISA, which has been working since 1 December 2012 and which is responsible for large-scale IT systems in the area of Home Affairs. Operations and measures are taken in conformity with the relevant EU regulations and directives.

Two Luxembourgish embassies, one in the United Arab Emirates (Abu Dhabi) and one in Thailand (Bangkok) are currently introducing biometrics into the VIS.

Furthermore, joint consular services are being established in Cape Verde (Praia) and in the Democratic Republic of Congo (Kinshasa).¹⁷²

B. Schengen governance

On 7 June 2013, the Luxembourg Minister of the Interior and the Minister in charge of Immigration attended the JAI (Justice and Home Affairs) Council meeting for Luxembourg. On that same day the Minister in charge of Immigration presented to the press the agreement between the European Parliament and the Council on the reform of the Schengen Governance. The Minister reiterated that the right to free movement will stay firmly anchored in this agreement. For Luxembourg, the evaluation mechanism of Schengen had to be reformed.¹⁷³

¹⁷² Information provided by the Passports, Visas and Legalisations Office.

¹⁷³ Europaforum.lu, « Conseil JAI – Le principe de libre circulation au cœur des discussions sur la gouvernance de Schengen et les abus de systèmes sociaux dénoncés par certains Etats membres », 7 June 2013, <http://www.europaforum.public.lu/fr/actualites/2013/06/conseil-jai-schmit/index.html?highlight=conseil%22JAI>

2.5.2. Border monitoring

2.5.2.1. Developments in the European context

Luxembourg is currently planning to purchase and install the VIS for its international airport (Luxembourg Findel Airport) as well as for the judicial police. However, no date has yet been set for the installation. With the system being able to perform biometric matching, primarily of fingerprints, for identification and verification purposes, the VIS makes it easier to determine which Member State is responsible for examining an asylum application.

As of now, Luxembourg does not have an automatic EU entry/exit system. The installation of the entry/exit system depends on the developments at the European level (common standards, directive, etc).

Luxembourg has successfully completed the foreseen tests and the Schengen Information System (SIS II) is now operating.

Concerning EUROSUR, Luxembourg is in favour of a “light” solution, which is limited to the installation of a computer with the necessary software in order to create a contact point. The EUROSUR project is currently being realised.¹⁷⁴

2.5.3. Frontex

2.5.3.1. Developments in the European context

In 2013, Luxembourg participated in several FRONTEX operations taking place at sea-, air- and land borders.¹⁷⁵

Luxembourg conveyed one supervision airplane in the context of the following operations:

- INDALO (15.05.2013-14.06.2013);
- AENEAS (01.06.2013-30.06.2013);
- HERA (01.08.2013-30.09.2013).

¹⁷⁴ Information provided by the Grand-Ducal Police.

¹⁷⁵ Information provided by the Grand-Ducal Police.

3. INTERNATIONAL PROTECTION INCLUDING ASYLUM

3.1. *International protection procedures*

3.1.1. General context before 2013

In 2011 and 2012, Luxembourg registered a large number of applications for international protection. The debate concerning international protection focused on the new welfare system introduced for applicants for international protection, their accommodation, as well as the hostile reactions of some local populations to the reception of applicants for international protection. The Government has made some efforts to prevent an increase of unfounded applications by sending, in collaboration with other Member States, a letter to the European Commission and by seeking direct talks with the authorities of Serbia, Montenegro and Kosovo.¹⁷⁶

3.1.2. National developments

A. Applications for international protection

In 2013, the Directorate of Immigration registered 1.071 applicants for international protection, which is a significant diminution when compared to 2012, where 2.057 persons applied for international protection.

Number of applicants for international protection 2008 -2013						
	2008	2009	2010	2011	2012	2013
Total	463	505	791	2171	2057	1071

Source: Directorate of Immigration, 2014

With more than half (55.3%) of the new applicants in 2013, the Western Balkan countries remain the main countries of origin of the applicants for international protection in Luxembourg. In 2012 however, nearly 80% (79.9%) of the applications were from one of the Western Balkan countries.

¹⁷⁶ For more information, please see LU EMN NCP, Policy Report on Migration and Asylum 2012, p. 109ff., <https://www.emnluxembourg.lu/type-documentation/rapport-politique-sur-les-migrations-et-lasile-2012>

Country of origin of the applicants for international protection			
	Country of origin	Number of persons	% of the total amount of applications in 2013
1	Kosovo	165	15,41%
2	Bosnia-Herzegovina	147	13,73 %
3	Montenegro	113	10,55 %
4	Albania	75	7 %
5	Serbia	59	5,51 %
6	Nigeria	53	4,95 %
7	Tunisia	52	4,86 %
8	Algeria	41	3,83 %
9	ARYM (Macedonia)	33	3,08 %
10	Iraq	28	2,61 %
	Other	305	28,48 %
	Total	1071	100 %

Source: Directorate of Immigration, 2014

B. Decisions on applications for international protection

In total, 1.432 decisions on applications for international protection were taken in 2013. 129 persons were granted refugee status and 33 persons have obtained a subsidiary protection status. In 2012, a total of 2.172 decisions were taken. Of these, 56 persons were granted refugee status and 7 obtained a subsidiary protection status.

Decisions taken on applications for international protection 2010-2013				
	2010	2011	2012	2013
Total	570	1389	2172	1432

Source: Directorate of Immigration, 2014

Persons who were granted refugee status	
Country of origin	Number
Iran	33
Iraq	30
Afghanistan	10
Montenegro	9
Syria	9
Azerbaijan	5
Libya	4
Russia	4
North Korea	3
Somalia	3
Turkey	3
Ethiopia	2
Gambia	2
Guinea (Conakry)	2
Moldova	2
Democratic Republic of Congo	2
Albania	1
China	1
Eritrea	1
Kosovo	1
Mongolia	1
Serbia	1
Total	129

Source: Directorate of Immigration, 2014

Persons who were granted subsidiary protection	
Country of origin	Number
Afghanistan	9
Syria	6
Iraq	5
Kosovo	3
Bosnia-Herzegovina	2
Iran	2
Somalia	2
Albania	1
Belorussia	1
Ivory Coast	1
Eritrea	1
Total	33
Source: Directorate of Immigration, 2014	

In accordance with the Dublin regulation, 179 persons were transferred to another Member State; the top three countries being Belgium (91 persons), Italy (24 persons) and Germany (17 persons). A total of 47 persons were transferred to Luxembourg, mainly from the Netherlands (12) and from Switzerland (11).

C. List of safe third countries of origin

As Albania, Bosnia-Herzegovina, Macedonia, Montenegro and Serbia appear on the list of safe countries, applications for international protection can be processed under the accelerated procedure. Furthermore, nationals of those countries do not benefit from the Assisted Voluntary Return and Reintegration from Luxembourg (AVRRL) programme of the International Organisation for Migration (IOM), but their return bus ticket is financed by the Directorate of

Immigration.¹⁷⁷

With the Grand-Ducal Regulation of 19 June 2013, the Republic of Kosovo was added to the list of safe countries of origin. Mali was withdrawn from this list because the authorities consider that long term security cannot be guaranteed.¹⁷⁸

D. Structural changes within the Directorate of Immigration

Due to the influx of applicants from the Western Balkan countries in 2012 and 2013, new staff was hired. The fast track procedure was applied for most Western Balkan countries, using mainly the criteria of safe country of origin and manifestly unfounded claims.

Since the 16 December 2013, the Directorate of Immigration occupies new facilities which have improved the internal communication and working conditions.¹⁷⁹

E. Other measures

In 2013, the “Country of Origin Information” unit of the Refugee Department has drawn up several country of origin products.

Some of the interviewers have been trained by the European Asylum Support Office (EASO) to interview vulnerable persons¹⁸⁰ and over 90% of personnel were trained in the EASO training Curriculum. Luxembourg also participated in the EASO thematic quality meetings to increase the efficiency and quality of the national asylum system.¹⁸¹

Furthermore, two officers of the Refugee Department temporarily provided support to the regional office in Trier (Germany) of the Federal Office for Migration and Refugees.

F. Policy priorities of the new Government

The issue of asylum and refugee status played only a marginal role during the election campaign and only the Pirate Party devoted a few paragraphs to this issue in its election programme.¹⁸²

However, according to the Government Programme, collaboration between all departments involved in the matter (the Directorate of Immigration, the OLAI, the administrative courts, the Police, and others) will be intensified in order to increase the efficiency of the asylum procedure and to reduce not only the duration of the procedure but also its costs, all the while upholding the

¹⁷⁷ Information provided by the Directorate of Immigration.

¹⁷⁸ Grand-Ducal Regulation of 19 June 2013, Memorial A N°106 of 25 June 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=7>

¹⁷⁹ Information provided by the Directorate of Immigration.

¹⁸⁰ Information provided by the Directorate of Immigration.

¹⁸¹ Information provided by the Directorate of Immigration.

¹⁸² *Pirate Partei* Election programme 2013, <http://piratepartei.lu/Wahlprogramm-Piraten.pdf>

rights of the persons in such proceedings.

The Government also wants to ensure a continuous adaptation of the procedures and provisions, mainly in the context of the application of the Dublin III Regulation, and is therefore going to introduce an individual interview with each applicant. The Government would also like to support a reform of the Dublin system in order to improve the processing of applications for international protection of new entrants on the territory of the European Union as well as the reception of these persons.¹⁸³

3.1.3. Developments in the European context

A. Recast of the Qualification Directive

The Law of 19 June 2013¹⁸⁴ transposed into national law the recast “Qualification” Directive.¹⁸⁵

The law provides enhanced safeguards for asylum seekers, especially for unaccompanied minors and vulnerable persons. It foresees the inclusion of family members, namely the father or the mother of an international protection beneficiary or any other adult, who according to Luxembourgish law, is in charge, if the beneficiary is a minor who is not married.¹⁸⁶ The law also states that the actors responsible for the protection (State, organisations, etc.) in the country of origin do not only have to be willing to offer protection, they also have to be able to do so effectively.¹⁸⁷

Article 30 of the Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection¹⁸⁸ which deals with internal flight alternatives has been modified. According to the new article, the international protection applicant has to have access to an effective protection on behalf of the authorities in the alternative part of the country, in order for the Luxembourgish authorities to be able to reject the application. A temporary protection is not sufficient. The applicant also has to be able to travel to this part of his or her country in safety and legality and has to be guaranteed

¹⁸³ Gouvernement.lu, Government Programme, p.202,

<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

¹⁸⁴ Law of 19 June 2013, Memorial A N°106 of 25 June 2013,

<http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf>

¹⁸⁵ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>

¹⁸⁶ Article 2 of the amended Law of 5 May 2006.

¹⁸⁷ Article 30 of the amended Law of 5 May 2006.

¹⁸⁸ Coordinated Text of the Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection, Memorial A N°113 of 3 July 2013,

<http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

entry. It should also be reasonable to expect him or her to settle there. Furthermore, the minister, when deciding upon an application, has to research precise and up to date information on the situation of the country from reliable sources such as the United Nations High Commissioner for Refugees (UNHCR) or EASO.

In its legal opinion on Bill n°6507¹⁸⁹ transposing three European Directives in the field of immigration and international protection¹⁹⁰, the Council of State noted that the revised definition of persecution due to the membership of a particular social group is formulated in a way which better allows taking gender-related aspects into account and can therefore provide an enhanced protection to victims.

Finally, this law goes further than the recast “Qualification” Directive by foreseeing a single period of validity of the residence permit for international protection beneficiaries, regardless of whether they are recognised as refugees or as beneficiaries of subsidiary protection. The Government intends to treat both categories on an equal footing, including their right to family reunification.¹⁹¹

¹⁸⁹ Opinion of the Council of State on Bill N°6507, 12 March 2013,

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/107/236/120365.pdf

¹⁹⁰ Directive 2011/95/EU on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted; Directive 2011/51/EU amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection; Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.

¹⁹¹ Article 46 of the amended Law of 5 May 2006.

3.2. *Reception of applicants for international protection*

3.2.1. National developments

A. Reception of Syrian refugees

On 13 September 2013, the Council of Government has agreed to the modalities concerning the reception of 60 Syrian nationals in Luxembourg.¹⁹² At the beginning of 2014, a Luxembourgish delegation composed of officers from the Directorate of Immigration and the OLAI went to Amman (Jordan) in order to interview persons previously selected by the UNHCR in order to resettle them in Luxembourg.¹⁹³

On 9 January 2014, Deputy Justin Turpel addressed a parliamentary question to the Minister in charge of Immigration, Jean Asselborn, concerning the reception of the Syrian refugees in Luxembourg.¹⁹⁴ In the joint response provided by the Minister in charge of Immigration and the Minister in charge of Integration, it was stated that the refugees are to arrive in the first semester of 2014 and that the objective of resettling a total of 60 refugees is still valid. Luxembourg intends to primarily resettle vulnerable families, which do not have any other durable solution in sight and who will be granted refugee status. The OLAI, in collaboration with various other ministries, is currently preparing their arrival. Concerning the role of the NGOs, it was stated that once the composition of the families are known, the Red Cross and Caritas will be contacted by the OLAI in order to organise the help which they can provide to the families.¹⁹⁵

In the press statement of 30 September 2013, the Luxembourgish Refugee Council (LFR) welcomed the decision of the Luxembourg Government to receive 60 Syrian refugees and expressed its hopes for a regular participation of Luxembourg in the resettlement programme for refugees.

¹⁹² Council of Government, Summary of work of 13 September 2013,

http://www.gouvernement.lu/salle_presse/conseils_de_gouvernement/2013/09-septembre/13-conseil/

¹⁹³ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p. 3,

<http://www.gouvernement.lu/3508079/bilan.pdf>

¹⁹⁴ Parliamentary question n°54 concerning the reception of Syrian refugees, 9 January 2014,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1234615&fn=1234615.pdf

¹⁹⁵ Response to the Parliamentary question n°54 concerning the reception of Syrian refugees, 24 January 2014,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1234616&fn=1234616.pdf

Regarding the reception of the Syrian refugees, the LFR requested that:

- The vulnerability criteria established by the UNHCR are taken into account (women and young girls on their own, victims of torture, the elderly, the sick and persons with special needs, the LGBTI population, persons with family ties in Luxembourg);
- Information about the realities of living in Luxembourg (social assistance, education, housing, access to healthcare, socio-cultural aspects) is provided on-site to the selected people before their arrival in Luxembourg;
- A long term and non-temporary status is granted to the selected people upon arrival in Luxembourg, guaranteeing similar rights as those conferred by the refugee status;
- A suitable integration programme is implemented, including all potential actors (state, authorities and local population, NGOs etc.).

The LFR also noted the importance of applying more flexible criteria with regards to family reunification for family members of Syrians already residing in Luxembourg. The LFR insisted that applications for international protection already introduced by Syrian nationals are processed promptly by the competent authorities. Moreover, it urged the Government to find a quick and lasting solution to the problem of excessively long procedures.¹⁹⁶

On 13 February 2014, the Minister in charge of Immigration, Jean Asselborn, announced that four families of Syrian refugees (28 persons) will arrive in Luxembourg in April 2014.¹⁹⁷

B. Social aid for international protection applicants

On 30 September 2013, the Administrative Tribunal decided on a case concerning the social aid (including accommodation) for international protection applicants. The OLAI had pronounced sanctions against an international protection applicant, who for a prolonged period of time had been absent from a reception facility, by withdrawing the social aid in its entirety. This decision was taken according to the former Article 4(4) of the Grand-Ducal Regulation of 1 September 2006, which stated that the Minister could reduce or withdraw the benefits of the social aid in the following cases:

“(…) if an asylum applicant:

¹⁹⁶ Luxembourgish Refugee Council, Press statement on the eve of the national elections, 30 September 2013, http://www.clae.lu/pdf/migrations/asile/lfr/revendications_lfr_partis_politiques_30sept2013.pdf

¹⁹⁷ Gouvernement.lu, “28 Syrian refugees will arrive in Luxembourg in April 2014”, <http://www.gouvernement.lu/3508000/13-asselborn-refugies?context=519177>

- abandons his or her place of residence determined by the authority in charge without having informed the authority or if an authorisation is necessary, without having received such an authorisation, or
- does not respect the obligation to present himself or herself to the authorities, does not respond to information requests (...) in due time (...).”

The Administrative Tribunal ruled that the Minister’s action was not to be considered as blatantly disproportionate as the person, on two occasions, had disappeared for several months without responding to the request to clarify the allegations.¹⁹⁸

In a similar case on 10 October 2013, the Administrative Tribunal ruled that: “The ground for the withdrawal of the applicant’s right to accommodation conveyed through the contested decision appears to be based on the general behaviour of the person concerned, the latter being characterised by many unauthorised absences from the accommodation where he had been placed in Esch-sur-Alzette, nine nights of absence in March 2013 and this even after a warning, a non-compliance with cleaning, and a failure to explain himself within the time limit (...)”.¹⁹⁹

Based on a survey conducted by the Luxembourgish Red Cross with international protection applicants, the LFR made an assessment of the Grand-Ducal Regulation on social aid²⁰⁰, which was adopted in 2012. According to the survey results, the vast majority of applicants claim to not have the means to cover their basic needs such as food and clothing and 63% state that they cannot fulfil their needs in terms of education and leisure. The LFR presented their results to the political parties and the future government during a press conference in September 2013.²⁰¹

The LFR considered that social aid, as currently applied, leads to a situation of total dependency of the international protection applicants on the respective administrations, preventing an independent management of daily expenditures by them and making them more dependent on social assistance after a regularisation of their stay in the country. The LFR called for a revision of the amount of social assistance (currently 25€ per month) because it is inadequate and it also called for a re-evaluation of the aid which has been withdrawn, as several applicants’ needs are no longer covered. According to the LFR the “case by case” approach of the new welfare system should be considered

¹⁹⁸ Administrative Tribunal, Decision of 30 September 2013, N°31363 du rôle.

¹⁹⁹ Administrative Tribunal, Decision of 10 October 2013, N°31418 du rôle.

²⁰⁰ Grand-Ducal Regulation of 8 June 2012 laying down the Terms and Conditions for granting Social Aid to International Protection Applicants, Memorial A N°123 of 20 June 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0123/a123.pdf>

²⁰¹ Luxembourgish Refugee Council, Press statement on the eve of the national elections, 30 September 2013, http://www.clae.lu/pdf/migrations/asile/lfr/revendications_lfr_partis_politiques_30sept2013.pdf

with great caution because this type of procedure lacks transparency and can potentially generate conflicts among applicants themselves and between applicants and the respective administrations. Finally, the LFR considered that certain provisions of the Grand-Ducal Regulation are incompatible with the recast “Reception Conditions” Directive²⁰² which Luxembourg will have to transpose by June 2015 at the latest.

C. Policy priorities of the new Government

In its programme the new Government stated that it is going to ensure that all municipalities take their responsibility regarding the accommodation of applicants for international protection. Therefore, it will consider the possibility of introducing a quota system requiring municipalities to participate equitably in the reception of applicants for international protection in Luxembourg. According to the Government programme, Luxembourg, which is among the top three Member States with the highest number of asylum applicants per capita, will ensure the proper allocation of resources to meet these needs. The new Government, in close collaboration with its partners in the European Union, also intends to develop a “resettlement programme” on the basis of a common approach in order to annually accommodate refugees from regions where prospects for other durable solutions do not exist.²⁰³

²⁰² Directive 2013/33/UE of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF>

²⁰³ Gouvernement.lu, Government Programme, p.202,

<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

3.3. Measures to implement aspects of the Common European Asylum System

3.3.1. National developments

A. Policy priorities of the new Government

The new Government believes that the implementation of the Common European Asylum System, consisting of a package of directives and regulations, provides an appropriate framework for the development of a new law on international protection in 2015, which is the deadline for the transposition of the directives.

4. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

4.1. *Unaccompanied minors*

4.1.1. General context before 2013

Under the amended Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection, are considered as unaccompanied minors, third-country nationals or stateless persons aged less than eighteen years, reaching the territory without being accompanied by an adult responsible for them, by law or custom; and if they are not effectively in the care of such a person, this term covers minors abandoned after reaching the territory.

At the national level there were no recent changes in policy regarding unaccompanied minor's applications for international protection. As a reminder, according to Article 12(3) of the amended Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection, the Minister in charge of Immigration may order a medical examination in order to determine the age of an applicant. In case the applicant refuses the medical examination, s/he is in default of appearance or if it turns out that s/he is of full age, the applicant is informed that these circumstances will have a negative influence on the decision on the application for international protection. In this case the application for international protection might be processed through the accelerated procedure as foreseen by Article 20. Henceforth, s/he will be considered as being of full age regarding the application. Failing to consent to that medical examination will however not prevent the Minister from taking a decision on the application for international protection but such a decision will not be exclusively based on such a refusal on behalf of the applicant.²⁰⁴

²⁰⁴ Coordinated Text of the Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection, Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

4.1.2. National developments

A. Age assessment test

The practice described above has changed since 2012. In fact, the age assessment practice has been contested and a reform of the practice is foreseen for 2014. In the meantime the Directorate of Immigration does not consider the applicant as being of full age anymore, if the results of the medical examination are negative.²⁰⁵

B. Human rights organisations draw attention to the specific problems concerning (unaccompanied) minors

Every year the Ombuds-Committee for the Rights of the Child (ORK) publishes a report on the situation of the rights of the child in Luxembourg. According to Article 13 of the Law of 5 May 2006, the ORK can give its opinion in matters related to applications for international protection and the asylum procedure in general. In the 2013 report, a part was entitled “Children on the move” and it was dedicated to the situation of children and young persons who are particularly vulnerable when faced with migration.²⁰⁶ One example of the recommendations made by the ORK was to establish a procedure for the protection of children which are abandoned by their parents after a deportation order has been issued to them.²⁰⁷ The ORK also recommended that young persons, whose international protection application has been rejected, should, under certain conditions, be able to obtain a work permit in order to do an apprenticeship. Otherwise, they will not be able to finish their education.²⁰⁸

In its legal opinion on Bill n°6507²⁰⁹ transposing three European Directives in the field of immigration and international protection, the CCDH pointed out certain problems of the existing legislation regarding unaccompanied minors. Firstly, it welcomed the proposal to enlarge the definition of family members, but regretted that the unaccompanied siblings of the unaccompanied minor were not included. Secondly, it argued in favour of better taking into account the interests of unaccompanied minors when applying the internal flight alternative. The CCDH also identified a range of procedural matters including the timeframe for designating an ad-hoc administrator,

²⁰⁵ Information provided by the Directorate of Immigration.

²⁰⁶ Ombuds-Committee for the Rights of the Child, Report for 2013, pp.41-56,
http://ork.lu/files/Rapport_ORK_2013_WEB.pdf

²⁰⁷ Ombuds-Committee for the Rights of the Child, Report for 2013, p.47.

²⁰⁸ Ombuds-Committee for the Rights of the Child, Report for 2013, p.49.

²⁰⁹ Opinion of the Consultative Commission on Human Rights on Bill N°6507, 9 April 2013,
http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/118/231/121370.pdf

respectively a guardian. In practice, the courts tend not to name an ad-hoc administrator until the age of the applicant is proven and the CCDH urged the authorities to reconsider this practice as it is not in line with the best interests of the child. Furthermore, it expressed its concerns regarding age assessment tests and argued that the current test analysing the bone development should not on its own suffice to establish age. On the contrary, other additional elements should be taken into account. Finally, the CCDH suggested clarifying the role and competences of the ad-hoc administrator/guardian.

4.1.3. Developments in the European context

A. Recast of the Qualification Directive

The Law of 19 June 2013²¹⁰ transposed into national law Article 20 of the recast “Qualification” Directive²¹¹, which foresees that Member States take into account the specific situation of vulnerable persons. Explicitly mentioned are minors, unaccompanied minors, persons with a disability, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with mental disorders and persons who have suffered from torture, rape or other forms of severe psychological, physical or sexual violence. This article also states that the best interests of the child have to be a primary consideration.²¹²

With the entry into force of the Law of 19 June 2013 another article concerning unaccompanied minors was adopted. It states that if an unaccompanied minor is granted an international protection status, his/her family members, if the search for them has not yet started, will be looked for as soon as possible, all the while protecting the best interests of the child.²¹³

²¹⁰ Law of 19 June 2013, Memorial A N°106 of 25 June 2013,

<http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf>

²¹¹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>

²¹² Please see Article 42 of the amended Law of 5 May 2006.

²¹³ Article 52 of the amended Law of 5 May 2006.

4.2. Other vulnerable groups

4.2.1. National developments

A. Policy priorities of the new Government

The Government has the intention to introduce a new compulsory identification mechanism to ensure that the specific needs of applicants for international protection, falling within the category of vulnerable persons (sick people, single women, women with children, unaccompanied minors, etc.), are identified in order to guarantee adequate support throughout the procedure.²¹⁴

4.2.2. Developments in the European context

A. Recast of the Qualification Directive

As already mentioned above, the specific situation of vulnerable persons is now explicitly mentioned in Article 42 of the amended Law of 5 May 2006.²¹⁵

²¹⁴ Gouvernement.lu, Government Programme, p.202,

<http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

²¹⁵ Please also see 5.1. General context before 2013, p.68.

5. ACTIONS ADDRESSING TRAFFICKING IN HUMAN BEINGS

5.1. *General context before 2013*

The amended Law of 29 August 2008 provides to victims of trafficking in human beings a reflection period of 90 days during which the victim can escape from the influence of the traffickers and decide on whether s/he would like to file a complaint. It should also be noted that during this period the victim cannot be removed from the Luxembourgish territory. If the victim decides to cooperate with the authorities, s/he will be granted a residence permit as a victim of trafficking which is valid for 6 months and renewable.²¹⁶

From the very first moment the victim has the right to assistance and protection. The Law of 8 May 2009 provides the framework and the measures include social, financial and legal assistance which should allow for the physical, psychological and social recovery of the victim.²¹⁷ The Ministry for Equal Opportunities is in charge of providing the assistance and has contracted several NGOs to ensure the assistance. The Grand-Ducal Police and the social services continue to work together to provide effective protection for victims of trafficking in human beings, and particularly against intimidations and reprisals.

Concerning the offence of trafficking and the punishment of convicted traffickers, Articles 382-1 and 382-2 of the Criminal Code list the possible penalties and the aggravating circumstances.²¹⁸

²¹⁶ Articles 92-98, Coordinated Text of the Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf>

²¹⁷ Law of 8 May 2009 on the Assistance, Protection and security of Victims of Trafficking in Human Beings, Memorial A N°129 of 9 June 2009, <http://www.legilux.public.lu/leg/a/archives/2009/0129/a129.pdf>

²¹⁸ Criminal Code, http://www.legilux.public.lu/leg/textescoordonnes/codes/code_penal/

5.2. National developments

A. Reform of the management of assistance provided to victims

The Law of 8 May 2009 on Assistance, Protection and Security of Victims of Trafficking in Human Beings²¹⁹ foresees a Grand-Ducal regulation which determines the application criteria for certain types of assistance. A draft grand-ducal regulation amending the Grand-Ducal Regulation on governmental accreditation for social services²²⁰ and on the assistance for victims of trafficking in human beings is currently being prepared. For the time being, the social services offering assistance are organisations which focus on helping women and girls in distress and it has been suggested to create a new category named “victims of trafficking in human beings”. This category would then include all victims and avoid the difficulties encountered with regards to male victims.²²¹

B. The Monitoring Committee on Combating Trafficking in Human Beings

With the Law of 8 May 2009 a Monitoring Committee on Combating Trafficking in Human Beings was created.²²² For now, an informal Inter-ministerial Committee on Trafficking was put into place. Presently, representatives from the Ministry of Justice, which acts as the presiding organ, the Directorate of Immigration, the Grand-Ducal Police, the OLAI, the Public Prosecutor’s Office and the Ministry for Equal Opportunities are members of this Committee. The objective of this Committee is to evaluate the implementation of new legislation and it is also an exchange platform, which allows for an improvement of the cooperation among the various actors involved.²²³ For the time being it meets on a quarterly basis or on an ad-hoc manner if necessary. Therefore, it is possible to discuss cases where practical difficulties arise and find solutions in a more pragmatic way.²²⁴

The necessary Grand-Ducal Regulation, which will provide the formal basis of the Monitoring Committee and determine its operating mode, has not yet entered into force. This Committee will be composed of a representative from the Ministry for Equal Opportunities, the Ministry for Family, Integration and the Greater Region (OLAI), the Ministry of Justice, the Ministry of Health, the

²¹⁹ Law of 8 May 2009 on Assistance, Protection and Security of Victims of Trafficking in Human Beings, Memorial A N° 129 of 9 June 2009, <http://www.legilux.public.lu/leg/a/archives/2009/0129/a129.pdf>

²²⁰ Grand-Ducal Regulation of 19 March 1999 on Governmental Accreditation for the Management of Services for Girls, Women and Women with Children, Memorial A N° 56 of 20 Mai 1999, <http://www.legilux.public.lu/rgl/1999/A/1336/1.pdf>

²²¹ Information provided by the Ministry of Justice.

²²² Article 10 of the Law of 8 May 2009.

²²³ Information provided by the Ministry of Justice.

²²⁴ Information provided by the Ministry of Justice.

Ministry of Homeland Security (Police), the Ministry of Foreign and European Affairs (Directorate of Immigration), the Ministry of Labour, Employment and Social and Solidary Economy, the Inspectorate of Labour and Mines, the Public Prosecutor's Office and the social services providing assistance to the victims.

C. Collection of statistics

There is, to date, no national system for the collection of statistics reflecting all victims of trafficking in human beings (citizens of the European Union and third-country nationals). One difficulty lies in the number of possible victims who cross the border every day benefiting from the free movement of persons (due to the small size of Luxembourg and the proximity with its neighbouring countries). One of the aims of the Monitoring Committee is to define a strategy to collect statistics on all victims of human trafficking on the territory per year.

5.3. *Developments in the European context*

A. Bill N°6562 Reinforcing the Right of Victims of Trafficking in Human Beings

On 11 April 2013, Bill N°6562 reinforcing the Right of Victims of Trafficking in Human Beings was introduced to the Chamber of Deputies.²²⁵ This bill is going to transpose Directive 2011/36/UE of 5 April 2011²²⁶ into national law. Since the deadline for the transposition of the Directive was the 6 April 2013, the Commission has formally requested that Luxembourg ensures its full compliance with its obligations under EU legislation on combatting human trafficking. On 20 May 2013, a letter of formal notice was sent to the Luxembourgish Government and in November it sent its reasoned opinions.²²⁷

So far, Luxembourg does not yet have a national rapporteur and in the bill the CCDH is designated as national rapporteur. The role of the CCDH will be to identify trends, to evaluate the results of actions undertaken and to regularly report to the Chamber of Deputies on the findings.²²⁸

Concerning the offence of trafficking, forced begging and the sale of children will be added to the offences listed in the Criminal Code.²²⁹

In the first published draft of the bill it was proposed to withdraw the obligation on behalf of the victim to file a written complaint. In its legal opinion on Bill N°6562 the CCDH saluted this modification as a significant advance as the investigation and pursuit of the offenders should not be dependent on the filing of a written complaint. According to the CCDH this modification would take into account the fact that in reality the Police or the social services identify victims, which are likely to be too afraid to file a complaint.²³⁰ However, the Council of State was not in favour of this amendment. According to its legal opinion the current law is already in line with the requirements

²²⁵ Bill N°6562 Reinforcing the Right of Victims of Trafficking in Human Beings, introduced to the Chamber of Deputies on 11 April 2013, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/120/222/1212_91.pdf

²²⁶ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

²²⁷ European Commission, Press Release, November infringements package: main decisions, 20 November 2013, http://ec.europa.eu/anti-trafficking/EU+Policy/Cyprus_Spain_Italy_Luxembourg_to_enact_EU_rules

²²⁸ Article 1 Bill N°6562. Please see: Amendments adopted by the Judicial Commission of the Chamber of Deputies, 15 January 2014, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/177/221/1272_60.pdf

²²⁹ Article 2 Bill N°6562.

²³⁰ Legal opinion of the Consultative Commission on Human Rights on Bill N°6562, 10 July 2013, p.4, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/150/252/1245_91.pdf

of Directive 2011/36/UE and questioned the differentiated treatment victims of trafficking would then obtain when compared to victims of other crimes.²³¹ In the revised draft of the bill this proposed amendment has been deleted.²³²

Once this bill is transposed, victims will also be granted assistance even if they refuse to cooperate. However, the residence permit will continue to depend on the victims' cooperation. In its legal opinion the CCDH recommended that the residence permit should solely depend on the status of the victim as such.²³³

With regards to children, Bill N°6562 foresees that if there are doubts about the exact age of a victim of trafficking in human beings and when there are reasons to believe that s/he is a child, the victim will be presumed a child and receives immediate access to assistance and protection measures in accordance with the Directive.²³⁴

Even when children are unwilling to give evidence against their abusers, unaccompanied child victims must be provided with a guardian (often a Juvenile Court judge or an NGO) and, whether accompanied or unaccompanied, they must receive accommodation and special support provided in the best interests of the child in accordance with the UN Convention on the Rights of Children.²³⁵ They may be placed in emergency accommodation initially but must subsequently be provided with medium or long term accommodation, i.e. until they become adults or beyond the completion of the enquiries and criminal procedures.

Currently, two employees of the *Fondation Maison Porte Ouverte*²³⁶ and *Femmes en détresse*²³⁷ (two non-governmental organisations) provide special care for minors within the framework of the programme of aid for minor victims of trafficking in human beings.

More generally, the CCDH recommended that further training should be provided to all the actors involved in the identification and assistance process. It also stated that there is a need to conduct further research on the phenomenon and supports the implementation of additional measures, as for

²³¹ Legal opinion of the Council of State on Bill N°6562, 2 July 2013, p.3, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/138/275/123774.pdf

²³² Amendments adopted by the Judicial Commission of the Chamber of Deputies, 15 January 2014, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/177/221/127260.pdf

²³³ Legal opinion of the Consultative Commission on Human Rights on Bill N°6562, 10 July 2013, p.5, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/150/252/124591.pdf

²³⁴ Article 3 Bill N°6562.

²³⁵ Convention on the Rights of the Child, 20 November 1989, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²³⁶ Fondation Maison de la Porte Ouverte: <http://www.fmpo.lu/>

²³⁷ Femmes en détresse: <http://www.fed.lu/>

example a special telephone line, to combat trafficking in human beings.²³⁸

B. GRETA report

On 8 November 2013, the Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe adopted its “Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg”.²³⁹ This report gives numerous recommendations on how to improve the fight against human trafficking and urges the Luxembourg Government to adopt, among others, measures in the fields of training of relevant professionals, data collection, measures related to the identification of and provision of assistance to victims, and compensation and legal redress. The report also calls upon the Government to adopt a national action plan.

C. EU civil society platform against trafficking in human beings

Femmes en détresse, a non-governmental organisation, accredited by the Ministry for Equal Opportunities, is participating in the EU civil society platform and was present at the two meetings in Brussels which took place in 2013.²⁴⁰

²³⁸ Legal opinion of the Consultative Commission on Human Rights on Bill N°6562, 10 July 2013, p.7, http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/150/252/124591.pdf

²³⁹ GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg, http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_18_FGR_LUX_w_comments_en.pdf

²⁴⁰ Information provided by *Femmes en détresse*.

6. MIGRATION AND DEVELOPMENT POLICY

6.1. National developments

A. Western Balkan countries

Luxembourg's development cooperation in the Western Balkans (Serbia, Montenegro and Kosovo), began in 1999, when Luxembourg participated in the overall effort by the international community to favour stability and development in the Balkan region. The Government's policy at the time focused on facilitating the voluntary return and socio-economic reintegration of international protection applicants in their country of origin.

Meeting the recent rise of applicants for international protection from Southern Serbia (Vranje and Bujanovac), the Ministry of Development and Humanitarian Action initiated a development programme in this region in late 2012, in order to improve the living conditions and in order to attempt to reduce the heavy flow of applicants for international protection from this region. The project focuses on:

- Access to decent housing;
- Preventing early school leaving;
- Income-generating activities in traditional economic sectors;
- Improving access to and quality of healthcare;
- Community development.²⁴¹

The Minister for Family, Integration and Development Cooperation, Marie-Josée Jacobs, travelled to Serbia in April 2013 and met with the Serbian Minister of Interior Ivica Dacic. At the occasion of the joint press conference, she was able to convey clear messages regarding financial support and international protection procedures in Luxembourg, which helped to dispel the false impression that Luxembourg is an easy and financially interesting place to apply for international protection. Her visit was followed up by a fact-finding mission led by the Luxembourg non-resident Ambassador to Serbia with high officials from the Directorate of Immigration and the OLAI, who met with the

²⁴¹Ad-Hoc Query on communication strategies used for sensitisation and prevention campaigns in third countries, requested by BE EMN NCP on 15 October 2013. Information provided by the Directorate of Cooperation.

local authorities.²⁴²

B. Cape Verde

Following the signing of the Mobility Partnership between Cape Verde and the EU in 2008, of which the three objectives are facilitating legal migration, development cooperation on migration and development and prevention of irregular migration, the European project “Strengthening the Capacity of Cape Verde to Manage Labour and Return Migration” has been put into place. This project consists of three components: economic reintegration, irregular migration and information/statistics. Luxembourg, in collaboration with Portugal, France and the Netherlands, participates in this project via the economic reinsertion component, which is administered by the French Immigration and Integration Office.

This component includes:

- The support of a local operator specialised in accompanying the founders of enterprises for the realisation of the feasibility study of the project;
- A financial aid for starting the activity which can be up to 4000€, depending on the project, the financial needs and the contribution of the founder of the project;
- A training course related to the project, if the need arises;
- Guidance on the execution of the project and a follow-up by the local operator.²⁴³

The duration of the project is 36 months and it will end in December 2014.

Within the Mobility Partnership, Luxembourg has also committed itself to studying the possibility of establishing an initiative in the area of circular migration of a temporary nature with Cape Verde.²⁴⁴ A bilateral agreement between Luxembourg and Cape Verde which relates to a possible joint management of migration flows and supportive development is still not ready to be signed. Luxembourg submitted its proposed amendments in September 2012.

The project CAMPO was initiated in 2009 and continues to exist. Luxembourg participates through its cooperation office in Praia. The objective of the project is to promote legal mobility between Cape Verde and the European Union.²⁴⁵ The activities initiated by the project have been taken over by the Ministry of Cape Verdean Communities.

²⁴² Ad-Hoc Query on communication strategies used for sensitisation and prevention campaigns in third countries, requested by BE EMN NCP on 15 October 2013.

²⁴³ Information provided by the Directorate of Cooperation.

²⁴⁴ Ad-Hoc Query on communication strategies used for sensitisation and prevention campaigns in third countries, requested by BE EMN NCP on 15 October 2013.

²⁴⁵ Africa-EU Partnership, CAMPO: for a better circulation of skills between Cape Verde and the EU, <http://www.africa-eu-partnership.org/success-stories/campo-better-circulation-skills-between-cape-verde-and-eu>

A development project on microfinance in Cape Verde, implemented by the non-governmental organisation *Appui au développement autonome* focuses on mobilising migrants' savings in order to finance micro financial institutions in Cape Verde.²⁴⁶

²⁴⁶ Appui au développement autonome,
<http://www.ada-microfinance.org/en/case-studies/project-description/sector-support/supporting-and-professionalising-inclusive-finance-in-cape-verde>

7. IRREGULAR MIGRATION

7.1. *General context before 2013*

Luxembourg does not generally practice regularisations, but they can happen on a case-by-case basis. Prior to 2013, regularisations have occurred in exceptional cases, linked to serious humanitarian circumstances or to the family situations of certain individuals and according to Article 78 of the Law of 29 August 2008, the Minister in charge of Immigration may grant such persons an authorisation of stay for private reasons.²⁴⁷ Furthermore, the former wording of Article 89 foresaw the possibility of granting an authorisation of stay for exceptional reasons if the persons fulfilled certain conditions. They had to prove a continuous residence and a regular professional occupation in Luxembourg for the last 8 years. However, this article has been modified with the entry into force of the Law of 21 December 2012.²⁴⁸ Now, it is only applicable to a third-country national who has completed at least six years of his or her education in a school in Luxembourg and files the application in the same year as he or her reaches the age of 18.²⁴⁹

²⁴⁷ Articles 78 and 79, Coordinated Text of the Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N° 113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf>

²⁴⁸ Law of 21 December 2012 on the Illegal Employment of Third-country Nationals Staying Irregularly, Memorial A N° 296 of 31 December 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0296/a296.pdf#page=2>

²⁴⁹ Article 89 of the amended Law of 29 August 2008.

7.2. National developments

A. Single regularisation process

Parallel to the transposition of the “Sanctions” Directive into national law²⁵⁰, the Minister in charge of Immigration announced a regularisation measure to be implemented from 2 January to 28 February 2013.²⁵¹ The intent was to allow individuals residing without authorisation in Luxembourg to apply for a residence permit as salaried workers, thereby regularising their administrative status. However, this action was limited to individuals who met the following cumulative requirements:

- Holding a valid passport;
- Having resided without authorisation for at least 9 months and having worked for at least 9 months²⁵² for an employer in Luxembourg during the year 2012 and being able to submit a permanent work contract²⁵³ with the employer²⁵⁴;
- To not constitute a danger to public order.²⁵⁵

Individuals whose international protection application had been rejected for at least 9 months²⁵⁶ were also concerned by this regularisation measure as long as they met the above-stated requirements. Conversely, this measure was not applicable to individuals who were granted a postponement/suspension of a removal order or to cross-border workers.

Since the regularisation measure was intended for individual persons, initially no application for family reunification was being accepted. In March 2013 however, the Directorate of Immigration published a Memorandum, which allowed family reunification in specific circumstances.²⁵⁷

²⁵⁰ Please also see 2.2. Economic migration, p.23 and below.

²⁵¹ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2012, pp.93-96, <https://www.emnluxembourg.lu/sites/default/files/Policy%20report%20on%20migration%20and%20asylum%20WEB.pdf>

²⁵² For a period of 9 successive months, that is no less than 9 of the 12 months of the year 2012. If the applicant has not yet worked for a period of at least 9 months with his employer at the time of application, he can submit a permanent contract with the current employer and the 9-month period has to be completed by 28 February 2013.

²⁵³ Permanent contracts with wages equivalent to the minimum social salary for a weekly working period of 40 hours.

²⁵⁴ According to the Minister in charge of Immigration, this is irrespective of whether they are registered with the social security body or not.

Europaforum.lu, « *La Chambre des députés transpose à l’unanimité une directive européenne qui sanctionne les employeurs de ressortissants de pays tiers en séjour irrégulier* », 18 December 2013,

<http://www.europaforum.public.lu/fr/actualites/2012/12/chd-directive-emploi-sit-irreguliere/index.html?highlight=directive%22sanctions>

²⁵⁵ Directorate of Immigration, Note de service, 21 December 2012.

²⁵⁶ Starting point: the date of the final rejection of the individual asylum application.

²⁵⁷ Please also see 2.3. Family Reunification, p.31.

The regularisation measure not only offered the opportunity to individuals involved in illegal work to regularise their residence status. It was also intended for employers who hired individuals illegally, to legalise their situation before the application of the new measures foreseen due to the transposition of the “Sanctions” Directive.

A total of 664 applications were submitted in relation to the single regularisation process and 543 applications received a positive reply.²⁵⁸ In case of a favourable decision, a temporary residence permit is issued pursuant to the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration.

As to the distribution of the applicants by economic sector, it is notable that half of them work in the HORECA sector. Chinese, Brazilians, Montenegrins and Cape Verdeans top the list of distribution by nationality and men nearly double the applications of women.²⁵⁹

Shortly after the deadline for the submission of applications, the three associations, which helped the concerned persons in their efforts to submitting their files (ASTI, CLAE and Caritas Luxembourg), released a common communication in which they undertook a first assessment.²⁶⁰ They highlighted a good cooperation between the three associations and the Directorate of Immigration. They also pointed out the undeniable fact that the procedure was an opportunity for a large number of people, but that for many others, the initial expectations had eventually turned into despair. The three associations encountered difficulties in convincing employers to provide the evidence required. They regretted the lack of a solid legal basis for the regularisation procedure, without any guarantees of not being sanctioned deemed credible by most employers, and as a consequence immediately dismissed a large number of persons from the procedure. Another problem the associations were confronted with, were the required documents from the respective countries of origin, which were almost impossible to obtain within the short timeframe.

In general, women, and especially those who work in private households, encountered the most difficulties. Housemaids were often unable to declare enough working hours to meet the conditions requested for an application.

Finally, they noted that in view of the abolition of Article 89 of the Law of 29 August 2008 on the

²⁵⁸ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p.14, <http://www.gouvernement.lu/3508079/bilan.pdf>

Response to Parliamentary question n°2787, 16 July 2013,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1209660&fn=1209660.pdf

²⁵⁹ Distribution by economic sector: 1. Food, beverage and hotel industry; 2. Private households; 3. Crafts; 4. Building sector.

Distribution by nationality: 1. Chinese; 2. Brazilians; 3. Montenegrins; 4. Cape-Verdeans; 5. Serbians.

Distribution by gender: 1. Men: 440 applications; 2. Women: 223 applications.

²⁶⁰ Press release by ASTI, CLAE and Caritas Luxembourg, « Régularisation : les jeux sont faits, la partie continue », 7 March 2013, http://www.asti.lu/wp-content/uploads/2013/03/communiqu_e_regularisation_asti_caritas_clae_final.pdf

Free Movement of Persons and Immigration, there were currently no longer any possibilities to regularise persons which have been in Luxembourg for a long time.

7.3. *Developments in the European context*

A. Sanctions Directive

The Law of 21 December 2012 transposed the “Sanctions” Directive into national law.²⁶¹ According to this law, employers are obliged to verify that the employee has an authorisation of stay or a residence permit and they also have to notify the Directorate of Immigration of the commencement of the period of employment. Those who are non-compliant face financial, administrative and criminal sanctions. Thus, employers being sanctioned shall cover allowances, wage arrears, unpaid taxes and social security contributions, as well as the cost of returning the third-country national illegally employed. In the absence of proof to the contrary, the amounts due to the employee meet an alleged three-month relationship.²⁶² Employers who are sanctioned may also be excluded from certain benefits, aid or subsidies under the new legislation.²⁶³

The Directorate of Immigration informs employers via a letter about the fact that they employ a third-country national who does not possess a work permit and that as a consequence they expose themselves to sanctions according to the Law of 21 December 2012. The Inspectorate of Labour and Mines will also be informed of such a letter.²⁶⁴

The “Sanctions” Directive excludes from its scope third-country nationals regularly present on the territory of a Member State, whether or not they are authorised to work in its territory. The Law of 21 December 2012 thus targets only third-country nationals who do not or who no longer fulfil the conditions of residence on the territory of the Grand Duchy of Luxembourg.

For the correct implementation of the foreseen measures, five new posts were created at the Inspectorate of Labour and Mines.²⁶⁵

In his response to the Parliamentary question concerning the single regularisation process, the Minister of Labour, Employment and Immigration noted that the HORECA sector is by far the most

²⁶¹ Law of 21 December 2012 on the Illegal Employment of Third-country Nationals Staying Irregularly, Memorial A N°296 of 31 December 2012,

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/171/179/1177/08.pdf

Please also see LU EMN NCP Policy Report on Migration and Asylum 2012, pp. 98-102,

<https://www.emnluxembourg.lu/type-documentation/rapport-politique-sur-les-migrations-et-lasile-2012>

²⁶² Article L. 572-4 to 10, Law of 21 December 2012.

²⁶³ Please also see: LU EMN NCP Policy Report on Migration and Asylum 2012, pp.98-102,

<https://www.emnluxembourg.lu/type-documentation/rapport-politique-sur-les-migrations-et-lasile-2012>

²⁶⁴ Information provided by the Directorate of Immigration.

²⁶⁵ Information provided by the Inspectorate of Labour and Mines.

affected by the phenomenon of illegal employment of irregularly staying third-country nationals and that much more efforts have to be made in order to improve the quality and effectiveness of the controls in this sector. As main challenges the Minister pointed to the awareness of employers regarding their obligations under the implementation of the “Sanctions” Directive, the strengthening of controls and sanctions but also a continuous search for closer cooperation between Member States.²⁶⁶

²⁶⁶ Parliamentary question n°2787, 16 July 2013,
http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1209660&fn=1209660.pdf

8. RETURN

8.1. *General context before 2013*

The Government Programme 2009-2014 specifies that the fight against irregular migration is to be based on a coherent policy for the return of irregularly staying third-country nationals. The Government wanted to further encourage the voluntary return of individuals in order to safeguard the human dignity of these individuals. In order to develop a common approach for promoting voluntary return, a close cooperation with the relevant organisations, both national and international, should be enhanced.²⁶⁷ Following a pilot project on assisted voluntary return and reintegration from Luxembourg to Kosovo in 2008, an agreement between the Ministry of Foreign Affairs and the IOM has been put into place in 2009 and is renewed on an annual basis. Following a call for project launched by the Directorate of Immigration for the period 2011-2013, the agreement between the Ministry and IOM was pursued within the framework of the European Return Fund. The AVRRL programme now applies to most countries, with the exception of Albania, Bosnia-Herzegovina, Serbia, Montenegro and Macedonia One should also note that visa requirements no longer apply to nationals from these countries. However, the return bus ticket for nationals of the aforementioned countries is financed by the Directorate of Immigration.²⁶⁸

²⁶⁷ Government Programme 2009, p.21,
<http://www.mae.lu/Media/Bienvenue-sur-le-site-de-la-Cooperation-luxembourgeoise/Documents-de-reference/programme-gouvernemental-2009/%28language%29/fre-FR>

²⁶⁸ Information provided by the Directorate of Immigration.
Please also see C. List of safe third countries of origin, p.57.

8.2. *National developments*

A. Voluntary return

In 2013, 595 persons opted for a voluntary return, compared to 1.563 persons in 2012. The majority of these individuals (470) were international protection applicants from the Western Balkan countries. Many have left Luxembourg without even waiting for a decision on their application.

116 persons have left Luxembourg within the framework of the AVVRL programme, compared to 84 persons in 2012, and the majority of returns was to Kosovo (78 persons). Finally, 7 persons have voluntarily returned on their own expenses.²⁶⁹

B. Forced return

In 2013, 84 persons were removed from the Luxembourgish territory in the framework of a forced return, compared to 142 persons in 2012. 44 individuals originated from the Western Balkan countries and almost all were returned on commercial flights. The Directorate of Immigration did not resort to a secured flight in collaboration with other Member States and which are organised by FRONTEX. Only one person was returned to Morocco by alternative means.

Concerning the suspension of a removal order, 161 individuals benefited from such a decision and another 15 persons benefitted from a postponement.²⁷⁰

C. Retention Centre

In 2013, 284 persons were admitted to the Retention Centre, compared to 322 persons in 2012. Of these, 213 were single men and 16 were single women. There were also 14 families comprising a total of 55 persons. In 2012, 203 were single men, 11 were single women and 27 were families comprising a total of 108 persons.

Of the 284 detainees, 78 were transferred to another Member State responsible for the examination of their application for international protection in accordance with the Dublin III Regulation. 80 individuals were returned to their country of origin, 12 persons benefitted from a semi-voluntary return assisted by IOM, 92 persons were released and 2 persons escaped from the Retention Centre.

On 31 December 2013, 20 persons were staying in the Retention Centre.

²⁶⁹ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p.21, <http://www.gouvernement.lu/3508079/bilan.pdf>

²⁷⁰ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p.21, <http://www.gouvernement.lu/3508079/bilan.pdf>

The most common nationalities were Algerians, Montenegrins, Kosovars, Tunisians, Bosnians, Albanians, Moroccans, Nigerians and Chinese.

The average duration of stay for 2013 was 30 days and a total of 11 detainees have stayed for 120 days or even longer.²⁷¹

D. Policy priorities of the new Government

According to the Government Programme, the Retention Centre will be subject to a first evaluation. The aim will be to reduce its use as much as possible and to guarantee a stay whose duration is reduced to a minimum.

In collaboration with the OLAI, the care system will be enhanced via:

- The creation of places for returnees within the existing structures for applicants for international protection;
- The opening of a separate open structure for families awaiting return;
- A better guidance and support system for applicants for international protection.²⁷²

²⁷¹ Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p.23, <http://www.gouvernement.lu/3508079/bilan.pdf>

²⁷² Gouvernement.lu, Government Programme, p.203, <http://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>

8.3. Developments in the European context

A. Readmission agreements

On 25 January 2013, Luxembourg signed two protocols on the application of the Benelux readmission agreements that were signed with Moldova and Serbia respectively.²⁷³ Another protocol on the application of the Benelux readmission agreement with Bosnia-Herzegovina was signed on 5th December 2013.²⁷⁴

Furthermore, the Law of 29 March 2013 approves the protocol of the application of the readmission agreement that was signed between the European Union and Montenegro.²⁷⁵

²⁷³ Information provided by the Directorate of Immigration.

²⁷⁴ Benelux.int, News, 5 December 2013, <http://www.benelux.int/fr/sg/actualiteit.asp?ID=495>

²⁷⁵ Law of 29 March 2013 on the Readmission Protocol: Benelux-Montenegro, Memorial A N°70 of 15 April 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0070/a070.pdf>

9. IMPLEMENTATION OF EU LEGISLATION

Directive	Deadline for transposition	Law
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	20 July 2011	Law of 21 December 2012 Illegal Employment of third-country nationals staying irregularly
Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection	20 May 2013	Law of 19 June 2013 Free Movement of Persons – Immigration – International Protection
Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)	20 May 2013	Law of 19 June 2013 Free Movement of Persons – Immigration – International Protection
Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State	20 May 2013	Law of 19 June 2013 Free Movement of Persons – Immigration – International Protection
Directive 2011/36/EU of the European Parliament and of the	6 April 2013	Not yet transposed

Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA		Bill n°6562 reinforcing the Right of Victims of Trafficking in Human Beings was introduced to the Chamber of Deputies on 11 April 2013
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10. OTHER RELEVANT NATIONAL POLICY DEVELOPMENT IN THE FIELD OF MIGRATION AND ASYLUM

10.1. National Developments

A. Social care home for immigrant workers in Mühlenbach

In October 2012, Deputy Marc Angel addressed a parliamentary question²⁷⁶ to the Minister of Family and Integration, Marie-Josée Jacobs, in order to be informed about the situation of 14 Portuguese workers living in a social care home in Luxembourg City and who were asked by the OLAI to leave the home in order to make room for emergencies. The workers lived there for seventeen years on average, but the OLAI took the decision to make room for international protection applicants.²⁷⁷

A year later, ASTI reopened the case by requesting the intervention of the Minister of Family and Integration in order to find a solution for the Portuguese workers still living in the social care home. Following discussions between the parties, the Minister extended the period of stay of the workers from three to six months in order to be able to find new housing. In addition, the most in need from an economic point of view have been relocated to a social care home with below-market rents.²⁷⁸

In February 2014, Deputy Justin Turpel addressed a further parliamentary question concerning the situation of the tenants living in the social care home and current regulations for such homes.²⁷⁹

B. Creation of a House of Human Right”

The new Government announced their intention to create a “House of Human Rights” involving the CCDH, the ORK, the CET and the Ombudsman. As stated in the Government Programme, this would allow to the different institutions concerned with human rights issues to generate synergies, as well as to share a documentation centre and a General Secretariat, whilst retaining their

²⁷⁶ Parliamentary question n° 2372 concerning OLAI Homes for migrant workers, 24 October, 2012,

http://chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1162485&fn=1162485.pdf

²⁷⁷ Response to Parliamentary question n° 2372 concerning OLAI Homes for migrant workers, 23 November 2012,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1162486&fn=1162486.pdf

²⁷⁸ Wort.lu, « Foyer de Mühlenbach : le gouvernement va reloger une partie des résidents », 14 October 2013,

<http://www.wort.lu/fr/view/foyer-de-muehlenbach-le-gouvernement-va-reloger-une-partie-des-residents-525c14a9e4b08667041a290f>

²⁷⁹ Parliamentary question n°125 concerning the situation of the residents in the migrant workers’ homes, 20 February 2014,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1236400&fn=1236400.pdf

independence.²⁸⁰

²⁸⁰ Gouvernement.lu, Government Programme, p.7,
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Law of 19 June 2013, Memorial A N°106 of 25 June 2013,
<http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=2>

Law of 29 March 2013 on the Readmission Protocol: Benelux-Montenegro, Memorial A N°70 of 15 April 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0070/a070.pdf>

Law of 18 February 2013 on the Hosting of Young Au Pairs, Memorial A N°44 of 11 March 2013,
<http://www.legilux.public.lu/leg/a/archives/2013/0044/a044.pdf>

Law of 21 December 2012 on the Illegal Employment of Irregular Third-country Nationals staying Irregularly, Memorial A N° 296 of 31 December, 2012,
<http://www.legilux.public.lu/leg/a/archives/2012/0296/index.html>

Law of 8 May 2009 on the Assistance, Protection and security of Victims of Trafficking in Human Beings, Memorial A N°129 of 9 June 2009,
<http://www.legilux.public.lu/leg/a/archives/2009/0129/a129.pdf>

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<http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

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<http://www.legilux.public.lu/leg/a/archives/2013/0106/a106.pdf#page=7>

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<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF>

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Annex 1. List of abbreviations

ADEM	<i>Agence pour le développement de l'emploi</i> (Employment Agency)
ADR	<i>Alternativ Demokratesch Reformpartei</i> (Alternative Democratic Reform Party)
ASTI	<i>Association de soutien aux travailleurs immigrés</i> (Association for the Support of Immigrant Workers)
AVVRL	<i>Assisted Voluntary Return and Reintegration from Luxembourg</i>
CAI	<i>Contrat d'accueil et d'intégration</i> (Welcome and Integration Contract)
CATP	<i>Certificat d'aptitude technique et professionnelle</i> (Certificate of technical and professional competence)
CBP	<i>Common Basic Principals</i>
CCDH	<i>Commission consultative des Droits de l'Homme</i> (Consultative Commission on Human Rights)
CCCI	<i>Commission consultative communale d'intégration</i> (Communal Consultative Commission on Integration)
CEFIS	<i>Centre d'étude et de formation interculturelles et sociales</i> (Centre for Intercultural and Social Studies and Training)
CET	<i>Centre pour l'égalité de traitement</i> (Centre for Equal Treatment)
CIALTI	<i>Cellule inter administrative de lutte contre le travail illégal</i> (Inter-administrative Cell for the Fight against Illegal Work)
CITP	<i>Certificat d'initiation technique et professionnelle</i> (Certificate of technical and professional initiation)
CLAE	<i>Comité de liaison et d'action des étrangers</i> (Foreigners' Liaison and Action Committee)
CNE	<i>Conseil national pour étrangers</i> (National Council for Foreigners)
CSV	<i>Chrëschtlech-Sozial Vollekspartei</i> (Christian Social Party)
DAP	<i>Diplôme d'aptitude professionnelle</i> (Diploma of professional competence)
DP	<i>Democratesch Partei</i> (Democratic Party)
DT	<i>Diplôme technique</i> (Technical Diploma)
EASO	<i>European Asylum Support Office</i>

EMN	<i>European Migration Network</i>
EPSCO	<i>Employment, Social Policy, Health and Consumer Affairs Council</i>
EU-LISA	<i>EU Agency for large-scale IT systems</i>
EUROSUR	<i>European Border Surveillance System</i>
EYCA	<i>European Year of Citizens Alliance</i>
FNR	<i>Fonds national de la recherche</i> (National Research Fund)
GCSE	<i>General Certificate of Secondary Education</i>
GRETA	<i>Group of Experts on Action against Trafficking in Human Beings</i>
HORECA	<i>Hotel, Restaurant, Café</i>
ICT	<i>Information and communication technology</i>
IOM	<i>International Organisation for Migration</i>
ISCO	<i>International Standard Classification of Occupations</i>
ITM	<i>Inspection du travail et des mines</i> (Inspectorate of Labour and Mines)
JAI	<i>Justice and Home Affairs</i>
KPL	<i>Kommunistesch Partei Lëtzebuerg</i> (Luxembourgish Communist Party)
LCGB	<i>Lëtzebuenger Chrëschtliche Gewerkschaftsbond</i> (Luxembourgish Christian trade union)
LEADER	<i>Liaisons Entre Actions de Développement de l'Economie Rurale</i> (Liaisons between Development Actions and Rural Economy)
LFR	<i>Lëtzebuenger Flüchtlingsrot</i> (Luxembourgish Council for Refugees)
LGBTI	<i>Lesbian, gay, bisexual, transgender and intersexual</i>
LSAP	<i>Lëtzebuenger Sozialistesche Aarbechterpartei</i> (Luxembourgish Socialist Labour Party)
LU EMN NCP	<i>European Migration Network - National Contact Point Luxembourg</i>
MAE	<i>Ministère des Affaires étrangères</i> (Ministry of Foreign Affairs)
NGO	<i>Non-governmental organisation</i>
OGBL	<i>Onofhängege Gewerkschaftsbond Lëtzebuerg</i> (Luxembourgish independent trade union)

OLAI	<i>Office luxembourgeois de l'accueil et de l'intégration</i> (Luxembourgish Reception and Integration Agency)
ORK	<i>Ombuds-Comité fir d'Rechter vum Kand</i> (Ombuds-Committee for the Rights of the Child)
PISA	<i>Programme for International Student Assessment</i>
SIS	<i>Schengen Information System</i>
SREL	<i>Service de renseignement de l'Etat luxembourgeois</i> (Intelligence Service of the State of Luxembourg)
STATEC	<i>Institut national de la statistique et des études économiques du Grand-Duché du Luxembourg</i> (National Statistics and Economic Studies Institute of Luxembourg)
SYVICOL	<i>Syndicat des villes et communes luxembourgeoises</i> (Luxembourgish towns and local communities union)
UNEL	<i>Union Nationale des Etudiant-e-s du Luxembourg</i> (Student's union of Luxembourg)
UNHCR	<i>United Nations High Commissioner for Refugees</i>
VAE	<i>Validation des acquis de l'expérience</i> (Validation of acquired experience)
VIS	<i>Visa Information System</i>

Annex 2. The legislative framework

A) Immigration

- Coordinated Text of the Law of 29 August 2008 on the Free Movement of Persons and Immigration²⁸¹
- Law of 13 February 2013 on the Reception of Young Au Pairs²⁸²
- Law of 21 December 2012 on the Illegal Employment of Third-country Nationals residing irregularly²⁸³
- Law of 21 July 2012 on the Illegal Traffic of Migrants by Land, Air and Sea²⁸⁴
- Law of 28 May 2009 on the Creation and Organisation of the Retention Centre²⁸⁵
- Grand-Ducal Regulation of 25 January 2012 amending the Grand-Ducal Regulation of 26 September 2008 determining the Minimum Level of Remuneration for a Highly-qualified Worker²⁸⁶
- Grand-Ducal Regulation of 17 August 2011 setting the Terms and Conditions of the Retention Regime of the Retention Centre²⁸⁷
- Coordinated Text of the amended Grand-Ducal Regulation of 26 September 2008 establishing the Rules of Good Conduct to be applied by Agents charged with the Execution of a Removal²⁸⁸
- Grand-Ducal Regulation of 19 May 2011 amending the Grand Ducal Regulation of 26 September 2008 on the Processing of Personal Data²⁸⁹
- Grand-Ducal Regulation of 3 February 2009 relating to Medical Checks on Foreigners²⁹⁰
- Grand-Ducal Regulation of 5 September 2008 on Certificates of Acceptance in Favour of Foreigners²⁹¹

²⁸¹ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

²⁸² Memorial A N°44 of 11 March 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0044/a044.pdf#page=2>

²⁸³ Memorial A N°296 of 31 December 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0296/a296.pdf>

²⁸⁴ Memorial A No 153 of 27 July 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0153/a153.pdf>

²⁸⁵ Memorial A N°119 of 20 May 2009, <http://www.legilux.public.lu/leg/a/archives/2009/0119/2009A1708A.html>

²⁸⁶ Memorial A N°19 of 3 February 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0019/a019.pdf>

²⁸⁷ Memorial A N°180 of 22 August 2011, <http://www.legilux.public.lu/leg/a/archives/2011/0180/index.html>

²⁸⁸ Memorial A N°180 of 22 August 2011, <http://www.legilux.public.lu/leg/a/archives/2011/0180/index.html>

²⁸⁹ Memorial A N°102 of 20 May 2011, <http://www.legilux.public.lu/leg/a/archives/2011/0102/a102.pdf>

²⁹⁰ Memorial A N°16 of 10 February 2009, <http://www.legilux.public.lu/leg/a/archives/2009/0016/a016.pdf>

²⁹¹ Memorial A N°138 of 10 September 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

- Grand-Ducal Regulation of 5 September 2008 relating to the Exercise of a Salaried Activity by a Student²⁹²
- Grand-Ducal Regulation of 5 September 2008 relating to the Composition and the Operation of the Consultative Commission on Foreigners, the Consultative Commission on Salaried Workers, and the Consultative Commission on Freelance Workers²⁹³
- Coordinated Text of the Grand-Ducal Regulation of 5 September 2008 setting the Terms and Conditions regarding the Delivery of an Authorisation of Stay as a Salaried Worker²⁹⁴
- Coordinated Text of the Grand-Ducal Regulation of 5 September 2008 defining the Criteria of Resources and Accommodation²⁹⁵
- Coordinated Text of the Grand-Ducal Regulation of 5 September 2008 on executing several Provisions regarding Administrative Formalities²⁹⁶
- Coordinated Text of the Grand-Ducal Regulation of 26 January 2005 setting the Terms for obtaining a Travel Permit for Foreigners²⁹⁷

B) Asylum

- Coordinated Text of the Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection²⁹⁸
- Grand-Ducal Regulation of 8 June 2012 setting the Terms and Conditions for granting Social Aid to International Protection Applicants²⁹⁹
- Coordinated Text of the Grand-Ducal Regulation of 21 December 2007 setting a List of Safe Countries of Origin³⁰⁰
- Grand-Ducal Regulation of 21 July 2006 determining the Conditions under which International Protection Applicants have Access to the Training³⁰¹

²⁹² Memorial A N°138 of 10 September 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

²⁹³ Memorial A N°138 of 10 September 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

²⁹⁴ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

²⁹⁵ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

²⁹⁶ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

²⁹⁷ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

²⁹⁸ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf>

²⁹⁹ Memorial A N°123 of 20 June 2012, <http://www.legilux.public.lu/leg/a/archives/2012/0123/a123.pdf>

³⁰⁰ Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf#page=21>

³⁰¹ Memorial A N°131 of 31 January 2006, <http://www.legilux.public.lu/leg/a/archives/2006/0131/a131.pdf#page=3>

C) Integration

- Law of 23 October 2008 on Luxembourg Nationality and its Grand Ducal Regulations³⁰²
- Law of 16 December 2008 on the Reception and Integration of Foreigners³⁰³
- Law of 19 December 2008 amending the amended Electoral Law of 18 February 2003 and the Law of 4 February 2005 relating to a National Referendum³⁰⁴
- Law of 28 November 2006 on Equality of Treatment³⁰⁵
- Grand-Ducal Regulation of 26 December 2012 amending the Grand-Ducal Regulation of 2 September 2011 setting the Conditions of Application and the Terms of Execution regarding the Reception and Integration Contract³⁰⁶
- Grand-Ducal Regulation of 15 November 2011 on the Organisation and the Operation of the Communal Consultative Commissions on Integration³⁰⁷
- Grand-Ducal Regulation of 15 November 2011 determining the Terms of Appointment of Foreigners' Representatives to the National Council for Foreigners and their Division by Nationalities³⁰⁸
- Grand Ducal Regulation of 16 June 2009 determining the Operation of Reception Courses and Classes for Children newly arrived in the Country³⁰⁹

³⁰² Memorial A N°158 of 27 October 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0158/2008A2222A.html>;

³⁰³ Memorial A N°209 of 24 December 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0209/index.html>

³⁰⁴ Memorial A N°210 of 24 December 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0210/2008A3162A.html>

³⁰⁵ Memorial A N°207 of 6 December 2006, <http://www.legilux.public.lu/leg/a/archives/2006/0207/index.html>

³⁰⁶ Memorial A N°6 of 10 January 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0006/a006.pdf#page=2#page=2>

³⁰⁷ Memorial A N°237 of 22 November 2011, <http://www.legilux.public.lu/leg/a/archives/2011/0237/2011A4006A.html>

³⁰⁸ Memorial A N°236 of 22 November 2011, <http://www.legilux.public.lu/leg/a/archives/2011/0236/a236.pdf>

³⁰⁹ Memorial A N°144 of 19 June 2009, <http://www.legilux.public.lu/leg/a/archives/2009/0144/2009A1992A.html>