

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

2014 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 of the current coordinator Birte Nienaber, University of Luxembourg, as well as the former coordinator 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; Catherine Stronck, 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 into legal migration, integration, international protection, unaccompanied minors and other vulnerable groups, trafficking in human beings, migration and development, irregular migration and return. In the relevant chapters the titles of recent publications of the LU EMN NCP are indicated in the text. These full publications can be found on the website (www.emnluxembourg.lu).

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, trade unions, political parties, deputies, parliamentary groups, media, members of government, etc.) intervening or involved in the debate.

The principal sources of information that were 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;
- Systematic consultation of relevant internet sites (ministries, non-governmental organisations, etc.);
- Consultation of reference documents such as studies and activity reports from various actors, etc., which have fed the debate on asylum and migration policies in Luxembourg;

- Consultation of the positions taken by non-governmental organisations;
- 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

Whilst highlighting developments during the year 2014, we also refer to the legislative framework and to several legal provisions that were adopted prior to 2014. In certain chapters, we have mentioned the recent developments that have occurred in the beginning of 2015, with the purpose of giving the report some added value on the national level.

Luxembourg has some specific characteristics regarding migration and its population: 85.9% of non-Luxembourgish nationals are European Union citizens (237.424) and 14.1% are third-country nationals (34.487).² 42% of the domestic employment consists of cross-border workers.³ The 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 3.0 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. OVERVIEW OF ASYLUM AND MIGRATION POLICY DEVELOPMENTS

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. Important changes related to the national elections of 2013 can be found in the 2013 Policy Report.⁶

On 1st January 2015, the Luxembourgish population is composed of 562.985 persons, of which 258.679 persons are of foreign nationality. This number amounts to 46% of the total population. The 222.192 European Union citizens represent 39.5% of the total population and 85.9% of the foreign population of Luxembourg. The 36.487 third-country nationals represent 6.5% of the total population and 14.1% of the foreign population of Luxembourg.⁷

Net immigration remains the principal factor for explaining the increase of the population. The population increased by +11.049 persons in 2014, which exceeds the level that was noted in 2013 (+10.348 persons). In 2014, the natural balances were of 2.229 persons compared to 2.293 in 2013. It is the foreign population that occurs most prominently concerning the positive natural balances of Luxembourg, with a balance of 2.073 compared to 156 for the autochthones. Net immigration occurs for 83% of the augmentation of the total population of Luxembourg and the natural balances occur for 17%.⁸

The other particularity of Luxembourg is the fact that its labour market is an employment market for the Greater Region: concerning the active population (employed and independent), on 31st March 2014, Luxembourgers represented 31%, European Union citizens represented 65% and third-country nationals represented 4%. Cross-border workers alone represented 42% of the workforce of the labour market and the migrants (EU and non-EU) represented 28% of the workforce.⁹

1.1. European elections

The European elections which took place on 25th May 2014 gave the following results¹⁰:

LSAP	(Socialist and Workers Party)	11,75%
DP	(Democratic Party)	14,77%
CSV	(Christian Socialist Party)	37,65%
ADR	(Alternative Democratic Party)	7,53%
Déi Gréng	(Green Party)	15,01%
KPL	(Communist Party)	1,49%
Déi Lénk	(Left Party)	5,76%
PID	(Integral Democracy Party)	1,82%
Piratepartei	(Pirates Party)	4,23%

Among the six members elected to the European Parliament, there are 3 CSV Members of the European Parliament (MEP), 1 DP MEP, 1 Déi Gréng MEP and 1 LSAP MEP. An awareness raising campaign had been organised by the Luxembourg Reception and Integration Agency (*Office luxembourgeois de l'accueil et de l'intégration* - OLAI) in order to promote the registration of European Union citizens on the European electoral lists.¹¹

1.2. Reform of the Constitution

Work on the constitutional reform continued in 2014 within the responsible parliamentary committee.¹² In view of this reform a consultative referendum on three key issues is foreseen for the 7th June 2015:

- Active voting rights for non-Luxembourgish residents under certain conditions;
- Active voting rights for young persons from the age of 16; and
- Limitation of the mandates of members of Government to 10 consecutive years.¹³

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.

1.3. Direct democracy

During the year 2014, various forms of direct democracy were sources of major debates in politics and in civil society:

- The planned consultative referendum on the right for non-Luxembourgish residents to vote in legislative elections;
- The instrument of public petitions, established by the Chamber of Deputies; and
- Local referendums on the merging of municipalities.

1.3.1. Referendum on the right for non-Luxembourgish residents to vote in legislative elections

The right for non-Luxembourgish residents to vote was taken up by various civil society organisations ahead of the national elections in 2013 and was addressed in different electoral programmes.¹⁴

On 4th November 2014, a bill on the organisation of a referendum concerning various questions in relation to the drawing up of a new constitution was deposited at the Chamber of Deputies. This project is consistent with the Governmental Programme of 2013, which foresees to consult the population via referendum on four imperative questions:

- The financing of ministers of religion;
- The political rights of non-Luxembourgish citizens;
- The participation of young people from the age of 16 in the political process; and
- The time limit of ministerial mandates.¹⁵

The debate not only focused on the content of these questions, but also on the appropriateness of submitting for consultation these questions to Luxembourgish citizens.

Meanwhile, following the agreement concerning the relations between the State and the religions, only three questions remain, the question concerning the financing of the ministers of religion having been withdrawn.¹⁶

1.3.2. Public petitions

With a view to improving and strengthening participatory democracy in Luxembourg, the Chamber of Deputies reformed the right to petition in March 2014 by creating the instrument of “public petition”. The new instrument enables citizens to submit, sign but also discuss a public petition on the website of the Parliament. Once 4,500 signatures are collected, this “e-petition” gives rise to a public debate in the Committee of Petitions and the relevant sectorial committee of the Chamber of Deputies. A maximum of six petitioners as well as the competent minister will be able to assist. The right of petition has thus been significantly simplified. With the new system, which exists in addition to the ordinary petition, every citizen aged 15 years or above and who has a Luxembourgish registration number may submit an application for filing a public petition to the Chamber of Deputies.¹⁷

While citizens have extensively made use of this instrument so far, only few petitions managed to reach the threshold of 4,500 signatures for organising a public debate. As of 31 December 2014, 4 public petitions exceeded the threshold.¹⁸ Several petitions that have been filed relate to various aspects of immigration and integration policies: Public Petition N°386 for free language classes for residents (French, German, Luxembourgish or Portuguese), Public Petition N°346 for the voting rights of foreigners, Public Petition N°342 against voting rights for foreigners, Public Petition N°371 on mandatory voting for long-term residents, Public Petition N°374 on the acquisition of the Luxembourgish nationality, Public Petition N°469 on the creation of a separate European nationality, Public Petition N°460 on the assistance for the Kurdish of Syria by the Luxembourgish Government.

The Petitions Committee is also planning to reform the instrument in order to allow for aggregating signatures collected via a paper version with signatures collected electronically. The current procedure only considers electronic signatures. In addition, the online entry form should be bilingual (in French and German).¹⁹

1.3.3. Local referendums on the merging of municipalities

In 2014, several local referendums on the merging of municipalities were conducted. While in most of them the population voted in favour of the merging²⁰, residents of some municipalities rejected the idea, despite expressions of commitment to a ‘yes’ vote from the mayors. This was the case for the referendum on the merging of the municipalities of

Fischbach, Nommern and Larochette, held on 9th November 2014. According to several press articles, this can be explained by the reluctance of the residents of two of the municipalities to merge with a municipality that has a predominantly foreign population.

Moreover, in local discussion forums the low participation of foreign nationals, which form the majority of Larochette, became apparent to such an extent that the questions of a lack of communication, a lack of awareness as well as the relatively low overall integration of foreigners and young people in the political decision-making process was addressed.²¹

1.4. “Package on the Future” and its impact on various aspects of migration

The “Package on the Future” (*Zukunftspak*)²², which was presented by the Government, generated considerable commentary and public interest. The package targets the reduction of the public deficit and the consolidation of the public finances while establishing 258 measures. The aims of these measures are to dust off the State, to render it more efficient, to prepare it for new challenges and to create new perspectives. Some of these measures, such as the education or maternity allowance provoked strong reactions to the extent that the Government had to meet with the social partners. Except for the linguistic leave and the costs relating to the recognition of diplomas, most of the measures however, do not directly affect foreign nationals but the entire population.

The Budgetary Law as well as the law for its implementation will have an impact on around forty laws (existing and new) as well as on grand-ducal regulations.

The measures that were selected in the Package on the Future are based on four principles:

- A more responsible attitude towards tax incomes;
- Equity concerning public revenues and expenditures;
- Creation of a modern State and country; and
- Management of the renewal policy put into place for the Governmental Programme.

On 15th October 2014, the Package on the Future was deposited at the Chamber of Deputies as Bill N°6722 on the implementation of the Package on the Future (first part)²³ and was approved by the Law of 19 December 2014.²⁴

1.5. Integration measures

The field of integration was marked by the restructuring of the OLAI, the efforts dedicated towards the Communal Plan on Integration as well as the publication of two reference documents:

- The opinion of the Economic and Social Council (*Conseil économique et social* – CES) on integration policy²⁵;
- The 5 year report of the OLAI.

1.5.1. *Opinion of the Economic and Social Council on integration policy*

On 13th April 2011, the Government Council decided to entrust the Economic and Social Council (CES) with the mission “*to ensure the monitoring and evaluation of the National Action Plan for Integration and the Fight against Discrimination 2010-2014*”. The CES then called upon the University of Luxembourg which carried out an evaluation of the National Action Plan for Integration and the Fight against Discrimination 2010-2014 (*Plan d'action national d'intégration et de lutte contre les discriminations* - PAN) and how it has been implemented.²⁶

Following the evaluation, the CES drafted an opinion on the integration policy in Luxembourg²⁷ presenting a series of recommendations on the integration policy in the fields of education (see section 3.4.2.), political rights (see section 3.6), naturalisations (see section 3.9), the Welcome and Integration Contract (see section 3.4.4), but also some more general recommendations (see section 3.1).

1.5.2. *Five year report of the OLAI*

In addition to the evaluation report of the National Action Plan for Integration and the Fight against Discrimination 2010-2014 by the CES, the OLAI has published in December 2014 a “Five year report”, which deals with their first five years of operation between 2009 and 2013.²⁸

1.5.3. Restructuring of the OLAI

In the Governmental Programme, the implementation of an assessment of operation and needs of the OLAI was announced.²⁹ In March 2014, the Ministry of Family, Integration and the Greater Region commissioned an audit firm with an in-depth evaluation of the OLAI with the aim of identifying the strengths and weaknesses of the OLAI as well as to propose concrete improvement projects which would be immediately operational.

1.5.4. Communal Integration Plan

In October 2014, the Syndicate of Luxembourg cities and municipalities (*Syndicat des Villes et Communes luxembourgeoises* - SYVICOL), in collaboration with the OLAI, organised several regional information and awareness-raising sessions on the Communal Integration Plan (*Plan communal d'intégration* - PCI), a tool for municipalities wishing to invest in the process of establishing a sustainable, cross-cutting integration policy and involving a maximum of local actors. More than 40 municipalities participated in these regional sessions. A handbook³⁰ and a proposed approach³¹ to the establishment of a local integration policy have been presented to the audience.

1.6. Educational measures

Another major topic of public debate concerned education. While the reform on financial aid provided by the State for higher education led to many protests, including a student demonstration, other proposed measures, such as the bilingual nurseries, also raised questions and reactions.

At a press conference held on 11 September 2014, the Minister for National Education, Childhood and Youth presented the priorities of the school year 2014. He highlighted the importance of multilingualism as the foundation of society. According to the Minister, multilingualism “*requires ambitious measures if it is to remain a force. From early childhood, our children, of immigrant families or Luxembourgish, must be confronted both with the Luxembourgish and French languages. Nurseries, often monolingual, will, through their staff provide children a bilingual immersion. The children's mother tongue should also have its place*”.³²

In order to cope with an increasing heterogeneity of the Luxembourgish population, the Minister for National Education, Childhood and Youth also has the intention of broadening the educational provision in Luxembourg and therefore plans to establish an international school.

1.7. Asylum policy

Concerning the asylum policy one should mention the reception of 74 Syrian refugees in the framework of the resettlement programme.

The removal of families which are rejected applicants for international protection has once again been highly mediatised in 2014.³³

1.8. Foreign fighters

In the context of the development of terrorist organisations such as the Islamic State (IS), the departure of six young Luxembourgish residents to Syria in order to fight alongside the IS led to media, including social media, and political debates regarding this specific phenomenon, but also regarding security issues and the threat of terrorism in general.³⁴

Thus, a CSV MP introduced a parliamentary question regarding the Governments' position on the terrorist threat posed by the IS as well as future measures of internal security that the Government plans to take.³⁵

On 25 November 2014, the Minister for Foreign and European Affairs announced that a bill, based on the Security Council Resolution of the United Nations and which aims to prevent foreign fighters from joining radical terrorist movements in combat zones, especially Syria and Iraq, would be prepared.³⁶ The bill was introduced to the Chamber of Deputies on 7th January 2015 by the Minister of Justice, Félix Braz.³⁷

2. LEGAL MIGRATION AND MOBILITY

In 2014, the Directorate of Immigration has issued a total of 3.897 first residence permits and has renewed 5.909 residence permits, whereas in 2013, 4.781 first residence permits were issued. This represents a regression of 18,5%. 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 2014		
Category	Number	Top 3 nationalities
Athlete or trainer	53	USA (41) China (2) Russia (2)
Employee	409	China (59) Russia (24) South Korea (24)
Employee of a Community Service Provider	1	N.A.
EU Blue Card	262	USA (75) India (42) Russia (41)
Family member	1.079	China (159) USA (147) India (101)
Intern	15	Brazil (2) Canada (2) India (2) Russia (2) Tunisia (2)
International protection	235	N.A.
Long term resident	766	Montenegro (189) Bosnia (78) China (75)
Posted worker	29	China (15) India (12) Canada (1) Saudi Arabia (1)

Private reasons	366	Japan (49) Russia (37) South Korea (32)
Pupil	233	USA (221) Vietnam (9) China (3)
Researcher	40	China (6) USA (5) Japan (3) Russia (3)
Self-employed person	19	USA (4) China (4) Russia (3)
Student	209	China (27) Russia (21) India (13)
Transferred worker	155	USA (50) India (45) China (30)
Volunteer	1	Russia (1)
Young Au pair	25	USA (5) Philippines (5) (1) Brazil (2) Madagascar (2)
Total of first residence permits issued	3.897	

Source: Directorate of Immigration, 2015

Concerning the free movement of European Union citizens (including nationals of assimilated countries), the Directorate of Immigration has processed total of 14.904 registration certificates in 2014 compared to 16.079 in 2013. The main countries of origin are Portugal and France, followed by Italy and Belgium. The Directorate of Immigration has also delivered 9.949 permanent residence certificates to European Union citizens compared to 8.162 in 2013.

Top 10 nationalities – Registration certificates in 2014	
Nationality	Number
Portugal	4.071
France	3.482
Italy	1.461
Belgium	1.350
Germany	890
Romania	641
Spain	486
United Kingdom	440
Poland	388
The Netherlands	241

Source: Directorate of Immigration, 2015

2.1. Economic migration

In 2014, 875 first residence permits were issued for economic reasons compared to 1.257 in 2013, which represents a decrease of 30,4%. This regression can, in particular, be attributed to a significant decrease from 798 to 409 first residence permits for employees (- 48,7%).

Residence permits (first and renewals) issued in 2013 and 2014		
Category	2013	2014
Employee	1.879	1.993
Employee of a Community Service Provider	/	1
EU Blue Card	306	481
Highly-qualified worker	2	/
Posted worker	24	36
Self-employed person	83	71
Transferred worker	272	298

Source: Directorate of Immigration, 2015

2.1.1. Satisfying labour market needs

In October 2014, the Minister of Labour, Employment and Social Solidarity Economy presented the future directions of the employment policy and the first dashboard of the labour market, set up by the Research Network on the Labour Market and Employment (*Réseau d'étude sur le marché du travail et de l'emploi* - RETEL).

The RETEL was launched in 2011 in order to deepen the knowledge of the Luxembourgish labour market and is an employment observatory which organises and leads the networking of producers, analysts and users of studies on the labour market and employment in the Grand-Duchy and more widely in Luxembourg's employment area (German, Belgian and French border areas). In addition to providing research and analysis already conducted, the RETEL allows for the launching of surveys and studies and the processing of administrative data from previous surveys in order to conduct studies on the determinants and characteristics of the labour market and current as well as prospective employment. Its aim is to strengthen the assessment of existing employment policies.

The first dashboard of the employment observatory highlights labour flows rather than labour stocks and is considered an important step in the development of the observatory.³⁸

This approach is part of the reform of the Agency for the Development of Employment (*Agence pour le développement de l'emploi* - ADEM) to address the shortcomings of the measurement and knowledge of the labour market and employment, as well as the effect of immigration on the labour market and employment.

2.1.2. Efforts to avoid “social dumping”

The Ministry of Labour, Employment and Social Solidarity Economy is currently working on a bill aimed at transposing Action Directive 2014/67/EU on the enforcement of Directive 96/71/EC (the Posting of Workers Directive). The Action Directive should ensure a better implementation of the existing rules in practice and it should also improve the protection of posted workers against fraud, particularly in cases of successive subcontracting, where the rights of posted workers are little respected. The bill will include an obligation for companies which are posting workers to Luxembourg, to ensure their posted workers have a social badge. The social badge was launched in a trial period at the end of 2013 with the intention to officially inaugurate the badge at the beginning of 2014. It was permanently installed in 2014, and it should also be recalled that through the social badge, which is printed by the posting company, labour inspectors have access to certain information on the posted workers and the posting companies by means of a scan of the QR code that is shown on the said badge. This information has to be encoded by the posting company on the “e-Détachement” platform,

available on the website of the Inspectorate of Labour and Mines (ITM)³⁹ at the latest on the day of commencement of the provision of services in Luxembourg.⁴⁰

2.1.3. Facilitating admission

Measures concerning highly qualified workers

Every year, the Government adjusts the minimum wages for highly qualified workers. The salary thresholds for applying as a highly qualified worker are:

- at least 1.5 times the average gross salary in Luxembourg ($46.572 \times 1.5 = 69.858$ euros for the year 2014) or;
- at least the equivalent of 1.2 times the average gross salary in Luxembourg ($46.572 \times 1.2 = 55.886,40$ euros for the year 2014) for jobs belonging to groups 1 (managers) and 2 (professionals) of the “International Standard Classification of Occupations” (ISCO), for which a particular need for workers from third countries is recognised by the Government.⁴¹

The Governmental Programme states that a fast track procedure for certain categories of workers, among which highly qualified workers are mentioned, should be established for this purpose.⁴²

Measures concerning intra-corporate transferees and seasonal workers

On 17 July 2014, a Parliamentary Question on the Directive on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (ICT Directive) was submitted to the Chamber of Deputies. It mentioned that a rapid transposition of the Directive would be desirable as this could make Luxembourg attractive for other international companies as well as guarantee its competitiveness. The aim of the question was to find out whether there was a planned date of transposition and how the Government intended to proceed.⁴³ In his response, the Minister for Immigration and Asylum stated that Article 47 of the Law on the Free Movement of Persons and Immigration already provided for the possibility of an intra-corporate transfer of a third-country national. He also replied that Luxembourg has actively participated in the various stages of the drafting of the ICT

Directive. Furthermore, he affirmed that the Directive would be transposed into national law within the shortest time possible and that a drafting group in charge of the transposition of the Directive had taken up work in July 2014. Two meetings of inter-ministerial consultation have already been held.⁴⁴

The Seasonal Workers Directive will be part of a package which foresees new schemes of intra-EU mobility, together with the ICT Directive, and will consequently be transposed at the same time.

Measures concerning business managers and investors

The necessity for establishing new categories of authorisations of stay, in particular for investors and business managers, has been a topic of discussion. The Governmental Programme foresees the creation of new categories of authorisations of stay, which are not part of a harmonisation measure at the European level.⁴⁵ At the moment there is only one category of authorisation of stay in this area that is available: the authorisation of stay as a self-employed worker. However, the authorisation of stay as a business manager will not be created as such but the Law of 29 August 2008 on the Free Movement of Persons and Immigration will be amended, in particular regarding Article 51 on the self-employed worker and subsequently on the highly qualified worker. A draft bill concerning authorisations of stay for investors has already been elaborated.⁴⁶ A working group, led by the Ministry of Finance and the Ministry of Economy, is currently dealing with these two aspects.

2.1.4. Guaranteeing certain rights for third-country nationals who are already legally resident on the territory

When an application for a renewal of a residence permit or for a change of the residence permit is made, and the authorities notice that the applicant fulfils the 5 year residence clause as well as the other conditions foreseen by the amended Law of the 29th of August 2008 on the Free Movement of Persons and Immigration in order to be eligible for the status of long-term resident, a resident permit as long-term resident – EU is granted.⁴⁷

The Ombudsman noted several issues related to the waiting times for the renewal of authorisations of stay. In one case, the ADEM suspended unemployment benefits due to the

expiration of the residence permit, whereas the concerned person was entitled to an extension of the payment of unemployment benefits and also to receive a waiting allowance in case no suitable employment was to be found. After the Ombudsman's intervention, the claimant finally saw his authorisation of stay renewed.⁴⁸

Other cases involved long waiting periods, notably concerning the renewal of a postponement of removal for medical reasons or concerning residence permits for private reasons due to serious illness. These delays were caused by the fact that the renewal is decided on the basis of a medical certificate issued by the Immigration Medical Service of the Ministry of Health, which was lagging behind due to the large number of files to be processed.⁴⁹

Recent LU EMN NCP publications on economic migration:

- **Attracting Highly Qualified and Qualified Third-Country Nationals (2013)**
- **Admitting Third-Country Nationals for Business Purposes (2014)**

2.2. Family reunification

In 2014, a total of 1.208 residence cards were issued to third-country nationals who are family members of Luxembourgish citizens, EU citizens or nationals of assimilated countries, compared to 1.100 in 2013. The main countries of origin of these persons are Cape Verde, Brazil and Morocco.

Top 10 nationalities – First residence cards in 2014	
Nationality	Number
Cape Verde	125
Brazil	101
Morocco	65
Unites States of America	63
Montenegro	60
Russia	53
Guinea Bissau	49
Serbia	46
Ukraine	45
China	41

Source: Directorate of Immigration, 2015

Concerning permanent residence cards for third-country nationals who are family members of Luxembourgish citizens, EU citizens or nationals of assimilated countries, a total of 873 such cards were issued, compared to 667 in 2013.

In 2014, 1079 first residence permits for family members were issued, compared to 912 in 2013. Immigration for family reasons represents the highest category, followed by the category of long-term residents (766). The main countries or origin of these persons are China, the United States of America and India. If one includes the renewals, 3.170 residence permits for family reasons were issued, compared to 3.041 in 2013.

2.2.1. *Problems related to family reunification*

The Ombudsman received a number of files relating to the family reunification of relatives in the ascending line who are depending on third-country nationals legally resident in Luxembourg. In one case, the Directorate of Immigration refused to grant an authorisation of stay since it considered that the relatives were not depending on the applicant because they owned an apartment in their country of origin and received an old-age pension that exceeded the minimum wage in Luxembourg. On a subsidiary basis, the Ombudsman asked for an analysis of the application as an application for an authorisation of stay for private reasons under Article 78 (1) c) of the Immigration Law.⁵⁰

Other cases concerned the refusal to renew the authorisation of stay for persons detained in prison. These cases included a balancing on one hand of the risk of a serious threat to public order and on the other hand the right to respect for private and family life.⁵¹

Several cases were also decided by the Administrative Court. In one case, the Administrative Court refused to grant an authorisation of stay in the context of family reunification of a relative in line, considering that *“a stay, even for a period of several months, dating 7 years ago, and a stay of one month of the applicant with her son and stepdaughter, is not enough to attest the existence of a real family life between the applicant, her son and his family”*⁵². The court also refused an application for family reunification of a relative in line who wanted to join her daughter and her step-son of Luxembourgish nationality. The court concluded that the applicant could not be considered as depending on her daughter and her step-son, *“since she has not established that she is deprived of financial resources, necessary to meet the basic needs in her country of origin without the financial support of her daughter and step-son, nor that she finds herself in a relationship of dependency with regard to her daughter and step-son, in the absence of which she could not meet the basic needs”*⁵³.

2.2.2. *Reform of the Law of Marriage*

With the Law of 4th July 2014 on the Reform of Marriage⁵⁴, substantial changes were undertaken concerning the laws of marriage. The main change was the opening up of the possibility of same sex couples to get married. Another change that was undertaken concerned the fight against forced marriages or marriages of convenience. A new chapter has been introduced to the Penal Code which foresees prison sentences and / or fines for persons who have contracted such a marriage in order to obtain or to make available an advantage concerning an authorisation of stay, for persons who have received money with a view to contracting such a marriage and for persons who have used violence or threats in order to force someone to contract a marriage. However, there was very little public debate in regards to the phenomenon of marriages of convenience.⁵⁵

2.3. Students and researchers

In 2014, 482 first residence permits were issued for educational reasons. 233 permits were issued to pupils, 209 permits were issued to students and 40 permits were issued to researchers. There is a slight increase compared to the 2013 figures where in total 439 first residence permits were issued.

Residence permits (first and renewals) issued in 2013 and 2014		
Category	2013	2014
Pupil	241	233
Researcher	73	68
Student	343	377

Source: Directorate of Immigration, 2015

2.3.1. Financial aid for higher education

Since its introduction in 2010⁵⁶, the system of financial aid for students has been highly criticised.⁵⁷ At the time, family allowances for young people over 18 years of age were removed and instead replaced by a financial aid, accessible only for residents, which was provided by the State for higher education. In its decision of 20 June 2013⁵⁸, the Court of Justice of the European Union concluded this regulation to be contrary to the principle of free movement of workers. The decision of the Court prompted the Luxembourgish Administrative Court to render two judgements. The first judgement of 14th October 2013 concerned the applications of children of cross border workers who have worked for at least five years in Luxembourg. A second judgment of 2nd December 2013 annulled the decisions of the Minister of Higher Education and Research which refused granting financial assistance for higher education to foreign students, children of cross border workers who have not worked continuously during the five years preceding the application, holding that the State could not invoke a clause of five years of work in Luxembourg to refuse applications introduced under the Law of 26 July 2010 that does not contain this clause.⁵⁹

The Law of 24th July 2014 reforms the financial aid that is provided by the State for higher education.⁶⁰ The Bill N°6670 which was deposited at the Chamber of Deputies on 20th March 2014 intended the setting up of a system of financial aid for higher education which would allow access to higher education and which would allow the student to effectively exercise his/her right to education. According to the bill, the main elements of the financial aid remain the loan and the grant. The loan would amount to 6.500 € (refundable). The scholarship is declined into different categories: basic grant (2.000 € according to the bill), mobility grants for those who study abroad (2.000 €) and a grant based on social criteria (a maximum of 2.500 €). The loan and the basic grant may be increased depending on the registration fee. However, to avoid reverse indirect discrimination, the provision on overlapping with the provision of financial allowances for higher education in other Member States has been extended to any benefit that would be due under a registration at a higher education institution.

According to the explanatory statement of the bill, the system is fair since it guarantees the independence of the student, it takes into account the real costs for supporting the needs of the student and it respects the socio-economic situation of the students surrounding.⁶¹ The reform also took into account the judgement by the Court of Justice of the European Union of 20th June 2013⁶², which states that an aid granted in order to finance university level education of a child of a migrant worker constitutes, for this worker, a social benefit that he/she has the right to enjoy under the same conditions as national workers. This equal treatment has to be granted to migrant workers resident in a Member State as well as to those who are cross-border workers.

Again, this bill led to many controversies. According to the Luxembourgish Christian Trade Union (*Lëtzebuurger Chrëschtliche Gewerkschaftsbond* – LCGB), the system of financial aid for higher education foreseen under the bill does not allow each student to pursue higher education and does not avoid a “selection” of students according to their financial means: *“The reform is lowering the level of financial aid and the “social criteria” introduced, respond first and foremost to considerations relating to the situation of the state budget, not the student's social situation.”* The LCGB therefore introduced on 1st April 2014 a request for a public petition to the Chamber of Deputies on the proposed reform on financial aid for higher education. The petition was entitled *“For a competitive, fair and socially just system of financial aid for higher education”*.⁶³

Another public petition was filed by the President of the Pirates Party. It aims to ensure the independence of students by increasing the amount of the basic grant from 2,000 € to 3,800 €, an amount that approximates the amount of family allowances that students obtained until 2010. Similarly, the petitioners are calling for an increase of the Documentation and Information Centre for Higher Education (*Centre de documentation et d'information sur l'enseignement supérieur* – CEDIES) staff, which is responsible for processing grant applications.⁶⁴ This petition reached 4.572 signatures and was subsequently debated in the Chamber of Deputies. The petition was supported by members of the Association of Luxembourgish Student Organisations (*Association des cercles d'étudiants luxembourgeois* - ACEL), but not by the Comité d'Action 6670. The latter did not want to join the initiative because, according to them, the petition did not go far enough. On the other hand, the ACEL criticised the Comité d'Action 6670's position to organise a demonstration while the Minister for Higher Education and Research was quoted ready for dialogue.⁶⁵ Following the debate, the responsible parliamentary committees decided to discuss the bill once more within the parliamentary groups.

A petition, submitted on 9th May 2014 by National Union of Luxembourg Students (*Union nationale des étudiant-e-s du Luxembourg* - UNEL), the Luxembourg University Students' Organisation (LUS) and Richtung 22,⁶⁶ reached 5.857 signatures and led to the Parliamentary Committee for Higher Education receiving the representatives of the students. According to the UNEL, the reform “*restricts the students' autonomy, puts pressure on families and considerably hampers young people's paths*”. The UNEL therefore encouraged policymakers to rethink the bill and to “*stop considering education as a means of fiscal consolidation*”.⁶⁷

Besides the petitions that had been circulating, students and youth organisations created a strike committee⁶⁸ which launched a demonstration against the bill on 25th April 2014. The students and their representatives asked for the basic grant to be doubled to 4.000 € per year to match the amount of child benefits that they would have been entitled to before the reform in 2010. They also called for the mobility grant to be related to the fact of paying a rent irrespective of the country in which one undertakes his/her studies, as well as the revision of the criteria of eligibility for the social grant, taking into account the number of children per household for the calculation of the household income.⁶⁹

In its opinion on the bill, the Chamber of Employees criticised the fact that the proposed system does not meet the purpose of the bill, namely to ensure the independence of the

student, as those who only benefit from the basic grant and the mobility grant will be given a financial support of around 330 € per month, which is insufficient to pretend financial independence. It notes that the amount of the basic grant does not cover the family allowances which students enjoyed before 2010, while requesting a basic grant that covers family allowances, bonuses for children and school allowances, as they were due before the 2010 reform. It further criticises the fact that the mobility grant is linked to the condition of renting an apartment in a country other than the country of residence.⁷⁰ This opinion is shared by the Chamber of Trades, which invites the Government to ensure the legitimacy and legality of the criteria governing the mobility grant.⁷¹ According to the Chamber of Employees, the system creates inequalities and is a source of discrimination between resident and non-resident students as it is likely that many cross-border students study in their home country.⁷²

On 14th May 2014, the Council of Government gave their approval for a number of adjustments which it intended to make on the bill, after consulting some of the representatives of the student organisations and trade unions. Thus, the social grant should increase from 2.500 € to a maximum of 3.000 € and will be staggered depending on the income of the persons in charge of the student. The amount of the grant will be based on the number of students within the same family. The basic grant and the mobility grant will remain unchanged (2,000 € respectively). In addition, a basic loan of 6,500 € per academic year is awarded to each student and registration fees exceeding 100 € are supported up to 3,700€ per academic year, with 50% grant and 50% loan.⁷³

The Chamber of Civil Servants and Public Employees, taking into account the Government's amendments, criticised in its opinion on the bill the fact that the conditions for providing grants based on social criteria and the mobility grant were detached from reality.⁷⁴ According to them, resident students would be penalised compared to non-resident students regarding the grant based on social criteria, since 22.1% of the resident students would not be eligible for this grant, because of their parents' income. This would not take into account the cost of living and housing in Luxembourg. Furthermore, a student living in the north of the country who goes to university in the centre of the country and who would not cross national borders, would be disadvantaged compared to a student coming from Trier, who would benefit from the mobility grant. Also, the system of mobility grants discourages non-resident students to study in their country of residence, as students living in Luxembourg would have to study abroad in order to receive the grant.

The Chamber of Commerce disapproved of all of the Government's amendments by taking into account the legal uncertainties and the fact that the concerns regarding fiscal imbalance would be compounded.⁷⁵ In its complementary opinion on the bill, the Chamber of Employees, noted that hat even if the new bill would improve the situation for some income groups, the bill is still not socially equitable while recalling that the system before 2010 and even the current system were much more generous for low-income families.⁷⁶

On the basis of a scenario of 25.000 financial aids which are granted, composed of 16.000 residents and 9.000 non-residents, the legislator estimated the overall envelope for financial aid in the form of grants to 120 million euros per year.⁷⁷

The Ombudsman has also received a number of files related to the financial aid for higher education concerning children of cross-border workers. Two cases involved the refusal of financial aid for higher education “*on the grounds that the persons concerned had not introduced legal action in due form against the decision of refusal of the CEDIES*”.⁷⁸ Other cases involved, for instance, administrative difficulties between the country of residence and the country of origin or children with step-parents that are cross border workers.

2.3.2. *National Research Fund*

The Law of 27 August 2014 amended the Law on the Creation of a National Research Fund in the Public Sector.⁷⁹ Among the amendments one can in particular note the extension of organisations that can benefit from an intervention by the National Research Fund (*Fonds national de la recherche* – FNR) as well as the introduction of aids for “collective” research trainings.⁸⁰

2.4. Other aspects of legal migration

2.4.1. Temporary authorisations of stay and social rights

On several occasions, the issue of temporary authorisations of stay resurfaced, and in particular concerning authorisations of stay for private reasons granted for medical reasons.

On 23 January 2014, the Superior Council of Social Security issued a ruling on social aid for persons with an authorisation of stay for private reasons granted for medical reasons: the Social Office of the town of Wiltz had rejected the monthly financial support for the applicant on the grounds that Article 4 of the amended Law of 18 December 2009 organising social aid excludes persons who are staying temporarily from the benefits of cash assistance and the Minister of Family, Integration and the Greater Region agreed with the social office. On appeal⁸¹, the Arbitration Board of Social Security rejected the decision of the social office, considering that the stay had lost its temporary character due to a series of certificates of postponement of removal, followed by two authorisations of stay for private reasons, and because the material support referred to would be a social assistance intended to enable the recipient to lead a life in respect of human dignity according to Articles 1 to 3 of the mentioned law. The Superior Council of Social Security, in turn, overruled the judgment of the Arbitration Board of Social Security and considered such residence permits as temporary and therefore would exclude these individuals from material assistance provided in cash.⁸² Finally, the Court of Cassation also decided that the Superior Council of Social Security made a proper application of Article 4 of the amended Law of 18 December 2009 organising social aid.⁸³

In this regard, the Ombudsman doubted *“that the legislator’s intention was to exclude from that aid persons who hold a temporary authorisation of stay based on humanitarian grounds.”* The Ombudsman regretted the restrictive interpretation of the text and requested a meeting with the Minister for Immigration and Asylum.⁸⁴

In a similar case, a person holding an authorisation of stay for private reasons was denied unemployment benefits due to the temporary nature of his residence permit. The concerned person, who was registered with the ADEM, was given the disabled worker status. The ADEM refused to grant unemployment benefits on the grounds that the person held a residence permit limited in time and therefore could not register with the ADEM. The Ombudsman noted that Article L.622-5 of the Labour Code refers to the categories specified

in the Law on the Free Movement of Persons and Immigration which do not have the right to register with the ADEM and that the type of residence permit the person held was not specifically mentioned.⁸⁵

According to the Ombudsman, the applicable legislation in this case leads to a difference of treatment based on the “expressly temporary” status of the stay, which could conflict with Article 14 of the European Convention of Human Rights and Fundamental Freedoms that prohibits discrimination. Again, the Ombudsman requested a meeting with the Minister for Immigration and Asylum in order to address the issue of these temporary authorisations of stay.⁸⁶

Recent LU EMN NCP publication on social rights:

- **Migrant Access to Social Security and Healthcare: Policies and Practice (2013)**

2.5. Managing migration

2.5.1. Visa Policy

Visas issued in 2014				
	(Schengen) short stay Visas (so called A and C visas, the latter including LTV visas – stays of up to 90 days)		National Visas (so called D visas)	
	Issued to third-country nationals coming directly from a third country	Issued to third-country nationals resident in another EU Member State	Issued to third-country nationals coming directly from a third country	Issued to third-country nationals resident in another EU Member State
Total	12675	603	1148	0
Female	5669	290	567	0
Male	7006	313	581	0

Source: Passport Office, 2015

The policy of short-stay visas within the Schengen area is organised by the EU Regulation 810/2009 and the usage of the Visa Information System (VIS) by the EU Regulation 767/2008. No amendments have been made with regards to collecting biometrics.⁸⁷ Luxembourg is fully operational in the VIS and since 11th October 2014, the border guards have begun to systematically compare the fingerprints of third-country nationals entering the country with a visa against the VIS database at the external border (which is the International Airport).⁸⁸

2.5.2. Schengen Governance

During the Justice and Home Affairs Council of 9th October 2014, the Minister for Foreign and European Affairs stated that the European Union has to pursue an immigration policy which is adapted to a single area, all the while respecting the Schengen spirit and ensuring an appropriate level of security. The Minister then outlined the primary concerns of Luxembourg with regards to migration: *“Our delegation calls for a mutual control of the external borders, under the auspices of the FRONTEX agency. Also, Luxembourg wishes a fair distribution of*

*the burdens, while at present a minority of Member States receives the highest number of international protection applicants. Finally, Luxembourg would welcome the installation of humanitarian visas and the development of legal migration channels”.*⁸⁹

2.5.3. Migration management systems in place in order to be prepared for fluctuating migration pressures

At the moment no crisis management arrangement is foreseen. However, if Luxembourg should be confronted with a massive inflow of applicants for international protection, an intergovernmental crisis unit can be put into place.⁹⁰

3. INTEGRATION, NATURALISATION AND CITIZENSHIP

3.1. Opinion of the Economic and Social Council on integration policy in Luxembourg

On 12th February 2014, the evaluation of the National Action Plan for Integration and the Fight against Discrimination 2010-2014 (PAN) was presented by the University of Luxembourg during a conference-debate attended by civil society representatives, the different ministries that form the Inter-ministerial Committee on Integration and representatives from SYVICOL.

Following the evaluation, the CES drafted an opinion on the integration policy in Luxembourg⁹¹ presenting a series of recommendations on the integration policy in general, on the various instruments (PAN, Welcome and Integration Contract), and organisms (Inter-ministerial Committee on Integration, National Council for Foreigners) that are foreseen in the framework of this policy and on particular aspects of integrations (school, housing, nationality, political participation, etc.). Particular attention was also paid to the future evaluation of the integration process.

Thus, the CES recommended to:

- Further involve persons (non-nationals, nationals and cross border workers) that are directly targeted by these integration measures;
- Disband the Inter-ministerial Committee for Integration and to replace it with a high instance, in which would be represented employer and trade union organisations as well as the SYVICOL and organisations involved in promoting integration on the one hand and Minister in charge of integration, accompanied by the relevant Minister(s) depending on the issue discussed, on the other hand;
- Set and pursue priorities previously discussed with the social partners, associations and other civil society organisations in order to reflect upon a common vision of integration and tomorrow's society;
- Create an independent assessment committee, composed of all parties concerned with integration policies in order to “measure” achieved performances in the field of integration on the basis of specific indicators to be defined.⁹²

3.2. Five year report of the OLAI

The OLAI has published its first “Five year report”, following the first five years of operation between 2009 and 2013⁹³. The report is foreseen by Article 7 of the Law of 16 December 2008 on the reception and integration of foreigners⁹⁴ and is based on the five fields of intervention of the OLAI:

- Strategic actions and coordination;
- Actions related to the reception and integration of foreigners;
- Actions related to the fight against discriminations;
- Actions related to social aid for foreigners; and
- Actions related to the monitoring of migration.

In the report, the OLAI also set out some challenges it is facing, while providing suggestions and proposals for the future. In that sense, it proposed to develop a common integration strategy by reinforcing the principle consultative organs at national (National Council of Foreigners), ministerial (Inter-ministerial Committee on Integration) and local level (Consultative Communal Commission on Integration). The mainstreaming approach (transversality of the integration policy) should be continued and further enhanced and the allocation of responsibilities between the OLAI and the different actors active in the field of integration should be clarified. In regards to future trends, the report proposed to continue identifying gaps between the legal and regulatory framework in the field of the reception and integration and the actual needs of foreign populations.⁹⁵

3.3. Restructuring of the OLAI

The Minister of Family, Integration and the Greater Region presented the conclusions of the external audit of the OLAI to the parliamentary committee in July 2014. According to these conclusions, a thorough reform of the administration, including the defining of strategic objectives, a corresponding vision as well as indicators to monitor the achievement of defined objectives is required. It is further recommended that the OLAI recasts its governance model, principles of management and internal organisation in order to be able to achieve the strategic objectives. In this context, the roles and responsibilities of services and staff within the services will be redefined and documented. Furthermore, the assessment report indicates the need for the OLAI to implement standardised processes for management, monitoring and control of conventions and collaboration agreements. Finally, it is recommended that the OLAI should be working more on operational elements such as documentation of procedures or external communication.

The Minister of Family, Integration and the Greater Region assured the members of the parliamentary committee concerning the quick and effective implementation of the recommendations of the assessment and in consultation with all stakeholders, to allow the OLAI to better meet the challenges of integration policies.⁹⁶

A steering committee was set up in order to develop the new strategy, notably concerning staff management, international protection management and management of partner organisations such as ASTI and CLAE or Caritas and the Red Cross. Initial discussions have also been held with representatives of the municipalities which are lodging the approximately 2.100 people that are supported by the OLAI.⁹⁷

3.4. Promoting integration through socio-economic participation

3.4.1. Broadening the educational provision

The Ministry of National Education, Childhood and Youth has published a special guide and a vade-mecum for teachers on the welcoming and integration of newly arrived children in order to help teachers cope with the heterogeneity of the Luxembourgish school population,⁹⁸ as well as a background paper on guidance for newly arrived pupils.⁹⁹

The linguistic problem at the level of education remains a current affairs issue in 2014 and above all in the context of an inequality of chances for immigrant children in the schooling system.

This problem appears on two different levels:

1. In reception structures such as nurseries and day care centres;
2. At the level of the school offers.

Bilingual nurseries

In order to grant children the best starting chances, the Government has chosen to make early childhood schooling (one to three years) one of its priorities.¹⁰⁰

Therefore, since July 2014, the Minister for National Education, Childhood and Youth plans to develop and foster the offer of bilingual nurseries: *“many Luxembourgish children are in a nursery where one speaks Luxembourgish. On the other hand, the children of Portuguese, French or Serbo-Croatian origin very often go to a private nursery where the personnel speaks French”*.¹⁰¹ According to the Minister this is *“a world upside down”*. The multilingualism which is specific to the Luxembourgish society and to its schooling system remains one of the main reasons for school failure for many immigrant children. At the same time, the learning of the French language remains a weakness for numerous Luxembourgish children. Therefore, the Minister proposed to *“change the system”* in order to allow for the children to familiarise with the language that is not spoken in their home and states that *“it is essential that nurseries and child-care facilities promote bilingualism”*.¹⁰² This would mean that from the youngest age onwards they are confronted with the multilingual reality of the country. *“All the nurseries have to make a concrete bilingual offer in the future”* explains the

Minister, who is convinced that the nurseries are doing an essential work for the school preparation. In the eyes of the Minister, “*a nursery or a day care centre should not be a simple care centre*”. The allocated time should enable the child to advance when it comes to bilingualism as well as personal experiences.

At the new school year the Minister reiterated his idea during a press conference on the new school year 2014/2015.¹⁰³ He announced that for the school year 2016/2017, the nurseries and day care centres should be more bilingual. A concept will be prepared which allows all children aged between 1 and 3 to benefit from a generalised and free access to a schedule that is orientated towards the school rhythm and destined to promote language competences (Luxembourgish and French), as a means of preparation for the solarisation in the Luxembourgish schooling system. The system of the service checks for reception remains in place for the activities outside of the free schedules. In order to guarantee the necessary investments, a contribution of 0,5% on all revenues will be installed.¹⁰⁴

In order to develop the project:

- A detailed review of the early education will be done, paying particular attention to the apprenticeship of the language, one of the objectives that was fixed for early education by the 2009 laws on primary education;
- A concept for the development of the language that is now bilingual (Luxembourgish and French) for the small children (1 to 3 years) will be elaborated in collaboration with the University of Luxembourg and actors from the field (reception centres, municipalities, schools...).

A quality framework for the reception centres will be developed. It will comprise:

- A reference framework of the pedagogic objectives for all the reception centres;
- The installation of a control system of the pedagogic quality;
- The definition of the professional statuses and qualifications.¹⁰⁵

The Independent Trade Union Luxembourg (*Onofhängege Gewerkschaftsbond Lëtzebuerg* – OGBL) deplored that the bilingual nurseries were not discussed with the professionals of the sector and the trade unions.¹⁰⁶ The Social and Educational Services Section of the OGBL found the approach of bilingualism interesting but questioned the feasibility in particular because of the differences between the private nurseries and the contracted nurseries.

The President of the Teachers' Union (*Syndikat Erziehung a Wissenschaft* - SEW) also considers that multilingualism has to be a priority. He notes the marginalisation of many children at the end of the primary school because they have not achieved the required level of German for the "classique", the highest level of secondary schooling. He also deplores the fact that for the "classique" or "technique" secondary schooling, the level of German or French the pupil has to achieve in order to complete his/her secondary education is not clearly defined.¹⁰⁷ According to the President of the SEW, the numbers on early school leaving by nationality also confirm that the Luxembourgish education system has not been able to adapt itself to the growing presence of children with a foreign nationality. As a means of proof, 9.7% for Cape-Verdeans and 15.3% for Brazilians were mentioned.

International School

Furthermore, the Minister for National Education, Childhood and Youth also has the intention to broaden the educational provisions in Luxembourg in order to cope with an increasing heterogeneity of the Luxembourgish population. Therefore, he plans to establish an international school which would be operational for the school year 2016.¹⁰⁸ This school targets part of the expat community in Luxembourg by offering a programme which pupils could continue in case the parents decide to leave Luxembourg and settle in another European country. The Minister also considers that an educational provision of a high standard is an important element which is taken into consideration when a company, a foreign investor or a scientific expert decides to settle in Luxembourg.

Although the Health, Social and Education Services Section within the OGBL welcomes the idea of a bilingual approach, they question the feasibility of such an access to quality childcare, knowing that there are substantial differences in regards to endowments and the level of qualified staff between nurseries belonging to an agreement sector and private nurseries. Professionals of the sector are also questioning the practical arrangements for this measure, including the required staff, the actual organisation, the impact on the internal organisation of the nurseries as well as the implementation of monitoring.¹⁰⁹

Second Chance School

The Law of 27 August 2014 amends the Law of 12 May 2009 establishing the *Ecole de la 2e chance* (Second Chance School).¹¹⁰ The Second Chance School was established in 2009 in order to serve the young and adults with various life, educational, and professional experiences, who wish to acquire, develop or update their skills. The Law has brought several adjustments and reorientations, including the enlargement of training offer as well as the reviewing of the age limit from 24 to 30 years of age.

3.4.2. Challenges related to the scolarisation of migrant children

Among the strategic priorities of the Ministry of National Education, Childhood and Youth, is the diversification of educational provisions and opportunities in order to respond to the diversity of linguistic profiles. This applies both, to pupils and students who arrived in Luxembourg in the course of their educational pathway and/or were constrained to leave during their education, as for migrant children who follow the ordinary education in Luxembourg. According to the Ministry it is necessary to review the objectives and methods of teaching and learning languages, the coherence between the programmes of the fundamental school and secondary school, and the literacy and language synergies.¹¹¹

In its opinion on the integration policy in Luxembourg, the CES also recommended to make preschool education compulsory for all children aged 3 years. According to the CES, the educational purpose of early education is essential, because it contributes to the development of a child's faculties, and in particular to his/her development and acquisition of the language.¹¹²

In 2014, further training for teachers was offered (or pursued)¹¹³:

- Orientation of newly arrived pupils towards secondary school / secondary technical school;
- Management of heterogeneity in reception classes through differentiation, the different teaching methods and motivational aspects of the student;
- Information days for lecturers (including for reception classes);
- Implementation of a language portfolio;

- Diagnostic evaluation of German language proficiency of newly arrived pupils/students; and
- Diagnostic evaluation of native language proficiency of Portuguese pupils in cycle 1.

3.4.3. Vocational training

The Council of Government of 23 December 2014 adopted the bill amending the amended Law of 19 December 2008 on reforming vocational training. This bill foresees several modifications and notably:

- The possibility of offering further training at the level of basic training (*Certificat de capacité professionnelle*); and
- Measures simplifying the progress of pupils in the framework of vocational training, such as “the compensation” of failed modules or the introduction of a threshold number of failed modules with which the pupil can nevertheless proceed.¹¹⁴

Language leave

In 2014, 288 applications for “language leave” have been introduced.¹¹⁵ The language leave was introduced by the Law of 17 February 2009¹¹⁶ and is part of the Government’s policy to strengthen vocational training. In essence, it is a special, additional leave enabling employees of all nationalities and persons carrying out freelance work to learn Luxembourgish or improve their existing knowledge in order to facilitate their integration into the Luxembourgish society through the labour market, on condition that they have been working for the same employer in Luxembourg for 6 months. Since its introduction in 2009, 2509 applications for language leave have been approved.¹¹⁷ From January 2015 onwards, the compensatory allowance will be paid by the employer and the State will reimburse the employer 50% of the amount of the compensation allowance.¹¹⁸

3.4.1. *Welcome and Integration Contract*

The Welcome and Integration Contract (*Contrat d'accueil et d'intégration* - 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.¹¹⁹

In 2014, 957 persons of different nationalities signed the CAI. 57% of these persons are European Union citizens (29 of the 28 Member States) and 43% are third-country nationals. The Portuguese represent 21% of the signatories, followed by the French (6%) and the Italians (6%). On 4th position, the first non-European community is the Chinese community with all 6% of new signatories in 2014. Mostly newly arrived immigrants are interested in the CAI. 63% of the signatories have been in Luxembourg for less than five years at the moment of the signature of the contract.

Between May and December 2014¹²⁰, 50% of the registrations for language classes were made for French classes, 46% were made for Luxembourgish classes and only 4% were made for German classes. 47 civic courses were organised and which were each attended by around 15 participants. In collaboration with the Chamber of Commerce, 5 orientation days were organised in 2014. These orientations days aim to inform the participants about life in Luxembourg.

Since its inception, 444 persons have successfully completed their contract. 334 contracts have come to an end without having been completed and 2.316 contracts are still ongoing as of 31st December 2014.¹²¹

In its opinion on the integration policy, the CES considered the binding nature of the CAI, in its current form, to be counter-productive. According to the CES, the contract is unattractive, especially for third-country nationals, and also tends to be discriminatory. Therefore, the CES proposed to abolish the CAI on a national level in order to replace it with a welcoming mission of immigrants at the municipal level. The municipalities should generalise the function of “responsible for integration” and would be required to provide to newly arrived immigrants information in regards to the functioning of public services, language courses, civic and political training. The CES proposed that the municipalities could hand the migrants

a “welcome kit”, bringing together within this tool a purely informative approach on the habits and usages, the school system and the characteristics of the country.¹²²

In order to pursue the management of the CAI in the best possible conditions, the OLAI deemed it necessary to complement and harmonise the services offered in the framework of the CAI and to clarify its objectives. Moreover, the OLAI proceeded to an external evaluation¹²³ of the CAI, which aims to identify the needs and expectations of signatories.¹²⁴

3.5. Promoting integration through participation: rights and obligations, achieving equal treatment and belonging

On an institutional level, in order to promote socio-political participation, several measures have been undertaken.

3.5.1. Results for the registration on the European electoral lists

For the European elections of 2014, the residence clause of 2 years was abolished.¹²⁵

Before each electoral deadline, whether communal or European, the Government launches an awareness raising campaign for the registration on the electoral lists which is addressed to persons of foreign nationality.¹²⁶ This was also the case for the European elections of 25th May 2014. Under the slogan “I can vote, therefore I register” (*Je peux voter, donc je m’inscris*) the OLAI officially launched the campaign. Among the initiatives was a national registration day that was fixed for the 8th February 2014.¹²⁷

For the European elections of 2014, 21.650 European Union citizens registered on the electoral lists, which represent 12% of the EU citizens of at least 18 years and residing in Luxembourg. Italian nationals display the highest level of registration with 18.4% before German nationals with 18.3% and Dutch nationals with 17%.¹²⁸

3.5.2. Economic and Social Council

The Law of 10 March 2014¹²⁹ repealed Article 10 of the amended Law of 21 March 1966 on the institution of an Economic and Social Council, which foresees that “*the full and alternate members as well as the Secretary General and the personnel of the Secretariat have to have the Luxembourgish nationality*”. Due to this modification, access to nominations as members of the CES is now open to people who do not have the Luxembourgish nationality.

3.5.3. National Council for Foreigners

On 24th September 2014, the National Council for Foreigners (*Conseil national pour étrangers* – CNE) rendered its opinion on the needs of the different communities in

Luxembourg regarding integration with the aim of drafting a future multiannual national action plan for integration and the fight against discrimination 2015-2019.

In its opinion the CNE identified 10 factors for integration:

1. Reception;
2. Housing;
3. Education;
4. Employment;
5. Languages and notably the Luxembourgish language;
6. Participation in the cultural, sporting and associative activities;
7. The Luxembourg nationality;
8. The Right to vote for foreign residents at the parliamentary elections (under certain conditions);
9. The outcome of the consultative and decisional referendums in 2015 and 2017; and
10. Applicants for international protection and temporary protection.

On 1st October 2014, the opinion was submitted to the Minister for Family, Integration and the Greater Region.¹³⁰

In its opinion, the CES criticised the non-functioning of the CNE and asked the Ministry to resolve the difficulties in order for this organism to be able to fulfil its missions appropriately.¹³¹

3.6. Referendum and the voting rights of non-Luxembourgish residents

The successive results of the electoral participation of foreigners shows that only few foreigners are registered on the electoral lists in order to be able to participate at the elections at the local or European level. This result revives the debate about the democratic participation. In the framework of the reform of the Constitution, the Governmental Programme of 2013 states the intention of the Government to organise a consultation of the people via a referendum and notably on the political rights of non-Luxembourgish residents.¹³² The question on whether a referendum is the right instrument as well as whether one should grant voting rights to foreigners at the national elections is part of the debate.

During a press briefing on 18th April 2014, the Prime Minister stated that there is no need to organise referendums when it is possible to obtain the necessary majority at the level of the Chamber of Deputies.¹³³ Whereas the coalition parties forming the Government (DP, LSAP and *Déi Gréng*) and *Déi Lénk* have clearly positioned themselves in favor of granting voting rights to foreigners at the national elections, the CSV as well as the ADR already stated their disagreement on this.¹³⁴

At several occasions, the main opposition party CSV distanced itself from the idea of organising a referendum on the voting rights of foreigners. According to the CSV such a referendum would be a risk to social cohesion of the country and “*create a poisoned debate, offer a platform for opportunists and populists from all political spectrums and finally end in a xenophobic climate*”. Furthermore, the CSV is of the opinion that the right to vote at the national elections has to remain linked to the criteria of nationality.¹³⁵ The political participation of foreigners could, according to them, therefore be encouraged by granting an easier access to the Luxembourgish nationality. In this sense, the CSV proposes five new paths in order to facilitate the access¹³⁶:

- Concerning the residence criteria: exceptions to this criteria can be foreseen for those that have made exceptional integration efforts and have quickly learned the Luxembourgish language;
- For persons that are married to a Luxembourgish person;
- For persons that are born in Luxembourg: children born in Luxembourg and whose parents are foreigners are granted the Luxembourgish nationality when they reach majority;

- A softening of the linguistic criteria and in particular concerning the knowledge of the Luxembourgish language; and
- A dispense of the linguistic criteria for persons who have been living in Luxembourg for many years.

The President of the ADR sees in this project a strategic try for opening up the public function to foreigners, including those sectors that touch upon public sovereignty. Society would therefore be irreversibly and fundamentally transformed.¹³⁷

Other actors have also expressed either their concerns or their support: the Vice President of the Commission of Institutions and the reform of the Constitution fears that the consultative referendum will turn into a vote in favour or not of the current Government.¹³⁸ Some members of the CES argued in favour of the generalisation of the right to vote in parliamentary elections for all residents regardless of nationality, but with a condition of residence for a minimal period and/or the condition of having successfully completed a Luxembourgish language course, whereas other members opposed it and insisted on maintaining the condition of the Luxembourgish nationality.¹³⁹

The OGBL considers it necessary to clarify that it has not yet taken an official position in favour or against the referendum, while the press heralded a discussion on the opening of the voting rights for foreign residents during the 6th national conference on immigration which is organised by the Department for Immigrants of the OGBL.¹⁴⁰ The OGBL recalls that its Department for Immigrants has expressed itself officially in favour of a “*vast public debate on the voting rights of non-Luxembourgish persons at the national elections: right to vote, right to be voted for, conditions for exercising those rights, time limits,...*” and “*has launched a warning concerning the risk of seeing our society divided in the framework of such an undertaking*”. The longing for a contradictory and constructive debate was also mentioned by other actors such as the CES and the Association for the Support of Immigrant Workers (*Association de soutien au travailleurs immigrés – ASTI*).¹⁴¹

According to the General Confederation of the Public Sector (*Confédération Générale de la Fonction Publique – CGFP*)¹⁴², it is via the double nationality, whose acquisition can be further eased, that the right to vote for foreigners should be done. They also question whether the right to vote would be mandatory and whether it would be for all foreign residents in Luxembourg or only European Union citizens.

One should also note that on this issue two public petitions were launched, one in favour of voting rights for foreigners¹⁴³ and one against this right to vote.¹⁴⁴

The Government Council has adopted a draft grand-ducal regulation on amending the Grand-Ducal Regulation of 18 October 1989 organising the modalities of a referendum foreseen by Article 35 of the amended Communal Law of 13 December 1988. The purpose of this draft is to bring the text of the current Grand-Ducal Regulation of 18 October 1989 into line with the Communal Electoral Law. As a matter of fact, the latter has already granted the right to vote at the local level to EU citizens as well as third-country nationals as long as they are residents of the Grand-Duchy of Luxembourg and that they have resided in Luxembourg for at least five years (with an authorisation of stay, legitimising papers or a visa). On the other hand, the current text of the Grand-Ducal Regulation of 18 October 1989 on communal referendums still refers to “*Luxembourgers who are qualified voters*”.¹⁴⁵

On 4th November 2014, a bill on the organisation of a referendum concerning various questions in relation to the drawing up of a new constitution was deposited at the Chamber of Deputies. The question concerning the political rights of foreigners is formulated as follows: “*Do you approve of the idea that non-Luxembourgish residents would have the right to register on a voluntary basis for the electoral lists for the purpose of participating as voters at the elections of the Chamber of Deputies, on the double specific condition that they have resided in Luxembourg for at least ten years and that beforehand they have already participated in the local or European elections in Luxembourg?*”¹⁴⁶

Concerning the question whether the results of the consultative referendum would be binding, 53,5% of the persons asked in the framework of a survey considered that the results of the consultative referendum would have to be respected by the Chamber of Deputies. This rate is even higher for Luxembourgish nationals (62,1%).¹⁴⁷

3.7. Non-discrimination

In its 2014 annual report, the Centre for Equal Treatment (CET) reiterates its finding that many actions remain unpunished, and above all on the internet which allows people to offend and discriminate publicly while remaining anonymous. Therefore, the CET proposes to enhance the criminal pursuits of discriminations which have occurred on the internet by foreseeing the possibility of the Public Prosecutor's Office to prosecute on its own initiative.¹⁴⁸

For the period 1st January 2014 – 31 December 2014, the CET received 145 new cases. Additionally, there were two cases from 2011 and 2012 and six cases from 2013 which had not yet been closed.¹⁴⁹ Among the various motives for discrimination, were handicap with 37 cases (24,2%), sex with 23 cases (15%), the belonging or not belonging, real or supposed, to a race or ethnic group with 20 cases (13%), religion or other convictions with 8 cases (5,2%) and age and sexual orientation each with 5 cases (3,3%).¹⁵⁰

The CET recalls a great number of recommendations that were already formulated in previous years. It regrets that, in the framework of its missions, it does not have compelling power concerning the institutions, private persons etc. that do not want to collaborate with it. It does not go as far as asking for the possibility to engage in legal proceedings, but it nonetheless remarks that it lacks the necessary means of persuasion and a certain authority concerning third parties in order for them to feel at least obliged to respond to its requests. In order to be able to complete its missions in a more efficient way, the CET is of the opinion that its investigative powers should be increased.¹⁵¹ The CET also demands an explicit prohibition of multiple discriminations. Furthermore, it regrets the difficulties when it comes to accessing the case law in the field of equality of treatment. Therefore, it recommends an easy access publication, which would not only be useful to the work of the CET, but would also constitute an important awareness raising tool.¹⁵²

In its Five Year Report, the OLAI reiterated its mission to fight discriminations and considered to clearly define a national vision in this regard in the future, to adopt an holistic approach which takes into account all the grounds of discrimination and to pursue its commitment in the framework of the Diversity Charter.¹⁵³

3.7.1. *Diversity Charter*

The Diversity Charter was launched in September 2012.¹⁵⁴ At the beginning of 2014, there were 91 signatories. The Luxembourgish authorities continue to promote this Charter and on 27th May 2014, the Minister for Family, Integration and the Greater Region, who is the main partner of the Charter, attended the official annual signing session of the Charter.¹⁵⁵ Including the 25 signatories of 27th May 2014, a total of 116 signatories have signed the *Diversity Charter Lëtzebuerg*, which represents 12% of the work force. A series of training courses were set up in order to complement the practical guide which the Diversity Charter had published in 2013. These workshops, supported by the European Social Fund, enabled diversity officers to gain knowledge in diversity and meet with experts in Luxembourg as well as abroad.

A first survey was published which analysed the benefits of the Charter. 8 out of 10 signatories declared that the Diversity Charter has had an impact on the management of diversity. The domino effect promoted by the Charter has also been demonstrated since the study showed that 1 out of 5 signatories encouraged their partners to act in favour of diversity.¹⁵⁶

3.7.2. *“Promotion of Diversity in Luxembourg” project*

With the support of the EU Progress Programme and the Ministry of Family, Integration and the Greater Region, an unpublished national project entitled *“Promotion of Diversity in Luxembourg”* was launched in August 2014 and for the first time, brings together several partners which are experts on questions concerning diversity in Luxembourg: the Luxembourg Institute of Science and Technology (former CRP Tudor and CRP Lippmann - LIST), the University of Lorraine, the Committee for the *Diversity Charter Lëtzebuerg* and the Centre for Equal Treatment (*Centre pour l'égalité de traitement* - CET) are all implicated and will contribute with their complementary know-how. The initiative focuses essentially on diversity in the labour market and intends to fulfil three objectives:

- Take stock of the current state of affairs;
- Identify good practices; and
- Sensitize.

More concretely, the aim is to measure the evolution of discriminations in Luxembourg, to remedy the present lack of studies on the question of diversity in businesses, to disseminate good practices on this subject and to respond to the requests of organisations to be accompanied when putting into place diversity policies.¹⁵⁷

3.7.3. *Racism and discrimination on the internet*

Racism and discrimination have resurfaced and have been strongly mediated at the beginning of 2014. It is foremost the question of the fight against racism on the internet that poses a problem. A Facebook page proclaiming to defend the Luxembourgish generated a whole package of reactions.¹⁵⁸ As a consequence the Young Socialists launched a warning against the so-called “*Stammtisch-Rassismus*” (the regular’s table racism) that is developing more and more on social media¹⁵⁹. Several actors warned against the danger of racism in everyday life.¹⁶⁰ The argument of defending the Luxembourgish language¹⁶¹ was recurrent as well as statements against refugees.¹⁶² As a reaction to this rising phenomenon the National Resistance Museum launched a sticker campaign.¹⁶³

3.8. Cooperation, consultation and coordination of stakeholders and promoting action at the local level

3.8.1. Communal Plan on Integration

The “Communal Plan on Integration” (PCI) was initiated in 2012 and aims to transform the coexistence of cultures into a culturally diversified society, but nonetheless characterised by a strong cohesion. The communes, because of their proximity with the citizens, play a key part in this area. The SYVICOL, in collaboration with the OLAI, has identified the need to build a political framework and to structure individual actions in favour of integration taking place at the local level. In order to respond to this need it is important to put into place an integration policy at the local level which is sustainable, shared and transversal.

In this regard, a practical guide for realising a PCI was elaborated. This guide proposes a structured effort and a political approach to realising a plan which is flexible regarding the possibilities and necessities identified in the field.¹⁶⁴

The steering committee of the project, which comprises the SYVICOL and the OLAI, has organised a series of information sessions and awareness campaigns for this project in October 2014.¹⁶⁵ These sessions are addressed to communal council members, communal agents and members of the consultative commissions as well as any person, in particular from civil society, which deals with the topic of communal integration policy and who is susceptible of being implicated in the elaboration of such a plan. The specificity of the project remains however the political engagement of decision makers at the local level. The aim is to transfer the responsibility in the area of integration to the political level, instead of civil society and voluntary commitment, in order to guarantee sustainability and cohesion in the actions led in favour of integration.

In a second phase, the SYVICOL and the OLAI offer local politicians, who wish to embark on a PCI approach, to support the project by means of individualised workshops. This more practical phase aims at enabling the municipalities to appropriate the proposed approach and define their needs and ambitions in order to implement an integration policy at the local level through the PCI.¹⁶⁶

The project proposes not only a structured effort but also a valorisation and visibility to participating communes at the national level (provision of a logo, increased cooperation, public communications...) Finally, one should also mention the establishment of a network of

communes and a facilitation of information exchange and best practices that will be ensured and promoted by the steering committee of the project.

3.8.2. Funding for communes for integration projects

Communes can apply to the OLAI for a fund which is available to communes wishing to carry out projects in favour of the integration of foreigners. A jury, composed of representatives of the OLAI, the Ministry of the Interior and SYVICOL meet at least twice a year in order to analyse the applications for funding that have been submitted by the communes throughout the year. On the basis of well-defined criteria and distributed via a circular note of the Ministry of the Interior, the jury can accord a co-financing of up to 50% of the forecasted cost of the project aimed at integrating foreigners at the local level. As a counterpart, the beneficiary commune pledges to respect certain engagements, in particular the submitting of a financial report within a fixed timeframe and form, the submitting of an activity report and the promoting of tools the OLAI has elaborated in order to further integration.¹⁶⁷

3.9. Citizenship and naturalisations

In 2014, a total of 5.628 persons acquired the Luxembourgish nationality. An important part of this number concerns re-acquisitions of the Luxembourgish nationality¹⁶⁸ (1.785) that involve mainly Belgian nationals (1.095) and French nationals (552) who do not necessarily reside in Luxembourg but who had a Luxembourgish ancestor on 1st January 1900, and who is in their direct paternal or maternal line. 673 children of residents acquired the Luxembourgish nationality.

Acquisition of the Luxembourgish nationality in 2014		
	Acquisitions (including re-acquisitions)	%
EU citizens (including EEA citizens)	4.803	85,3%
Third-country nationals	825	14,7%
Total	5.628	100%

Source: STATEC, 2015

In Luxembourg, the most common European Union nationalities are Portugal (92.063), France (39.370), Italy (19,524), Belgium (18.834) and Germany (12.789). Concerning third-country nationals, the most common nationalities are Montenegro (3.917), Cape Verde (2.883), China (2.466), Serbia (2.390) and Bosnia and Herzegovina (2.310).¹⁶⁹

Top 10 third-country nationalities that acquired the Luxembourgish nationality	
Nationality	Number
Montenegro	144
Serbia	100
United States of America	84
Bosnia and Herzegovina	69
Kosovo	50
Russia	36
Ukraine	28
Cape Verde	27
China	22
Brazil	20

Source: STATEC, 2015

According to the opinion of the CES, the acquisition of the Luxembourgish nationality should be further facilitated, including the reintroduction of the naturalisation by option¹⁷⁰ while remaining conditional on the effective respect of certain requirements.¹⁷¹

Statelessness

In 2014, 58 persons were stateless in Luxembourg, compared to 69 in 2013.¹⁷²

4. INTERNATIONAL PROTECTION INCLUDING ASYLUM

4.1. International protection procedures

In 2014, the Directorate of Immigration registered 1.091 applicants for international protection, a number which remained stable when compared to 2013, where 1.070 persons applied for international protection.

Number of applicants for international protection 2009 - 2014						
	2009	2010	2011	2012	2013	2014
Total	505	791	2.171	2.057	1.070	1.091

Source: Directorate of Immigration, 2015

With just above half (51%) of the new applicants in 2014, the Western Balkan countries remain the main countries of origin of the applicants for international protection in Luxembourg. Syria occupies the 5th place with 8,5% of the applicants for international protection.

Country of origin of the applicants for international protection			
	Country of origin	Number of persons	% of the total amount of applications in 2014
1	Bosnia-Herzegovina	163	14,94%
2	Kosovo	140	12,83 %
3	Montenegro	137	12,56 %
4	Albania	117	10,72%

5	Syria	93	8,52 %
6	Serbia	62	5,68%
7	Algeria	42	3,85 %
8	Eritrea	38	3,48 %
9	Tunisia	38	3,48 %
10	Nigeria	31	2,84 %
	Other	230	21,08 %
	Total	1091	100 %

Source: Directorate of Immigration, 2015

In total, 1.254 decisions on applications for international protection were taken in 2014 compared to a total of 1.432 decisions in 2013.

Decisions taken on applications for international protection 2010-2014					
	2010	2011	2012	2013	2014
Total	570	1389	2172	1432	1254

Source: Directorate of Immigration, 2015

In 2014, 145 persons were granted refugee status compared to 129 persons in 2013. This number represents 11,6% of the total number of decisions that were taken.

Persons who were granted refugee status	
Country of origin	Number
Syria ¹⁷³	38
Iraq	15
Eritrea	14
Iran	13
Kosovo	9
Democratic Republic of Congo	8
Ethiopia	7
Somalia	6
Bosnia and Herzegovina	4
Cameroon	4
Egypt	4
Montenegro	4
FYROM	3
Belarus	2
Sri Lanka	2
Bhutan	1
China	1
Ivory Coast	1

Gambia	1
Guinea (Conakry)	1
Undetermined (Palestine)	1
Nigeria	1
Serbia	1
Tanzania	1
Togo	1
Tunisia	1
Turkey	1
Total	145

Source: Directorate of Immigration, 2015

In 2014, 33 persons have obtained a subsidiary protection status, which is the same as for the year 2013. This number represents 2,6% of the total number of decisions that were taken.

Persons who were granted subsidiary protection	
Country of origin	Number
Iraq	11
Albania	4
Syria	4
Montenegro	3
Serbia	3
Somalia	3

Turkey	2
Mali	1
Central African Republic	1
Democratic Republic of Congo	1
Total	33

Source: Directorate of Immigration, 2015

In 2014, 712 negative decisions were issued, of which 259 decisions concerned the normal procedure and 453 decisions concerned the accelerated procedure.

In accordance with the Dublin III regulation, 161 persons were transferred to another Member State; the top three countries being Italy (35 persons), Belgium (28 persons), and Germany (21 persons). A total of 58 persons were transferred to Luxembourg, mainly from Germany (18), France (11) and the Netherlands (11).

The Directorate of Immigration also issued 28 authorisations for a temporary occupation to applicants for international protection whose procedure is either still on-going or who benefit from a suspension of removal for medical reasons or a postponement of removal.¹⁷⁴

4.2. Implementation of the Common European Asylum System

The transposition of the main directives of the Common European Asylum System and their implementation will take place in 2015. The Bill N°6775 concerning the transposition of the “Reception Conditions” Directive was introduced to the Chamber of Deputies on 6th February 2015.¹⁷⁵ The Bill N°6679 concerning the transposition of the “Procedures” Directive was introduced to the Chamber of Deputies on 19th February 2015.¹⁷⁶ The Dublin III Regulation was already implemented on 1st January 2014.

The Human Rights League (*Ligue des droits de l’homme* - LDH) and ASTI made an appeal for a more humane asylum policy.¹⁷⁷ Through an impetus from the LDH and ASTI, an exchange between the Vice President of the European Association for the Defence of Human Rights (AEDH), Deputies of the Chamber of Deputies who are members of the Committee on Immigration and Family, representatives of the Directorate of immigration as well as representatives of the associations which are members of the Luxembourg Refugee Collective (*Lëtzebuurger Flüchtlingsrot* – LFR) took place in order to discuss the Luxembourgish legislation in the field of asylum. According to the Vice President of the AEDH, the use of the conditional (“Member States could”) in the European directives and the relative limitations (“as far as possible”) intersperse these texts and leave “*margins for manoeuvre and appreciation that are extremely vast*” and which allow Member States to “*transpose the least possible*”. From the lack of harmonisation, which the Asylum Package should remediate, stem different practices which can be easily determined by looking at the level of recognition of asylum applications in 2012. The Vice President further mentioned some improvements which are part of the Asylum Package, among which the widening of the criteria granting access to asylum when belonging to a particular social group or concerning sexual orientation in the “Qualification” Directive. But she also criticised the fact that the Asylum Package confirms and expands the resort to detention of applicants for international protection which until now was only foreseen by the Dublin II Regulation and is now foreseen before the return.¹⁷⁸

In June 2014, the LFR presented its main claims concerning this issue.¹⁷⁹ Concerning the material conditions of the reception, the LFR invited the Luxembourgish Government to establish points of reference which would allow for a better “quantification” of the obligation to ensure an adequate standard of living for applicants for international protection. The LFR asked for a facilitation of the access to the labour market for applicants by shortening, or even

abolishing, the waiting period and be reviewing the current administrative procedure. The LFR regretted that the text of the new “Procedures” Directive allows Member States to extend the time limit for the registration of an application to 10 days in case of a massive influx of applicants for international protection, without giving further details on the numbers. The LFR also questioned the authorities concerning the practice of doing bone tests in order to determine the age of a presumed minor, when these tests have already been proven unreliable. It pled in favour of an examination method that would be more complete. Furthermore, the LFR criticised the fact that there will be no more a common European list of safe countries of origin but that the possibility of national lists are maintained. Hence, every Member State can still establish its own list and so the question arises how a country can be considered safe by one Member State and not by another. The LFR also favourably welcomed the idea of special procedural guarantees for vulnerable persons but asked the Luxembourgish Government to ensure qualified personnel will be available to guarantee the necessary support. Finally, it recalled its claim that the detention of applicants for international protection must be considered as a measure of last resort and that alternative measures to detention which are less coercive should be privileged. The detention should also only be for the shortest time possible and should not be applied to minors at all.

4.3. Changes concerning the asylum procedure

4.3.1. Naming of an ad-hoc administrator for unaccompanied minors

Since 1st January 2014, the appointment of an ad-hoc administrator for unaccompanied minors has become systematic. Before this date, and even though the law had already created the ad-hoc administrator, only a tutor (guardian) was named. After the number of unaccompanied minors and “false minors” who absconded considerably increased in 2013, the NGOs that were designated as tutors could no longer assume full responsibility for this group of young people. Together with the ministries and the juvenile judge it was then decided to systematically appoint an ad-hoc administrator. Thus, unaccompanied minors, whether they file an application for international protection or not, will be assigned an ad-hoc administrator as soon as possible in order to assist them in legal proceedings. Additionally, this also allows for a continuation of the asylum procedure in case a minor absconds.¹⁸⁰

4.3.2. Age assessment for unaccompanied minors

The method used for assessing the age of unaccompanied minors, which consists of an X-ray of the left wrist, for which the Greulich and Pyle scale is then used to determine the age, has been contested by the Consultative Commission on Human Rights (*Commission consultative des droits de l'homme* – CCDH). The CCDH in its opinion on Bill N°6507 amending the Asylum Law expressed its concerns regarding the issue of 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 elements should be taken into account additionally.¹⁸¹ Furthermore, the Administrative Court also expressed doubts regarding the reliability of the age assessment method, signalling the high risk of error in applying the Greulich and Pyle scale to non-Caucasian children.¹⁸² A reform process is therefore on going, although at an early stage, with the aim of making the assessment more effective and reliable.¹⁸³

4.3.3. Changes at the administrative level

Country of Origin Information

In order to ensure the timely update of the existing internal Country of Origin Information (COI) products, the COI unit within the Directorate of Immigration was temporarily reinforced by additional staff. This unit is responsible for the provision of objective, precise and up-to-date information to the officers in charge of interviewing the applicants and of deciding on the applications for international protection.¹⁸⁴

Establishing identity

The “quick scan” was installed, a tool which facilitates establishing the origin of an applicant for international protection in case s/he does not submit or does not possess an identity document. It is a method of rapid examination, via a questionnaire, on essentially the geographic origin of the applicant.¹⁸⁵

Training activities

In 2014, several agents of the Refugee Department of the Directorate of Immigration have been trained in the “evidence assessment” and “Dublin III” modules, which are offered by the European Asylum Support Office (EASO). A national training in interviewing vulnerable persons was held in March 2014. Furthermore, UNHCR organised two thematic trainings for the entire staff of the Refugee Department.¹⁸⁶

Challenges identified by the authorities

Existing challenges in the field of asylum that were identified by the Directorate of Immigration concern the handling of the backlog of cases as well as the lack of available interpreters for certain languages. In order to remedy the second issue, a collaboration with the neighbouring countries has been established in order to enhance the interpreters’ pool.¹⁸⁷

To ensure available places of accommodation at any time and to improve the quality of the accommodation system, the OLAI considers that it is necessary to continue raising awareness of responsibility in the host society and the municipalities regarding reception of applicants for international protection. According to OLAI, one should also formalise minimum quality standards as well as to establish, in connection with the municipalities, an emergency plan for the mobilisation of accommodation places to deal with mass influx situations.¹⁸⁸

Finally, quality social support and guidance of applicants for international protection adapted to their specific needs should be ensured in the future.¹⁸⁹

Recent LU EMN NCP publication on asylum:

- **The Organisation of Reception Facilities for Asylum Seekers (2013)**

4.4. Jurisprudence in the field of international protection

Several decisions concerned the unjustified usage of the accelerated procedure.¹⁹⁰

One case concerned a decision of lack of competence which consequently led to the transfer of the applicant to another Member State competent to examine the application and which also caused the applicant to be separated from her spouse. The First Instance Administrative Court held that this was an unjustified or disproportionate interference in the sense of Article 8 of the European Convention on Human Rights.¹⁹¹

There were several decisions which concerned the subsidiary protection of Afghani nationals. In one case, the First Instance Administrative Court held that the applicant had forwarded sufficient evidence that he was at risk of suffering serious harm in case of a return.¹⁹² In another case the Administrative Court overruled the decision of the First Instance Court to grant subsidiary protection to an Afghani national considering that there is no general right to subsidiary protection for Afghani nationals, and that in this particular case, it was not established that there was a real risk of him suffering serious harm.¹⁹³

There were also some decisions of the First Instance Administrative Court which held that subsidiary protection should be granted to Turkish nationals of Kurdish origin who refused to undergo military service on the grounds of them being conscientious objectors.¹⁹⁴

Several decisions of the First Instance Administrative Court granted refugee status to Christian Iraqi nationals on the grounds of a justified fear of being persecuted and the absence of a valid internal flight alternative.¹⁹⁵

Several persons of Iranian nationality were granted refugee status because there was a risk of persecution in case they were returned to their country of origin. In one of these cases¹⁹⁶ refugee status was granted to a singer due to his fear of being persecuted because of his musical activities and the punishment which he would be susceptible to in case of a return. In other cases¹⁹⁷ refugee status was granted to persons who had converted to Christianity and where the First Instance Administrative Court held that the applicant was currently at risk of being persecuted and sentenced to death on the sole ground of his conversion to the Protestant religion.¹⁹⁸

There was also a case concerning the notion of safe country of origin. The claimant argued that Kosovo could not be considered as a safe country of origin and should be removed for the

list of safe countries. The First Instance Administrative Court rejected the argumentation because their application was based on Article 19 of the Law of 5th May 2006, which is the standard procedure, and not on Article 20 of the aforementioned law which concerns the accelerated procedure of an application for international protection and where the safe country of origin is of relevance,¹⁹⁹ which on appeal was confirmed by the Administrative Court.²⁰⁰

4.5. Cooperation with third countries including resettlement

On 13th September 2013, Government Council agreed on the modalities concerning the reception of 60 Syrian nationals in Luxembourg.²⁰¹ In January 2014, a delegation of 3 officers from the Direction of Immigration went to Amman (Jordan) in order to conduct a series of interviews with Syrian refugees already selected by the UNHCR in order for them to be resettled. This delegation was joined by two officers from the OLAI, which provided them with information on their future life in Luxembourg. It was foreseen that 60 Syrian refugees would be resettled to Luxembourg in the first half of 2014. The focus was on resettling vulnerable families, who would automatically be granted refugee status.²⁰²

On 16th April 2014, four families, with a total of 28 persons (9 adults and 19 children), were resettled to Luxembourg and granted refugee status.²⁰³ The OLAI is responsible for their accommodation, the granting of financial assistance, administrative assistance and social aid as well as the socio-educational supervision of the children. Children have access to education (primary and secondary school) and adults are offered French language classes.²⁰⁴ In a press release from March 2014²⁰⁵, the LFR encouraged the Luxembourgish Government to continue its path of resettlement. Starting from the consideration that the Government has resettled 28 Syrian refugees, it would like to see Luxembourg resettle in a second phase the number of Syrian refugees that were initially foreseen (60). *Déi Lénk* also regretted that Luxembourg so far has only resettled 28 of the 60 refugees initially foreseen.²⁰⁶

A second selection mission took place in Istanbul in December 2014 where another 46 refugees were selected for resettlement. In a press release from June 2014, ASTI wanted to know whether Luxembourg had put enough effort into resettling Syrian refugees and was astonished by the reluctance of the Government to resettle refugees that are in the camps in Jordan and Lebanon.²⁰⁷ Apart from those 74 refugees, the Government has the intention to receive further refugees in the coming months. These resettlements will be part of an annual resettlement quota of 15 to 20 persons that was introduced in accordance with the Governmental Programme.²⁰⁸ Caritas Luxembourg²⁰⁹ called upon the Minister for Foreign and European Affairs to resettle Christian refugees that have fled the crisis stricken region in Iraq.

At the Justice and Home Affairs Council of 9th October 2014, the Luxembourgish Minister for Foreign and European Affairs defended the idea of a fair distribution of the burden of international protection applicants and also advocated in favour of common rules for all the

Member States in order to face the challenges related to the increase of migratory flows due to the conflicts in the Middle East.²¹⁰ The Minister also stated that, regarding a European quota system, where the European Commission has the right of initiative, the Luxembourg Government would commit itself to the introduction of just and neutral criteria. The Minister underlined that the question of the equal distribution of the burden does not only concern international protection applicants but all aspects of the European asylum and migration policies. The responsibility and solidarity are the cornerstones of an efficient common policy. Therefore, it is not acceptable to the Minister that Member States located at the external borders have to deal with the migratory pressures on their own and that some Northern Member States accommodate the majority of refugees. The system has to have the necessary instruments which guarantee sufficient equity among the Member States.²¹¹

5. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS²¹²

5.1. Unaccompanied minors

After a significant increase, compared to previous years²¹³, of unaccompanied minors applying for international protection in 2013, the number decreased again in 2014 and amounted to 31 applications.

Unaccompanied minors in 2014		
	Number of accepted unaccompanied minors not applying for asylum	Number of accepted unaccompanied minors applying for asylum
Total	n/i	31
Female	n/i	3
Male	n/i	28

Source: Directorate of Immigration, 2015

Since 1st January 2014, the appointment of an ad-hoc administrator has become systematic. Thus, unaccompanied minors whether they file an application for international protection or not, will be assigned an ad-hoc administrator as soon as possible. The ad-hoc administrator assists the unaccompanied minor in the context of the asylum procedure. Most of the appointees are the lawyers already chosen by the unaccompanied minor. Additionally, a tutor is also appointed in order to assist the unaccompanied minor in daily affairs.²¹⁴

Almost all unaccompanied minors arriving in Luxembourg file an application for international protection, which enables them to stay in the country and benefit from social assistance and accommodation.²¹⁵

In its annual report the Ombuds-Committee for the Rights of the Child (*Ombuds-Comité fir d'Rechter vum Kand* – ORK) regrets that the supervision of children is limited in 3 ways:

child migration in the context of their parents' migration, children victims of trafficking and children as international protection seekers. According to the ORK, the existing approaches are incomplete and the vulnerability of the children is not sufficiently taken into account. Thus, concerning unaccompanied minors, the ORK recommends society and the Government to support further solutions enabling these young people to be assisted and to offer them an alternative to the endless wandering through Europe as well as an integration perspective instead of keeping them in a precarious situation and fearing a possible return to their country of origin. Finally, the ORK regrets that the negotiations on the EU-level seem to be limited to asylum seekers, with thousands of young persons wandering through Europe and not being the subject of a sustained attention by public authorities.²¹⁶

In its opinion on the recast directives of the Asylum Package, the LFR recalled its categorical opposition to child detention, especially unaccompanied minors and invited the legislator to exclude such possibilities.²¹⁷

Recent LU EMN NCP publication on unaccompanied minors:

- **Policies, Practices and Data on Unaccompanied Minors (2014)**

5.2. Other vulnerable groups

There is an increased collaboration between the Directorate of Immigration, the OLAI and the Red Cross Luxembourg in order to be able to identify vulnerable persons as soon as possible and meetings are foreseen at regular intervals.²¹⁸

More generally, in order to transpose the “Reception Conditions” Directive, which aims to provide better and more harmonised standards of living to applicants for international protection and better standards for vulnerable persons including (unaccompanied) minors, joint efforts and collaboration among stakeholders at the national and local level (Government, SYVICOL, and civil society) are required.²¹⁹

The project “*Asylum and Migration*” of the Ministry of Justice in collaboration with Caritas focuses on contributing to the protection and defence of the rights of more than 13.000 female migrants in Lebanon and in other countries of origin like Bangladesh, Nepal, Philippines, Sri Lanka and Ethiopia in order to promote their social-economic development during the whole cycle of migration.²²⁰

6. COUNTERING TRAFFICKING IN HUMAN BEINGS

Trafficking in human beings remains a fairly marginal issue in Luxembourg, with only a few cases each year. However, whereas in the past most victims were victims of sexual exploitation, there is currently an increase of victims of labor exploitation.²²¹

In 2014, there were 3 presumed victims of trafficking in human beings and 5 identified victims of trafficking in human beings. Whereas 6 reflection periods were granted, only 2 residence permits were requested and none was granted in 2014.

Third-country nationals <u>presumed</u> to be victims of trafficking in human beings in 2014			
	Total	Sexual exploitation	Labour exploitation
Total	3	1	2
Female	1	1	0
Male	2	0	2
Citizenship (top 3 countries)	Moldova, Nigeria		

Source: Ministry of Justice, 2015

Third-country nationals <u>identified</u> as victims of trafficking in human beings in 2014			
	Total	Sexual exploitation	Labour exploitation
Total	5	1	4
Female	1	1	0
Male	4	0	4
Citizenship (top 3 countries)	India, Pakistan, Bangladesh		

Source: Ministry of Justice, 2015

Reflection periods and residence permits in 2014			
	Reflection periods granted in 2014	Residence permits <u>requested</u> in 2014	Residence permits <u>granted</u> in 2014
Total	6	2	0
Female	1	0	0
Male	5	2	0

Source: Ministry of Justice, 2015

6.1. Coordination and cooperation amongst key actors

The Government of Luxembourg combats trafficking in human beings by a multidisciplinary approach and its policy focuses on three main areas:

- Prevention;
- Protection and promotion of the victims' rights; and
- Prosecution of the perpetrators and co-perpetrators.²²²

The Chamber of Deputies adopted the Law of 9th April 2014 strengthening the rights of victims of trafficking in human beings²²³ and transposing the Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims into the national legislation. Major amendments are the inclusion of begging and the inclusion of the trafficking of children. Furthermore, the CCDH has been appointed as national rapporteur.

Regarding the assistance of victims, this law modifies the amended Law of 12 March 1984 on the compensation of certain victims of physical damages: if the authors are not able to pay the indemnity pronounced by the court, the Government will provide for compensation. Victims of trafficking do not need to prove their prejudice and do not need to have their regular residence in Luxembourg in order to claim this compensation.

The law also modifies the Law of 8 May 2009 on the assistance, protection and security of victims of trafficking in human beings. For instance it introduces the obligation to appoint a guardian if there is a presumed child victim. The new law also specifies the cases in which the persons having parental authority over a child victim cannot not be appointed as a guardian.

Furthermore two grand-ducal regulations have been adopted in 2014. One concerns the governmental agreements for shelters for victims of trafficking in human beings.²²⁴ Article 1 of the Grand-Ducal Regulation of 11 September 2014, in accordance with Article 94 of the amended Law on the Free Movement of Persons and Immigration, establishes that unaccompanied minor victims of trafficking in human beings are entitled to appropriate housing.²²⁵

The other Grand-Ducal Regulation relates to the structure and the missions of the Monitoring Committee on the fight against trafficking in human beings.²²⁶ The national coordination of anti-trafficking polices is currently done by a Committee to monitor trafficking in human beings. The Committee is composed of representatives of public bodies responsible for the

implementation of the proposal, representatives of assistance services, and representatives of approved organizations. The Committee is currently elaborating a new national action plan focusing on human trafficking. The action plan is taking account of the recommendations made by the Group of Experts on Action against Trafficking in Human Beings (GRETA)²²⁷ and the (Trafficking in Persons) TIP report.²²⁸ A main focus will be put on anti-trafficking trainings, awareness rising, and the establishment of a national referral mechanism.²²⁹

Concerning the crime of trafficking, 2 persons that have been arrested as traffickers and 7 persons have been convicted as traffickers in 2014.

Traffickers arrested as suspects and traffickers convicted in 2014		
	Arrested / otherwise involved in a criminal proceeding	Convicted
Traffickers	2 arrested	7

Source: Ministry of Justice, 2015

6.2. Awareness raising on the issue of trafficking in human beings

Brochures established by the Ministry of Justice and the NGO *Femmes en Détresse* (FED) have been distributed in 2014. The first brochure from the Ministry of Justice is focusing on the phenomena of trafficking in human beings itself and explains this crime to a more general public whereas the brochure from FED is more focused on the rights of the victims and is distributed amongst the potential victims of trafficking in human beings. It should also be noted that further public campaigns are scheduled for 2015.²³⁰

The Directorate of Immigration is establishing an information sheet for police officers serving in missions.²³¹ Furthermore, the Police Academy (*Ecole de Police*) offered courses to police officers in 2009 on trafficking in human beings and at the end of November 2014 courses have been held again for detectives who work in morality and trafficking of human beings areas from all over the country. In 2015, there are 20 – 30 sessions foreseen for agents in uniform. During these courses the case of minor victims of trafficking will also be addressed. This could enhance detection as officers on the street might also be able to detect potential victims.²³²

Concerning the prevention of trafficking in human beings several projects are currently being funded by the Luxembourg Government.

Prevention of trafficking in human beings					
Third country, region, organisation at international level	Form or structure of actions and activities	Description of actions and activities	Partner organisation	Duration (start/ end date)	Funding in EUR
1. Nepal, Mali, Benin, Burkina Faso, Niger, India, Senegal	Funds allocated to ECPAT	Prevention of sex tourism, support or conception of programs focussing on children in order to avoid that they become victims or support for victims (education, training, psychological help)	ECPAT Luxembourg	/	1 M Euro per year approx.
2. /	Funds allocated to those organisations	Everything related to child victims of prostitution, sex tourism, trafficking	UNICEF, UNFPA, ONUSIDA and the GLOBAL FUND	/	General contribution, it is not possible to fix the exact funding for the programs focussing on trafficking
3. Lebanon, Bangladesh, Nepal, Philippines, Sri Lanka, Ethiopia	Funds allocated to those organisations	Humanitarian aid focusing on refugees, women	UNHCR and other NGOs e.g. Caritas Luxembourg	2013-2016	637.500 €

Source: Ministry of Justice, 2015

Recent LU EMN NCP publication on victims of trafficking in human beings:

- **Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures (2013)**

7. MIGRATION AND DEVELOPMENT

According to the national programme of Luxembourg within the framework of the Asylum, Migration and Integration Fund, a study on migration of third-country nationals will be conducted. It is foreseen that this study will in particular focus on the Cape Verdean community in Luxembourg.²³³

Luxembourg also participates in an European Union and International Organization for Migration project on “Strengthening the Capacity of Cape Verde to Manage Labour and Return Migration”. More precisely, Luxembourg participates in this project via the economic reinsertion component, which is administered by the French Immigration and Integration Office (*Office français de l’immigration et de l’intégration*). This component includes the support of a local operator specialised in the accompaniment of company founders in order to carry out a study on the feasibility of this project.²³⁴

7.1. Mitigating “brain drain”

Kosovo

The general cooperation agreement (2013-2016) between Luxembourg and Kosovo states education, and more specifically vocational training, as one of the three intervention areas of the Luxembourgish cooperation in Kosovo. The aim is to support the Ministry of National Education, Childhood and Youth concerning the implementation of its national strategy on education and vocational training (2011-2016), which foresees, among others, a reform of the sector by means of creating competence centres which are strategically located across the entire territory of the country. In a first step, the Luxembourgish cooperation took over the construction and equipment of two centres, one dedicated to the paramedics sector and another dedicated to the commercial sector.

Since the centres have become operational, the focus has shifted to an amelioration of the curricula and pedagogics, the adequacy of the provided training for the labour market and the approximation of the centres with the private sector. By improving the employability of the young Kosovar population, it is hoped that less persons are considering emigration in order to find a job abroad. The global budget of the project amounts to 15,18 million euros, of which 10 million are provided by the Luxembourgish cooperation and 5,18 million are provided by the Kosovar Government.

Cape Verde

Within the framework of the current Indicative Cooperation Programme (*Programme Indicatif de Coopération* - PIC) (2011-2015), training and professional insertion are occupying a prominent place with nearly 50% of the 60 million budget dedicated to this issue: a sectorial budgetary aid, six vocational training centres (including a hotel school) and relevant curricula, a project on the employability (in collaboration with UNDP and the International Labour Office) and assistance regarding the implementation of the integrated policy on education, training and employment of the Cape Verdean Government.

The identification of the next PIC (2016-2020) is currently on-going, but it can already be stated that the employability will remain the focus of the development cooperation.

Burkina Faso

Training and professional insertion are among the priority areas of the current PIC (2008 – 2015) and will also remain in the next PIC (2016 - 2020). Of the total amount of 90,9 million euros of the PIC, 15 million are dedicated to this issue.

Niger

Training and professional insertion are among the priority areas of the current PIC (2008 – 2015) and will also remain in the next PIC (2016 - 2020). Of the total of amount 70 million euros of the PIC 24,7 million are dedicated to this issue.

Mali

Training and professional insertion are among the priority areas of the current PIC (2007 – 2014) and will also remain in the next PIC (2015 - 2019).

Senegal

In the current PIC (2012 – 2016) training and professional insertion (following the principles of equal access and a decentralised approach) are among the priority areas and include, alongside the bilateral programme, a project on the insertion of qualified young persons via vocational training (together with the International Labour Office), on the making available of financial means for the professional insertion (together with UNDP) as well as on the development of productive local systems and the insertion of those having finished their vocational training (together with UNIDO and UNCDF).²³⁵

7.2. Migrants' remittances

Senegal

A project on the valorisation of savings of migrants (2009 - 2014) is on-going. This project is implemented by the non-governmental organisation *Appui au Développement Autonome* (ADA) and financed by the Ministry of Foreign and European affairs via the Directorate of Cooperation. The project aims at making available to Senegalese migrants in Italy and to the families in their home country a channel by which they can transfer money which is associated to products and financial services (savings, business credit, housing credit, and support-advice).

Mali

Two valorisation projects concerning the savings of migrants are on-going (2011 - 2015 and 2012 - 2015). These projects are implemented by ADA and are financed 75% and 30% respectively by the Ministry of Foreign and European affairs via the Directorate of Cooperation. These projects aim at making available to Malian migrants in France and to their families in Mali channels by which they can transfer money which is associated to products and financial services (savings, business credit, housing credit and accompanying entrepreneurs).

Cape Verde

A project on the development of microfinance in Cape Verde is implemented by ADA. The project initially foresaw the support regarding transfers of migrants' remittances. A study conducted in 2013 has however revealed a high rate of banking costs for the migrants (the reason being the good interest rates of commercial banks) and therefore it was concluded that it is not necessary to offer a specific product regarding microfinance.²³⁶

7.3. Cooperation with partner / third countries for economic migration

Cooperation agreements				
Type of agreement (EU or bilateral)	Status of agreement (negotiated, signed, ratified, implemented) and the date of the action	Third countries involved	Main purpose and rationale for the agreement	Does the agreement allow for circular migration? YES/NO
EU	Implemented (May 2011-January 2015)	Cape Verde	2M€	/
Bilateral	Being analysed	Cape Verde	/	Yes

Source: Directorate of Cooperation, 2015

8. IRREGULAR MIGRATION INCLUDING SMUGGLING

8.1. Measures to reduce irregular migration

8.1.1. Border control measures

The EU entry / exit system as well as the Registered Traveller Programme are currently being negotiated at the European level. They will bring new technologies to the border as soon as they are adopted, respectively with the implementation of the “smart borders” package.²³⁷

At the border at the Luxembourg Airport, the following equipment is used:

1st line checks: Passport readers “VISOTEC® Expert 600” from the *Bundesdruckerei* are used to perform checks on passports and e-passports (with validation check of the chip against ICAO-PKD). Persons are also checked against the Schengen, Interpol and VIS databases. 1st line visa checks are done with a “Crossmatch Fingerprint-scanner” (check against the VIS database). Advance Passenger Information System (APIS) / Passenger name record (PNR) is used for prior checks of the passengers. But also UV lamps with transmitted and diagonal light and simple magnification glasses are used.

2nd line checks: These can be performed for more sophisticated checks against the VIS database. Passports and other identification documents can also be further checked with “Docucenter” and “Nirvis” equipment and with microscopes. Specialised document databases (authentic and false) can be consulted (FADO, iFADO, DOKIS, ARKILA, ARGUS) for further investigation.

In 2014, a EUROSUR workstation was installed in the SIRENE office (Supplementary Information REquest at the National Entries).²³⁸

Accordingly to the Common Core Curriculum the police officers that ensure border controls at the Luxemburg Airport are regularly trained.²³⁹

Luxembourg also participates in the FRONTEX Joint Operation “Triton” which was launched on 1st November 2014. One officer of the Refugee Department of the Directorate of Immigration who is in charge of interviewing applicants for international protection was posted for the duration of one month in order to support the operation.²⁴⁰

The Luxembourgish Commission “Justice and Peace” (*Commission luxembourgeoise “Justice et Paix”*)²⁴¹ made a statement in favour of granting access to the European Union for persons fleeing their country and a greater solidarity among the Member States of the European Union. With the establishment of the Triton mission for the protection of the borders and the abolition of the Italian *Mare nostrum* mission, the Commission called upon the European society to not close their eyes before the miserable situation in which refugees next to us and our borders find themselves in. They also invoked the moral identity and asked the Luxembourgish Government to engage in favour of granting persons access to Europe, via resettlement programmes and solidarity among the Member States for a better distribution of the refugees among the host countries. Furthermore, it questioned the relevance of the Dublin Regulation which leads to a situation where certain countries with external borders of the European Union have to bear the main burden.

8.1.2. Irregular migration caused by visa liberalisation

Nationals of Albania, Bosnia, Macedonia, Montenegro and Serbia do not benefit from the Assisted Voluntary Return and Reintegration from Luxembourg (AVRRL) programme operated by the International Organization for Migration (IOM), but their return bus ticket is financed by the Directorate of Immigration.

The Prime Minister of Montenegro, Milo Djukanovic, visited Luxembourg on 24th March 2014 in order to discuss the bilateral relations as well as the relations with the European Union with the Luxembourgish Prime Minister.

The Prime Minister raised the question of the international protection seekers coming from Montenegro and stated that it would be difficult to obtain such a status if the person is a national from an EU candidate. Furthermore, the Prime Minister also stressed the importance of informing people about the fact that coming to Luxembourg does not equal to finding a job and housing. Prime Minister Milo Djukanovic noted that he is conscious of this issue and underlined the need and willingness to strengthen the cooperation between the two relevant ministries. He also stated that the visa liberalisation regime did not give rise to a significant amount of abuse.²⁴²

8.1.3. Irregular migration through misuse of family reunification

On 18th June 2014, the Chamber of Deputies adopted a bill on the reform of the law of marriage and adoption.²⁴³ The adopted bill was a merger of various bills which dealt with certain aspects of the law of marriage:

- Bill on the combatting of forced marriages or partnerships or of convenience²⁴⁴;
- Bill on the amendment of the legal age of marriage²⁴⁵.

The new law²⁴⁶ introduces a scheme intended to prevent so-called “simulated” marriages. The civil registrar has the possibility to inform the Public Prosecutor in case there are serious indications which give rise to a presumption that the proposed marriage is fraudulent. The former then also has the possibility to oppose to the marriage or to postpone the celebration.

Unfortunately, there is no statistical data on the misuse of family reunification available.

8.1.4. Irregular migration caused by use of false travel documents

If the Foreigners Police has a doubt concerning a fraudulent acquisition and use of false documents, the SED, a Police section specialised for the expertise of travel documents is contacted.

In 2014, 180 travel documents were controlled by the SED and 65 of these documents were identified as false.²⁴⁷

8.2. Monitoring activities of smugglers and victims of smuggling

So far, Luxembourg has not yet identified persons that have been smuggled and nor has it arrested or convicted any smuggles.

Third-country nationals identified as smuggled persons, reflection periods provided to smuggled persons and residence permits granted to smuggled persons in 2014			
	Number of third-country nationals identified as smuggled persons	Number of reflection periods provided to smuggled persons	Number of residence permits granted to smuggled persons
Total	0	n/i	n/i
Female	0	n/i	n/i
Male	0	n/i	n/i

Source: Grand ducal Police, 2015

Number of smugglers arrested as suspects and smugglers convicted in 2014		
	Arrested / otherwise involved in a criminal proceeding	Convicted
Total	0	0

Source: Grand ducal Police, 2015

9. RETURN

The year 2014 was marked by debates around the return of rejected applicants for international protection.

Third-country nationals returned in 2014							
	Forced returns			Voluntary Returns			among which assisted voluntary returns
	Total	F	M	Total	F	M	Total
Brazil	0	0	0	3	2	1	2
USA	1	1	0	0	0	1	0
Algeria	0	0	0	3	2	1	3
Angola	0	0	0	1	0	1	1
Cape Verde	1	0	1	1	1	0	0
Congo (D)	1	0	1	0	0	0	0
Ghana	1	0	1	0	0	0	0
Guinea Bissau	1	0	1	1	0	1	1
Morocco	3	0	3	1	0	1	1
Nigeria	1	0	1	0	0	0	0
Senegal	1	0	1	0	0	0	0
South Sudan	0	0	0	1	0	1	1
Togo	2	0	2	0	0	0	0
Tunisia	4	0	1	2	0	2	2
Azerbaijan	1	0	0	0	0	0	0

Belarus	0	0	1	9	2	7	9
Georgia	1	0	1	0	0	0	0
Moldova	1	0	0	0	0	0	0
Russia	0	0	0	2	1	1	2
Turkey	0	0	0	1	0	1	1
Ukraine	0	0	0	3	1	2	1
Albania	27	11	16	56	15	41	0
Bosnia Herzegovina	16	5	11	84	39	45	0
Croatia	1	1	0	0	0	0	0
Kosovo	13	5	8	158	67	91	154
FYROM	5	2	3	12	4	8	0
Montenegro	44	19	25	89	41	48	0
Serbia	28	10	18	61	25	36	5
Total	153	54	99	488	201	287	183

Source: Directorate of Immigration, 2015

Concerning the suspension of a removal order for medical reasons, 155 individuals benefited from such a decision and another 13 persons benefitted from a postponement in 2014.²⁴⁸

9.1. Voluntary return

Since 2009, a programme on assisted voluntary return and reintegration from Luxembourg (AVRRL) has been put into place with the assistance of the IOM. Following a call for project launched by the Directorate of Immigration for the period 2011-2013, the agreement between the Ministry of Foreign and European Affairs and IOM was pursued within the framework of the European Return Fund. Since 2014, the programme is co-financed via the new Asylum, Migration and Integration Fund (AMIF). The AVRRL programme now applies to most countries, with the exceptions 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. In 2014, 301 persons benefited from this specific measure.

In 2014, the number of persons having opted for a voluntary return has decreased. 488 persons left the country on the basis of a voluntary return, compared to 595 persons in 2013. The majority of these individuals (460) were international protection applicants from the Western Balkan countries.

183 persons have left Luxembourg within the framework of the AVRRL programme, compared to 116 persons in 2013, and the majority of returns was to Kosovo (159 persons). Finally, 4 persons have returned voluntarily on their own expenses.²⁴⁹

9.2. Measures to improve the conditions of return

9.2.1. EU readmission agreements

On 5th November 2014, five bills were deposited at the Chamber of Deputies concerning the approval of the implementing protocol between the Benelux countries and the relevant third country on the application of the EU readmission agreements with Moldova, Bosnia and Herzegovina, Georgia, FYROM and Serbia.²⁵⁰

Negotiations concerning the implementing protocol of the EU readmission agreement with Cape Verde have begun and Luxembourg has been designated as the interlocutor for Cape Verde by its Benelux partners.²⁵¹

EU readmission agreements	
EU Readmission agreement (country)	National development (i.e. implementing protocol, cooperation)
Hong Kong	/
Macao	/
Sri Lanka	Ongoing negotiations for a Benelux Implementing Protocol
Albania	Benelux Implementing Protocol signed on 9 June 2005
Russia	Luxembourg Implementing Protocol signed on 13 September 2011
Ukraine	Draft of Benelux Implementing Protocol has been sent to the Ukrainian authorities
Macedonia	Benelux Implementing Protocol signed on 30 July 2012
Bosnia and Herzegovina	Benelux Implementing Protocol signed on 5 December 2013
Montenegro	Benelux Implementing Protocol signed on 4 July 2012
Serbia	Benelux Implementing Protocol signed on 25 January 2013
Moldova	Benelux Implementing Protocol signed on 25 January 2013
Pakistan	/

Georgia	Benelux Implementing Protocol signed on 5 September 2013
Armenia	Draft of Benelux Implementing Protocol has been sent to the Armenian authorities
Cape Verde	Benelux Implementing Protocol is currently being drafted
Turkey	/
Azerbaijan	/

Source: Directorate of Immigration, 2015

9.2.2. *Measures to develop a swift, sustainable and effective return using a common EU approach*

On 31st March 2014, a bill amending the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration was deposited at the Chamber of Deputies.²⁵² This was a consequence of the European Commission conclusion that on three points the Luxembourgish law was not in conformity with the “Return” Directive. The first point was an amendment of Article 111(2) of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration in order to include the examples listed in Article 7(2) of the “Return” Directive for which an extension of the period of voluntary return could be granted. The examples listed in the Directive were the length of stay, the existence of children in the schooling system and other familiar or social ties. The second point of the Commission was Article 3(6) of the “Return” Directive, which requires national legislation to foresee that an individual against whom an entry ban has been issued is informed of the fact that s/he is subject to an entry in the Schengen Information System (SIS). The third point was that the national legislation was not in conformity with the *Achughbabian* decision of the Court of Justice of the European Union (CJEU)²⁵³ on the criminalisation of an irregular stay. The bill intended to amend Article 140, which will then foresee a criminal sanction against a third-country national who has received a decision to return and who continues to irregularly stay on the territory without a valid justification. This bill was adopted by the Chamber of Deputies and became the Law of 26 June 2014 amending the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration.²⁵⁴

Information on entry bans is systematically communicated to the Grand-Ducal Police which records entry bans in the SIS.

9.3. Forced return

In 2014, 153 persons were removed from the Luxembourgish territory in the framework of a forced return, compared to 84 persons in 2013. 134 individuals originated from the Western Balkan countries and the majority were returned on commercial flights. The Directorate of Immigration did also resort to national secured flights and in collaboration with other Member States and FRONTEX. 64 persons were returned to Montenegro, Kosovo and Albania via 3 national chartered flights. 34 persons were returned to Serbia, Macedonia, Bosnia and Herzegovina and the Democratic Republic of Congo via FRONTEX chartered flights. 1 person was returned to Togo in the framework of a chartered flight organised by Switzerland.²⁵⁵

In 2008, a framework agreement with the Luxembourgish Red Cross established a forced return monitoring system for Luxembourg. Each forced return mission with a chartered flight is accompanied by the following persons: at least two escorts per returnee, one representative of the Directorate of Immigration and one monitor whose specific assignment is to report to the Minister.²⁵⁶

Luxembourg is also one of the eight implementing Member States of the FReM (Forced Return Monitoring) project. The project is co-financed by the European Union under the European Return Fund – Community Actions 2012. The FReM project specifically aims to create a European pool of forced return monitors, available to the countries in need of implementing a forced return monitoring system.²⁵⁷

9.4. Retention Centre

In 2014, 392 persons were admitted to the Retention Centre, compared to 284 persons in 2013. Of these, 264 were single men and 17 were single women. There were also 27 families comprising a total of 111 persons. In 2013, 213 were single men, 16 were single women and 14 were families comprising a total of 55 persons. Of the 392 detainees, 123 were transferred to another Member State responsible for the examination of their application for international protection in accordance with the Dublin III Regulation. 149 individuals were returned to their country of origin, 8 persons benefitted from the assisted voluntary return programme offered by IOM, 77 persons were released, 3 persons were transferred to the Luxembourg Penitentiary Centre (*Centre Pénitentiaire de Luxembourg* - CPL) and 2 persons escaped from the Retention Centre, respectively from the hospital to which they had been transferred. On 31 December 2014, 30 persons were staying in the Retention Centre. The most common nationalities for the year 2014 were Montenegro, Algeria, Nigeria, Kosovo, Albania, Tunisia, Serbia, Bosnia and Herzegovina and Morocco. The average duration of stay for 2014 was 27 days and a total of 12 detainees stayed for 120 days or even longer.²⁵⁸

Since 2010, the mediator ensures the control mission of places in deprivation of liberty, among which the Retention Centre.²⁵⁹ In the third report the mediator expressed an overall satisfaction with the conditions of detention. However, she also noted a certain number of criticisms:

- To review the law concerning the obligation of every person to undergo a medical exam before arriving at the Retention Centre in order determine whether the person is fit to be detained instead of leaving this assessment to the personnel of the Centre in charge of the admission. According to the mediator, admission should be based on a medical certificate which is less than two hours old and which declares the capability of being detained²⁶⁰;
- Harmonisation of the laws on immigration and asylum concerning the duration of the placement in detention²⁶¹;
- The fact that there is no limitation as to successive placements at the Retention Centre, which leads to a situation that a person once released from the Retention Centre, can without any fixed timeframe, be subject to a new decision of detention²⁶²;
- The fact that there is no obligation to end a detention measure when there is an administrative obstacle to an expulsion, for example due to a refusal of admission

by the country of origin of the person or due to the impossibility of establishing the identity of the detained person²⁶³; and

- The placement in detention of minors, and especially unaccompanied minors, should be ensured by additional guarantees taking into account the international norms in the field.²⁶⁴

Based on this report by the mediator, the collective “*Keen ass illegal*” (“no one is illegal”) also criticised several issues:

- The time limit according to which a person admitted to the Retention Centre has to be examined by a doctor within 24 hours following admission is inadmissible to the extent that it does not allow for the detection of a vulnerable person which might or might not be fit for detention;
- The existence of systematic searches of every new arrival which puts these persons into a situation of extreme humiliation and is a measure that is used in the prison system; and
- The possibility of locking a person in their rooms and the transfer to an isolation cell are substantial infringements of the dignity of the person, depriving him/her of every possible human contact for several hours or even days.²⁶⁵

The administrative courts are regularly asked to decide on the legality of decisions taken by the Luxembourgish authorities to place a person in detention. In the jurisprudence database of the LU EMN NCP are 134 judgments by the administrative courts for the year 2014 alone.²⁶⁶

Some of these judgements also concerned the possibility of less coercive measures, notably the restricted residence (“*assignation à résidence*”).

In one case the Minister had ordered the placement in detention of a third-country national in accordance with Article 10 of the Law of 5 May 2006²⁶⁷, in order not to compromise her Dublin transfer and considering the risk of absconding non-negligible. According to the appellant however, the first instance judges were wrong to consider that there were no sufficient reasons for the appellant to benefit from the restricted residence. The Administrative Court recognised that Article 10 of the Law of 5 May 2006 should be considered as non-compliant with Article 28 of the EU Regulation 604/2013, to the extent that a person in retention may not rely on the possibility of being granted a less coercive measure, including restricted residence.²⁶⁸ The Court also noted that the non-negligible risk of

absconding would not apply, since the appellant could validly provide an address in Luxembourg, namely her sister and brother-in-law's address, in order to benefit from restricted residence.²⁶⁹ Therefore, the Court concluded that the detention measure should be replaced by a restricted residence.²⁷⁰ Furthermore, the Court also held that the time limit of more than a month from the moment of the delivery of the laissez-passer in order to implement the return would not correspond to the proportionality requirements of the aforementioned Article 28.²⁷¹

Recent LU EMN NCP publications on return:

- **The use of detention and alternatives to detention in the context of immigration policies (2014)**
- **Good Practices in the return and reintegration of irregular migrants: Member States' entry bans policy & use of readmission agreements between Member States and third countries (2014)**

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Referendum: <http://www.referendum.lu/fr/>

Zukunftspak: <http://www.budget.public.lu/#!/zukunftspak>

ANNEX 1. LIST OF ABBREVIATIONS

ACEL	<i>Association des cercles d'étudiants luxembourgeois</i> (Association of Luxembourgish Student Organisations)
ADA	<i>Appui au développement autonome</i>
ADEM	<i>Agence pour le développement de l'emploi</i> (Employment Agency)
ADR	<i>Alternativ Demokratesch Reformpartei</i> (Alternative Democratic Reform Party)
AEDH	<i>European Association for the Defence of Human Rights</i>
AMIF	<i>Asylum, Migration and Integration Fund</i>
APIS	<i>Advance Passenger Information System</i>
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)
CCDH	<i>Commission consultative des Droits de l'Homme</i> (Consultative Commission on Human Rights)
CEDIES	<i>Centre de documentation et d'information sur l'enseignement supérieur</i> (Documentation and Information Centre for Higher Education)
CEFIS	<i>Centre d'étude et de formation interculturelles et sociales</i> (Centre for Intercultural and Social Studies and Training)
CES	<i>Conseil économique et social</i> (Economic and Social Council)
CET	<i>Centre pour l'égalité de traitement</i> (Centre for Equal Treatment)
CGFP	<i>Confédération Générale de la Fonction Publique</i> (General Confederation of the Public Sector)
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)
COI	<i>Country of Origin Information</i>

CPL	<i>Centre Pénitentiaire de Luxembourg</i> (Luxembourg Penitentiary Centre)
CSV	<i>Chrëschtlech-Sozial Vollekspartei</i> (Christian Social Party)
Déi Greng	<i>Greens Party</i>
Déi Lénk	<i>Left Party</i>
DP	<i>Democratesch Partei</i> (Democratic Party)
EASO	<i>European Asylum Support Office</i>
EMN	<i>European Migration Network</i>
EUROSUR	<i>European Border Surveillance System</i>
FED	<i>Femmes en détresse</i>
FNR	<i>Fonds national de la recherche</i> (National Research Fund)
FReM	<i>Forced Return Monitoring</i>
GRETA	<i>Group of Experts on Action against Trafficking in Human Beings</i>
ICT	<i>Information and communication technology</i>
IOM	<i>International Organization for Migration</i>
IS	<i>Islamic State</i>
ISCO	<i>International Standard Classification of Occupations</i>
ITM	<i>Inspection du travail et des mines</i> (Inspectorate of Labour and Mines)
KPL	<i>Kommunistesch Partei Lëtzebuerg</i> (Luxembourgish Communist Party)
LCGB	<i>Lëtzebuerger Chrëschtleche Gewerkschaftsbond</i> (Luxembourgish Christian trade union)
LDH	<i>Ligue des droits de l'homme</i> (Human Rights League)
LFR	<i>Lëtzebuerger Flüchtlingsrot</i> (Luxembourgish Council for Refugees)
LIST	<i>Luxembourg Institute for Science and Technology</i>
LSAP	<i>Lëtzebuerger Sozialistesche Aarbechterpartei</i> (Luxembourgish Socialist Labour Party)
LU EMN NCP	<i>European Migration Network - National Contact Point Luxembourg</i>

LUS	<i>Luxembourg University Students' Organisation</i>
MEP	<i>Member of the European Parliament</i>
NGO	<i>Non-governmental organisation</i>
OGBL	<i>Onofhängege Gewerkschaftsbond Lëtzebuerg</i> (Luxembourgish independant 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)
PCI	<i>Plan Communal d'intégration</i> (Communal Integration Plan)
PIC	<i>Programme Indicatif de Coopération</i> (Indicative Cooperation Programme)
PID	<i>Partei fir Integral Demokratie</i> (Integral Democracy Party)
Piratepartei	<i>Pirate Party</i>
PNR	<i>Passenger name record</i>
RETEL	<i>Réseau d'étude sur le marché du travail et de l'emploi</i> (Research Network on the Labour Market and Employment)
SED	<i>Section Expertise Documents</i> (Section expertise of documents)
SEW	<i>Syndikat Erzéiung a Wëssenschaft</i> (Teachers' Union)
SIRENE	<i>Supplementary Information Request at the National Entries</i>
SIS	<i>Schengen Information System</i>
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)
TIP	<i>Trafficking in Persons</i>
UNCDF	<i>United Nations Capital Development Fund</i>
UNDP	<i>United Nations Development Programme</i>

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>
UNIDO	<i>United Nations Industrial Development Organization</i>
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 Immigration²⁷²
- Law of 27 August 2014 amending the Law on the National Research Fund²⁷³
- Law of 24 July 2014 concerning the State Financial Aid for Higher Education²⁷⁴
- Law of 26 June 2014 amending the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration²⁷⁵
- Law of 9 April 2014 reinforcing the Rights of Victims of Trafficking in Human Beings²⁷⁶
- Law of 10 March 2014 amending the amended Law of 21 March 1966 on the Establishment of an Economic and Social Council²⁷⁷
- Law of 13 February 2013 on the Reception of Young Au Pairs²⁷⁸
- Law of 21 December 2012 on the Illegal Employment of Third-country Nationals residing irregularly²⁷⁹
- Law of 21 July 2012 on the Illegal Traffic of Migrants by Land, Air and Sea²⁸⁰
- Law of 28 May 2009 on the Creation and Organisation of the Retention Centre²⁸¹
- Ministerial Regulation of 5 March 2014 setting the annual gross salary in accordance with the amended Grand-Ducal Regulation of 26 September 2008 determining the Minimum Level of Remuneration for a Highly-qualified Worker²⁸²
- Grand-Ducal Regulation of 10 March 2014 concerning the Composition, Organisation and Functioning of the Monitoring Committee on the Fight against Trafficking in Human Beings²⁸³
- Grand-Ducal Regulation of 17 August 2011 setting the Terms and Conditions of the Retention Regime of the Retention Centre²⁸⁴

- 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 Removal²⁸⁵
- Grand-Ducal Regulation of 19 May 2011 amending the Grand Ducal Regulation of 26 September 2008 on the Processing of Personal Data²⁸⁶
- Grand-Ducal Regulation of 3 February 2009 relating to Medical Checks on Foreigners²⁸⁷
- Grand-Ducal Regulation of 5 September 2008 on Certificates of Acceptance in Favour of Foreigners²⁸⁸
- Grand-Ducal Regulation of 5 September 2008 relating to the Exercise of a Salaried Activity by a Student²⁸⁹
- 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 Workers²⁹⁰
- 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 Worker²⁹¹
- Coordinated Text of the Grand-Ducal Regulation of 5 September 2008 defining the Criteria of Resources and Accommodation²⁹²
- Coordinated Text of the Grand-Ducal Regulation of 5 September 2008 on executing several Provisions regarding Administrative Formalities²⁹³
- Coordinated Text of the Grand-Ducal Regulation of 26 January 2005 setting the Terms for obtaining a Travel Permit for Foreigners²⁹⁴

B) Asylum

- Coordinated Text of the Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection²⁹⁵
- Grand-Ducal Regulation of 8 June 2012 setting the Terms and Conditions for granting Social Aid to International Protection Applicants²⁹⁶
- Coordinated Text of the Grand-Ducal Regulation of 21 December 2007 setting a List of Safe Countries of Origin²⁹⁷
- Grand-Ducal Regulation of 21 July 2006 determining the Conditions under which International Protection Applicants have Access to the Training²⁹⁸

C) Integration

- Law of 16 December 2008 on the Reception and Integration of Foreigners²⁹⁹
- 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 Referendum³⁰⁰
- Law of 23 October 2008 on Luxembourg Nationality and its Grand Ducal Regulations³⁰¹
- Law of 28 November 2006 on Equality of Treatment³⁰²
- 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 Contract³⁰³
- Grand-Ducal Regulation of 15 November 2011 on the Organisation and the Operation of the Communal Consultative Commissions on Integration³⁰⁴
- 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 Nationalities³⁰⁵
- Grand Ducal Regulation of 16 June 2009 determining the Operation of Reception Courses and Classes for Children newly arrived in the Country³⁰⁶

D) Implementation of EU legislation in 2014

Directive	Deadline for transposition	Law
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	6 April 2013	Law of 9 April 2014 reinforcing the Rights of Victims of Trafficking in Human Beings

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 3.0 is available on the following website:

http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf

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>

⁶ LU EMN NCP, Policy Report on migration and asylum, 2008-2013 are available on the following website:

<https://www.emnluxembourg.lu/PUBLICATIONS/policy-reports>

⁷ Information provided by STATEC. Please see:

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

⁸ Information provided by STATEC. Please see:

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=473&IF_Language=fra&MainTheme=2&FldrName=2&RFPPath=98 ;

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=451&IF_Language=fra&MainTheme=2&FldrName=2&RFPPath=101

⁹ Information provided by the General Inspection of Social Security.

¹⁰ Gouvernement.lu, Press release, « Résultats des élections européennes 2014 au Luxembourg », 26.05.2014,

<https://www.gouvernement.lu/3745965/25-elections-europennes>

¹¹ OLAI, Press Conference, « Campagne d'information et de sensibilisation concernant l'inscription des non-Luxembourgeois sur les listes électorales dans le cadre des élections européennes de 2014 », 21.01.2014,

<http://www.olai.public.lu/fr/actualites/2014/01/dp-campagne/index.html>

¹² Chamber of Deputies, Please see:

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=6030>

¹³ Please see: <http://www.referendum.lu/fr/>

¹⁴ For further details please see LU EMN NCP, Policy Report on Migration and Asylum 2013, p.10-11,

<https://www.emnluxembourg.lu/PUBLICATIONS/policy-reports>

¹⁵ Gouvernement.lu, Government Programme, p.6,

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

¹⁶ Gouvernement.lu, « Accord du gouvernement avec les communautés religieuses établies au Luxembourg », 20.01.2015, <https://www.gouvernement.lu/4369493/20-cdp-accord>

¹⁷ Luxembourg.lu, « La pétition publique arrive sur la Toile », 24.03.2014,

<http://www.luxembourg.public.lu/fr/actualites/2014/03/24-petition/index.html>

¹⁸ Chamber of Deputies, « Rapport d'activité de la session parlementaire 2013-2014 », p.5,

http://www.chd.lu/wps/wcm/connect/7ceb9ecc-e43f-4fad-a812-803376fc3129/Rapport_2013-2014.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=7ceb9ecc-e43f-4fad-a812-803376fc3129

¹⁹ Tageblatt, „In Zukunft gelten alle Unterschriften“, 12.11.2014, p.4 and Le Jeudi, « Vers un seul type de pétition », 13.11.2014, p.4.

²⁰ Three of them were held on 25th May 2014: Tintange and Boevange-Attert ; Wiltz and Eschweiler ; Septfontaines and Koerich.

²¹ Luxemburger Wort, „Attraktiv sein- und es auch bleiben. Aus der Bürgerversammlung in Fels“, 10.10.2014, pp.30-31.

²² For more information, please see : Budget.public.lu, « Zukunftspak »,

<http://www.budget.public.lu/#!/zukunftspak> ; Guichet.lu, « Orientations politiques du budget pour 2015 : impact pour les citoyens », 14.10.2014,

<http://www.guichet.public.lu/citoyens/fr/actualites/2014/10/14-budget-2015/index.html>

²³ Bill N°6722 on the implementation of the Package on the Future (first part),

http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/189/337/138386.pdf

²⁴ Law of 19 December 2014 on the implementation of the Package on the Future (first part), Memorial A N°257 of 24 December 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0257/a257.pdf#page=2>

²⁵ The Economic and Social Council of the Grand Duchy of Luxembourg is the national advisory body of the Government for economic and social policies. For more information, please see:

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

²⁶ CES, « *La politique d'intégration au Luxembourg* », 06.06.2014,

<http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>

²⁷ Ibidem.

²⁸ OLAI, « *Rapport quinquennal* », December 2014,

http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf

For further details please see section 3.2. Five year Report of the OLAI.

²⁹ Gouvernement.lu, Government Programme, p.130,

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

³⁰ SYVICOL, « *Plan Communal Intégration, Guide pratique à l'intention des responsables et acteurs locaux Première version* », 24.10.2014,

http://www.syvicol.lu/wp-content/uploads/Guide-pratique-PCI_premi%C3%A8re-version_2014.pdf

³¹ SYVICOL, « *PCI - Plan Communal Intégration, séances d'information et de sensibilisation* », 24.10.2014,

http://www.syvicol.lu/wp-content/uploads/PCI_Pr%C3%A9sentation-s%C3%A9ances-info_M.Porta-2014.pdf

³² Ministry of National Education, Childhood and Youth, Press release, « *Eng engagéiert Schoul : Claude Meisch présente les priorités de la rentrée 2014* », 11.09. 2014,

<http://www.men.public.lu/fr/actualites/communiques-conference-presse/2014/09/11-rentree/index.html>

³³ Rtl.lu, « *Affaire LTC*": Polémique en ce qui concerne l'expulsion de 34 personnes dont 18 enfants »,

28.11.2014, <http://5minutes.rtl.lu/fr/actualite/luxembourg/586994.html>; Tageblatt.lu, « *Ein traumatischer Überfall* », 27.11.2014, <http://www.tageblatt.lu/nachrichten/luxemburg/story/22008725> ; L'essentiel.lu, « *Statt*

Linderung durch OP: Junge wird abgeschoben », 08.12.2014,

<http://www.lesessentiel.lu/de/news/luxemburg/story/Statt-Linderung-durch-OP-Junge-wird-abgeschoben-24124313>

³⁴ Rtl.lu, « *Politique étrangère luxembourgeoise: 6 combattants de l'EI orig. Luxembourg: 2 morts, 2 de*

retour », 26.11.2014, <http://5minutes.rtl.lu/fr/actualite/luxembourg/586590.html> and Wort.lu, « *Six djihadistes sont partis du Luxembourg vers la Syrie* », 27.11.2014,

<http://www.wort.lu/fr/politique/jean-asselborn-a-la-chambre-six-djihadistes-sont-partis-du-luxembourg-vers-la-syrie-5476e1a00c88b46a8ce418f8>

³⁵ Parliamentary Question N°542, 24.09.2014,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1265718&fn=1265718.pdf

³⁶ Gouvernement.lu, « *D'Krisen iwwerschloen sech. D'Welt steet op der Kopp* », 25.11.2014,

<http://www.gouvernement.lu/4214621/25-asselborn-declaration-chd>

³⁷ Bill N°6761, introduced to the Chamber of Deputies on 07.01.2015,

http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/195370/139649.pdf

³⁸ Ministry of Labour, Employment and Social Solidarity Economy, « *Présentation des orientations futures de la politique de l'emploi et du premier tableau de bord du marché de l'emploi* », 24.10.2014,

http://www.mte.public.lu/actualites/articles/2014/10/06_tableaubordRETEL/index.html

³⁹ For further information please see: <http://www.itm.lu/home.html>

⁴⁰ Information provided by the Inspectorate for Labour and Mines.

⁴¹ However, it should be noted that the second salary threshold (1.2 times the average gross salary in Luxembourg) is currently not applicable.

Ministerial Regulation of 5th March 2014 determining the annual gross average salary in respect of the amended Grand-Ducal Regulation of 26th September 2007 determining the minimum level of remuneration for a highly qualified worker in pursuance of de Law of 19th August 2008 on the free movement of persons and immigration, Memorial A N°34 of 17 March 2014,

<http://www.legilux.public.lu/leg/a/archives/2014/0034/a034.pdf>

⁴² Gouvernement.lu, Governmental Programme, p.203,

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

⁴³ Parliamentary Question N°409, 17.07.2014,

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/138/326/133275.pdf

⁴⁴ Answer to Parliamentary Question N°409, 04.08.2014,

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServingServletImpl/?path=/export/exped/sexpdata/Mag/132/376/133715.pdf

⁴⁵ Gouvernement.lu, Governmental Programme, p. 203,

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

⁴⁶ Information provided by the Directorate of Immigration.

- ⁴⁷ Information provided by the Directorate of Immigration.
- ⁴⁸ Ombudsman, Activity Report from 1st January 2014 to 31st December 2014, pp.28-29, http://www.ombudsman.lu/doc/doc_downloads_210.pdf
- ⁴⁹ Ibidem, p.29.
- ⁵⁰ Ombudsman, Activity Report from 1st January 2014 to 31st December 2014, p.27, http://www.ombudsman.lu/doc/doc_downloads_210.pdf
- ⁵¹ Ibidem, pp.28-29.
- ⁵² Administrative Court, 2nd Chamber, n°33717 of 3 July 2014.
- ⁵³ Administrative Court, 3rd Chamber, n°33369 of 22 October 2014.
- ⁵⁴ Law of 4 July 2014 on the Reform of Marriage, Memorial A N°125 of 17 July 2014, http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/140/345/133494.pdf
- ⁵⁵ Please also see 8.1.3. Irregular migration through misuse of family reunification.
- ⁵⁶ Law of 26 July 2010 on the financial aid that is provided by the State for higher education, Memorial A N°118 of 27 July 2010, <http://www.legilux.public.lu/leg/a/archives/2010/0118/a118.pdf#page=2>
- ⁵⁷ For further information please see LU EMN NCP, Policy Report on Migration and Asylum 2010-2013, <https://www.emnluxembourg.lu/PUBLICATIONS/policy-reports>
- ⁵⁸ 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=80081>
- ⁵⁹ Europaforum.lu, « Aide pour études supérieures : une loi dont la conformité avec le droit européen est contestée », 16.07.2014, <http://www.europaforum.public.lu/fr/dossiers-thematiques/2011/loi-etudes-sup/>
- ⁶⁰ Law of 24 July 2014 on the financial aid that is provided by the State for higher education, Memorial A N°139 of 31 July 2014, http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/133/367/133626.pdf
- ⁶¹ Bill N°6670 on the financial aid that is provided by the State for higher education, http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/106/328/130257.pdf
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- ⁶³ LCGB, Press release, « Réforme de la loi sur les aides financières pour études supérieures: Signez la pétition publique du LCGB sur le site de la Chambre des députés ! », 14.04.2014, <http://frontaliersfrancais.lu/2014/05/09/reforme-de-la-loi-sur-les-aides-financieres-pour-etudes-superieures-signez-la-petition-publique-du-lcgb-sur-le-site-de-la-chambre-des-deputes/>
- ⁶⁴ Public Petition N°329 « Garantir l'indépendance des étudiants face à des réformes du système d'aide financière », 12.03.2014, http://www.chd.lu/wps/portal/public/!ut/p/b1/jctLDoIwFIXhtbiC3l5pyR0WbWklYiuYSCeGgTEkPCbG9YsLMHJmJ_k_lIjLBdKOUFCk3Viaunf_7F79PHXD9yd5R3JOV6ZBOKcAnYXGwzFCEfgStEvAvdDOAzqwUoIP7qBkmW3Lgq_zSFRcN0yS1lZ8LDntYk5gsdIHn5Mwz9fuXl8sDEN1pLefABhLHup/dl4/d5/L2dBISEvZ0FBIS9nQSEh/pw/Z7_28HHANET28OQ00A4PTI0JQ0G51/ren/p=petition_id=17/p=ePetition=PetitionDetail/-/#
- ⁶⁵ Wox, « Studienbeihilfen. Ohne Druck kein Erfolg », 20.06.2014, p.4.
- ⁶⁶ PublicPetition N°367 « Et spuert een net un der Bildung ! Petitioun géint de Projet de loi 6670 », 09.05.2014, http://www.chd.lu/wps/portal/public/!ut/p/b1/jcvLDoIwEIXhR5rpSG_LQWxpCEYoEGFjWBhjwmVjfh7xAYyC3Un-DwbohTRaq8RYC1cYlvH9fIyv57qM0_cP6kbous6R59QrieyjKvQloGe9Bf0WiCA5D0g5OqUwXPLMqiI5FF7s82RMrD2XJ2vbFAMeRTxVKWGgfr5_jPGfj_cFzv636HfUn2TjWq5YC18rQnZaCqZKuGjhAb6DOZhcs5k1QdLsQ9l/dl4/d5/L2dBISEvZ0FBIS9nQSEh/pw/Z7_5T6UAKA71GR720A872MA2Q1GS5/ren/p=petition_id=105/p=ePetition=PetitionDetail/-/
- ⁶⁷ « Et spuert een net un der Bildung: Petitioun betreffend den Projet de Loi 6670 », 30.03.2014, [https://secure.avaz.org/en/petition/%20Ministre Claude Meisch Ministere de leducation superieure modify the bill 6670/%20nDgiCab](https://secure.avaz.org/en/petition/%20Ministre%20Claude%20Meisch%20Ministere%20de%20leducation%20superieure%20modify%20the%20bill%206670/%20nDgiCab)
- ⁶⁸ The strike committee includes the following organisations : UNEL, LUS, Collectif Richtung22. They are supported by JCL, Jonk Lénk, Jonk Piraten, JSL and the trade unions LCGB and OGBL.
- ⁶⁹ Lëtzeburger Land, Editorial by Josée Hansen, « 6670 », 18.04.2014, <http://www.land.lu/2014/04/18/6670/>
- ⁷⁰ Opinion of the Chamber of Employees, 24.04.2014, <http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6670#>

- ⁷¹ Opinion of the Chamber of Trades, 24.04.2014,
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- ⁷² Opinion of the Chamber of Employees, 24.04.2014,
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- ⁷³ Gouvernement.lu, Press release, « *Projet de loi sur les aides financières pour études supérieures: des adaptations proposées par le gouvernement* », 15.05.2014,
<https://www.gouvernement.lu/3721009/14-projet-aides-financieres?context=3316799>
- ⁷⁴ Opinion of the Chamber for Civil Servants and Public Employees, 04.06.2014,
<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6670#>
- ⁷⁵ Complementary Opinion of the Chamber of Commerce, 16.06.2014,
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- ⁷⁶ Complementary Opinion of the Chamber of Employees, 19.06.2014,
<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6670#>
- ⁷⁷ Parliamentary Committee on Higher Education, Research, Media, Communications and Space, 03.07.2014,
<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6670#>
- ⁷⁸ Ombudsman, Activity Report from 1st January 2014 to 31st December 2014, pp.49-53,
http://www.ombudsman.lu/doc/doc_downloads_210.pdf
- ⁷⁹ Law of 27 August 2014 amending Law on the Creation of a National Research Fund, Memorial A N°170 of 29 August 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0170/a170.pdf#page=2>
- ⁸⁰ Three categories of beneficiaries now have access to a funding by the FNR, namely :
1. public institutions for which research constitutes a legal mission; among which figure five main beneficiaries: the University of Luxembourg, the three public research centres as well as the CEPS;
 2. bodies, services and public institutions conducting research in the fields that are relevant to them;
 3. non-profit organisations and foundations which are regulated by the amended law of 21 April 1928 on non-profit organisations and foundations which conduct research in the fields that are relevant to them.
- The non-profit organisations and foundations have to have an eligibility agreement on behalf of the Ministry in charge of research in the public sector.
- ⁸¹ Conseil Arbitral de la Sécurité Sociale, Reg N°OS14/12, 19.04.2013.
- ⁸² Conseil Supérieur de la Sécurité Sociale, Reg N°SECO2013/0109, N°2014/0002, 23.01. 2014.
- ⁸³ Cour de Cassation, N°68/14, 06.11.2014,
http://www.justice.public.lu/fr/jurisprudence/cour-cassation/social/2014/11/3381/SOC20141106_3381a-68.pdf
- ⁸⁴ Ombudsman, Activity Report from 1st January 2014 to 31st December 2014, pp.59-60,
http://www.ombudsman.lu/doc/doc_downloads_210.pdf
- ⁸⁵ Ombudsman, Activity Report from 1st January 2014 to 31st December 2014, p.71,
http://www.ombudsman.lu/doc/doc_downloads_210.pdf
- ⁸⁶ Ibidem, p.71.
- ⁸⁷ Information provided by the Passport Office.
- ⁸⁸ LU response to the Ad-Hoc Query on Facilitation of irregular immigration (migrants smuggling) to the EU: national institutional frameworks, policies and other knowledge-based evidence.
- ⁸⁹ Gouvernement.lu, Press release, « *Jean Asselborn au Conseil « Justice et Affaires intérieures » à Luxembourg* », 10.10.2014, <https://www.gouvernement.lu/4079417/10-asselborn-guterres?context=519177>
- ⁹⁰ LU response to AHQ on forecasting and contingency planning arrangements for international protection applicants.
- ⁹¹ CES, “*La politique d’intégration au Luxembourg*”, 06.06.2014,
<http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>
- ⁹² CES, « *La politique d’intégration au Luxembourg* », 06.06.2014, pp. 2-4
<http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>
- ⁹³ OLAI, « *Rapport quinquennal* », December 2014,
http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf
- ⁹⁴ Art. 7: « *Tous les cinq ans, le ministre adresse un rapport national sur l’accueil et l’intégration des étrangers, la lutte contre les discriminations, l’aide sociale en faveur des étrangers, ainsi que le suivi des migrations au Grand-Duché de Luxembourg à la Chambre des députés* », Law of 16 December 2008 on the reception and integration of foreigner in the Grand-Duchy of Luxembourg, Memorial A N°209 of 24 December 2008,
<http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf>
- ⁹⁵ OLAI, « *Rapport quinquennal* », December 2014,
http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf
- ⁹⁶ Ministry of Family, Integration and the Greater Region, Press release, 15.07.2014,
<http://www.gouvernement.lu/3853045/15-olai>
- ⁹⁷ Chamber of Deputies, « *Vers une nouvelle stratégie pour l’OLAI* », 24.11.2014,

http://chd.lu/wps/wcm/connect/contents.public.chd.lu/st-www.chd.lu/sa-actualites/sa-evenements/suivi_audit_olai_24112014 ; Information provided by the OLAI.

⁹⁸ Ministry of National Education, Childhood and Youth, « *Accueillir et intégrer* », November 2014 and Ministry of National Education, Childhood and Youth, « *Vade-mecum à l'intention du personnel enseignant, du personnel socio-éducatif et des communes. Vous accueillez en classe un enfant nouvellement installé au pays que faire?* », 2013.

⁹⁹ Ministry of National Education, Childhood and Youth, Service de la scolarisation des enfants étrangers, « *L'orientation des élèves récemment arrivés au pays* », November 2014, <http://www.men.public.lu/fr/publications/systeme-educatif/scolarisation-eleves-etranangers/brochures-enseignants/orientation-ena/index.html>

¹⁰⁰ Ministry of National Education, Childhood and Youth, “*Accueil de la petite enfance*”, <http://www.men.public.lu/fr/grands-dossiers/enfance-jeunesse/petite-enfance/index.html>

¹⁰¹ Luxemburger Wort, « *Le ministre veut des crèches bilingues* », 08.07.2014, <http://www.wort.lu/fr/luxembourg/pour-mieux-preparer-les-enfants-a-l-ecole-le-ministre-veut-des-creches-bilingues-53bc1247b9b3988708044115>

¹⁰² Ministry of National Education, Childhood and Youth, Press release, « *Rencontre du ministre Claude Meisch avec la presse : les chantiers prioritaires* », 08.07.2014, <http://www.men.public.lu/fr/actualites/communiqués-conference-presse/2014/07/08-petit-dejeuner-presse/index.html>

¹⁰³ Le Quotidien, « *Dossier rentrée scolaire. Les langues sur toutes les langues* », 16.09.2014, p.2.

¹⁰⁴ Guichet.lu, « *Mesures budgétaires dans les domaines de l'enfance et de la famille* », <http://www.guichet.public.lu/citoyens/fr/actualites/2014/10/20-mesures-budget-famille/index.html>

¹⁰⁵ Ministry of National Education, Childhood and Youth, “*Accueil de la petite enfance*”, <http://www.men.public.lu/fr/grands-dossiers/enfance-jeunesse/petite-enfance/index.html>

¹⁰⁶ Rtl.lu, « *OGBL: Accueil bilingue difficile à réaliser dans les crèches* », 27.10.2014, <http://5minutes.rtl.lu/fr/actualite/luxembourg/578263.html>

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¹⁰⁸ Luxembourg.lu, « *Une école internationale à Differdange* », 12.11.2014, <http://www.luxembourg.public.lu/fr/actualites/2014/11/12-europeenne/index.html>

¹⁰⁹ OGBL, Press release, « *Accueil bilingue avec moins de personnel qualifié* », 27.10.2014, <http://www.ogbl.lu/blog/accueil-bilingue-avec-moins-de-personnel-qualifie/>

¹¹⁰ Law of 27 August 2014 amending the Law of 12 May 2009 establishing the Ecole de la 2e chance, Memorial A N°176 of 11 September 2014, http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/14/3/347/134426.pdf

¹¹¹ Ministry of National Education, Childhood and Youth, “*Rapport d'activité 2014*”, March 2015, p.7, <http://www.men.public.lu/catalogue-publications/systeme-educatif/rapport-activites-ministere/2014/fr.pdf>

¹¹² CES, « *La politique d'intégration au Luxembourg* », 06.06.2014, p.3, <http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>

¹¹³ Ministry of National Education, Childhood and Youth, “*Rapport d'activité 2014*”, March 2015, p.79, <http://www.men.public.lu/catalogue-publications/systeme-educatif/rapport-activites-ministere/2014/fr.pdf>

¹¹⁴ Gouvernement.lu, Press Release, « *Résumé des travaux du 23 décembre 2014* », 23.12.2014, <http://www.gouvernement.lu/4303211>

¹¹⁵ Information provided by the Ministry of Labour, Employment and Social and Solidarity Economy, 16.01.2015.

¹¹⁶ Law of 17 February 2009 on: 1.introduction of language leave; 2.amendment of the Labour Code; 3.amendment of the Law of 19 August 2008 on grants for research training. <http://www.legilux.public.lu/leg/a/archives/2009/0033/a033.pdf>

¹¹⁷ Information provided by the Ministry of Labour, Employment and Social and Solidarity Economy, 16.01.2015.

¹¹⁸ Law of 19 December 2014 concerning the implementation of the “Future package”, Memorial A N°257 of 24 December 2014, http://www.impotsdirects.public.lu/legislation/legi14/Memorial-A---N_-257-du-24-decembre-2014.pdf

¹¹⁹ OLAI, « *Contrat d'accueil et d'intégration* », <http://www.olai.public.lu/fr/accueil-integration/mesures/contrat-accueil/index.html>

¹²⁰ There are only statistics available for this time period because the Ministry of National Education, Childhood and Youth introduced a new management system for the reduced price courses.

¹²¹ OLAI, Activity Report 2014, p.169, http://www.olai.public.lu/fr/publications/rapports/rapports_activite_olai/rapport-activite-olai-14.pdf

- ¹²² CES, « *La politique d'intégration au Luxembourg* », 06.06.2014, p.3, <http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>
- ¹²³ An evaluation of the needs of third-country national signatories has been undertaken in 2014 by the University of Luxembourg. First results are foreseen for 2015.
- ¹²⁴ OLAI, « *Rapport quinquennal* », December 2014, p.44, http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf
- ¹²⁵ Law of 20 December 2013 amending the amended Electoral Law of 18 February 2003, Memorial A N°223 of 24 December 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0223/a223.pdf>
- ¹²⁶ Luxemburger Wort, „*Europawahlen 2014, Wahlrecht als Integrationsfaktor*“, 22.01.2014, p.4.
- ¹²⁷ OLAI, Press Conference, « *Campagne d'information et de sensibilisation concernant l'inscription des non-Luxembourgeois sur les listes électorales dans le cadre des élections européennes de 2014* », 21.01.2014, <http://www.olai.public.lu/fr/actualites/2014/01/dp-campagne/index.html>
- ¹²⁸ Ministry of Family, Integration and the Greater Region, « *Conférence de Presse de Corinne Cahen au sujet de l'inscription des non-Luxembourgeois sur les listes électorales* », 29.04.2014, http://www.mfi.public.lu/actualites/2014/04/29_jepeuxvoter/index.html
- For further information, please see : Gouvernement.lu, Press release, « *CEFIS - Bilan des inscriptions des non-Luxembourgeois sur les listes électorales pour les élections européennes du 25 mai 2014* », 29.04.2014, <https://www.gouvernement.lu/3681090/Dossier-de-presse.pdf>
- ¹²⁹ Law of 10 March 2014 amending the amended Law of 21 March 1966 on the establishment of an Economic and Social Council, Memorial A N°37 of 18 March 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0037/a037.pdf#page=2>
- ¹³⁰ Information provided by the OLAI.
- ¹³¹ CES, « *La politique d'intégration au Luxembourg* », 06.06.2014, p.26, <http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>
- ¹³² Gouvernement.lu, Government Programme, p.6, <https://www.gouvernement.lu/3322796/Programme-gouvernemental.pdf>
- ¹³³ Tageblatt, „*Ausländerwahlrecht. Referendum ja oder nein?*“, 19.04.2014, p.10.
- ¹³⁴ Luxemburger Wort, „*Ausländerwahlrecht: Wählen ohne Pass*“, 04.03.2014.
- ¹³⁵ CSV, „*Participation politique et nationalité*“, <https://csv.lu/2014/07/participation-politique-et-nationalite/>; Tageblatt, „*Politische Rentrée in der CSV, Die Zeit der Ausreden ist vorbei*“, 12.09.2014, p.10.
- ¹³⁶ CSV, « *Participation politique et nationalité* », <https://csv.lu/2014/07/participation-politique-et-nationalite/>;
- Lëtzebuerger Land, « *Claude Wiseler, Participation politique des étrangers* », 19.09.2014, p.13.
- ¹³⁷ ADR.lu, „*Nee zum Ausländerwahlrecht!*“, 25.11.2014, <http://adr.lu/nee-zum-auslannerwahlrecht/>
- ¹³⁸ Le Quotidien, « *Interview du mardi. Dans un référendum, on donne tous les pouvoirs aux populistes* », 10.06.2014, pp.2-3.
- ¹³⁹ CES, „*La politique d'intégration au Luxembourg*“, 06.06.2014, p.3, <http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>
- ¹⁴⁰ OGBL, Press release, « *Pour ou contre un référendum sur le droit de vote des étrangers: l'OGBL n'a pas encore de position officielle* », 24.06.2014, <http://www.ogbl.lu/blog/referendum-sur-louverture-du-droit-de-vote-aux-residents-etranagers-logbl-na-pas-encore-de-position-officielle/>
- ¹⁴¹ Woxx, „*Ausländerwahlrecht. Stellung beziehen!*“, 11.07.2014, p.2.
- ¹⁴² Tageblatt, „*Ausländerwahlrecht. Eiertanz der CGFP*“, 08.07.2014 p.10.
- ¹⁴³ Public Petition N°346 - *Pétition pour le droit de vote des étrangers au Luxembourg*.
- ¹⁴⁴ Public Petition N°342 - *Pétition contre l'ouverture du droit de vote aux non-Luxembourgeois*.
- ¹⁴⁵ Gouvernement.lu, Press release, « *Résumé des travaux du 25 avril 2014* », 25.04.2014, <http://www.gouvernement.lu/3673077/25-conseil>
- ¹⁴⁶ Bill N°6738 on the organisation of a national referendum on different questions in relation to the drafting of a new Constitution, 4 November 2014, http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/176/320/137159.pdf
- ¹⁴⁷ Tageblatt, „*Wir sind Schweiz*“, 24.10.2014, p.8.
- ¹⁴⁸ CET, Annual Report 2014, p.41, <http://cet.lu/wp-content/uploads/2015/03/CET-rapport-annuel-2014.pdf>
- ¹⁴⁹ Ibidem, p.35.
- ¹⁵⁰ Ibidem, p.38.
- ¹⁵¹ Ibidem, p.44.
- ¹⁵² Ibidem, pp.44-45.
- ¹⁵³ OLAI, « *Rapport quinquennal* », December 2014, p.83, http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf

- ¹⁵⁴ For more information, please see : <http://www.chartediversite.lu/en>
- ¹⁵⁵ Gouvernement.lu, « *Corinne Cahen à la séance officielle de signature de la « Charte de la diversité Lëtzebuerg* » », 28.05.2014, <http://www.gouvernement.lu/3751596/27-cahen-charte-diversite>
- ¹⁵⁶ Information provided by the OLAI.
- ¹⁵⁷ For further information please see:
<http://cet.lu/wp-content/uploads/2015/01/Promotion-de-la-Diversit%C3%A9-au-Luxembourg-Progress-DP.pdf>
- ¹⁵⁸ Woxx, « *La bête brune se réveille* », 31.01.2014, p.3 ; Luxemburger Wort, „Politik in den sozialen Netzwerken“, 31.01.2014, p.4.
- ¹⁵⁹ Jonk Sozialisten, „STOPP! Gebt Rassismus keine Chance!“, 30.01.2014,
<http://www.jsl.lu/category/archiven/page/2/>
- ¹⁶⁰ Tageblatt, „*Alltagsrassismus (1)*“, 19.02.2014, p.14 ; Tageblatt, „*Alltagsrassismus (2)*“, 20.02.2014, p.16.
- ¹⁶¹ Le Quotidien, « *La langue de la crispation* », 31.01.2014, p.3.
- ¹⁶² Lëtzebuerger Journal, „*Flüchtlinge. Dreckige Kommentare*“, 17.02.2014, p.2.
- ¹⁶³ Tageblatt, „*Aufkleber-Kampagne des Nationalen Resistenzmuseums*“, 13.02.2014, p.18.
- ¹⁶⁴ SYVICOL, « *Plan Communal Intégration, Guide pratique à l'intention des responsables et acteurs locaux Première version* », 24.10.2014,
http://www.syvicol.lu/wp-content/uploads/Guide-pratique-PCI_premi%C3%A8re-version_2014.pdf
- ¹⁶⁵ SYVICOL, « *PCI - Plan Communal Intégration, séances d'information et de sensibilisation* », 24.10.2014,
http://www.syvicol.lu/wp-content/uploads/PCI_Pr%C3%A9sentation-s%C3%A9ances-info_M.Porta-2014.pdf
- ¹⁶⁶ OLAI, Press Release, « *Plan communal intégration : deuxième phase* », 19.11.2014,
<http://www.olai.public.lu/fr/actualites/2014/11/plan-communes/index.html>
- ¹⁶⁷ OLAI, « *Aides apportées par l'OLAI aux communes* »,
<http://www.olai.public.lu/fr/reactions-nationales/communes/aides-aux-communes/index.html>
- ¹⁶⁸ Re-acquisitions are based on Article 29 of the Law of 23 October 2008 on the Luxembourgish Nationality, Memorial A N°158 of 27 October 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0158/a158.pdf>
- ¹⁶⁹ Information provided by STATEC.
- ¹⁷⁰ The children were born and/or have completed their entire compulsory education in Luxembourg, or the spouse of a Luxembourgish citizen had the possibility to request the acquisition of Luxembourgish nationality by option until December 2008, which was a simpler and more accelerated procedure than naturalisation.
- ¹⁷¹ CES, « *La politique d'intégration au Luxembourg* », 06.06.2014, p.35,
<http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>
- ¹⁷² Information provided by STATEC.
- ¹⁷³ It should be noted that the Syrian nationals who were granted refugee status in the framework of the resettlement programme are not recorded in the number of applications and decisions provided above.
- ¹⁷⁴ Directorate of Immigration, Press Conference, “Figures for the year 2014”, 30.01.2015, p.14,
<https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>
- ¹⁷⁵ Bill N°6775 concerning the reception of applicants for international protection in Luxembourg,
http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/115/475/141744.pdf
- ¹⁷⁶ Bill N°6679 concerning 1. International protection and temporary protection; 2. Amending the Law of 10 August 1991 on the profession of lawyer, the Law of 29 August 2008 on the Free Movement of Persons and Immigration, the Law of 28 May 2009 concerning the Retention Centre; 3. Repealing the amended Law of 5 May 2006 concerning Asylum and Complementary Forms of Protection,
http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/115/471/141740.pdf
- ¹⁷⁷ Le Quotidien, « *Pour un asile plus humain* », 26.02.2014, p.5.
- ¹⁷⁸ Europaforum.lu, « *Midis de l'Europe – La vice-présidente de l'Association Européenne pour la défense des Droits de l'Homme, Catherine Teule, appelle à limiter les effets négatifs du Paquet Asile* », 24.02.2014,
<http://www.europaforum.public.lu/fr/actualites/2014/02/midi-asile-teule/index.html?highlight=teule>
- ¹⁷⁹ Europaforum.lu, « *Transposition des directives du paquet Asile - Le Lëtzeburger Flüchtlingsrot plaide pour de meilleures conditions matérielles d'accueil des demandeurs d'asile, un accès plus facile à l'emploi et des alternatives à la rétention* », 20.06.2014,
<http://www.europaforum.public.lu/fr/actualites/2014/06/paquet-asile-lfr-avis/index.html>
- ¹⁸⁰ LU EMN NCP, “Policies, practices and data on unaccompanied minors in 2014”, 04.12.2014, p.16,
<https://www.emnluxembourg.lu/type-documentation/policies-practices-and-data-unaccompanied-minors-2014>
- ¹⁸¹ Opinion of the CCDH on the Bill N°6507, 09.04.2013, p.3,
http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/118/231/121370.pdf
- ¹⁸² Please see: Administrative Court, Judgment n° 30869C of 25 July 2012.

« La Cour, à l'instar du tribunal, partage les doutes sérieux émis à l'encontre des conclusions du docteur ..., médecin spécialiste en radiologie au CHL, en relation avec l'âge exact de Monsieur ... et notamment la conclusion que celui-ci serait âgé de plus de 18 ans. En effet, si le médecin spécialiste arrive à la conclusion que l'âge osseux de l'intimé déterminé par la méthode de GREULICH et PYLE est supérieur à 18 ans, il convient cependant de signaler que le rapport médical du 6 avril 2012 n'exprime aucune certitude à ce sujet, mais uniquement une « estimation la plus probable ». Dans ce contexte, la Cour rejoint les développements des premiers juges concernant le manque de fiabilité de la méthode appliquée afin de déterminer l'âge réel de Monsieur ... et notamment le « risque d'erreur majeur à l'égard d'enfants non caucasiens, originaires d'Afrique, ou d'Asie, dont le développement osseux peut être tout à fait hétérogène par rapport aux références anglo-saxonnes suscitées et qui peut être profondément affecté par des carences ou des pathologies inconnues dans les populations de référence remontant à plus d'un demi-siècle ». S'y ajoute que d'après un rapport établi en France par l'Académie Nationale de Médecine, invoqué tant par la partie étatique que par l'intimé, la lecture de l'âge osseux par la méthode de GREULICH et PYLE permet uniquement d'apprécier avec une bonne approximation l'âge de développement d'un adolescent en dessous de 16 ans, mais que cette méthode ne permet pas de distinction nette pour des personnes âgées entre 16 et 18 ans, période d'âge précisément litigieuse dans le cas d'espèce. Finalement, le docteur ... précise lui-même en fin de rapport que « la méthode de GREULICH et PYLE a été développée pour suivre dans le temps la maturation squelettique dans les pathologies interférant avec la croissance staturo-pondérale mais pas pour la détermination de l'âge chronologique ». ... « Il s'ensuit que c'est à tort que la partie étatique estime qu'il existerait un faisceau d'indices bien plus concluant en faveur de la majorité de l'intimé qu'en faveur de sa minorité, l'incertitude à ce sujet devant être interprétée en faveur du concerné afin de pouvoir profiter des dispositions protectrices accrues applicables aux mineurs, dont notamment l'article 6, paragraphe (3), de la loi du 28 mai 2009 ».

¹⁸³ Information provided by the Directorate of Immigration.

¹⁸⁴ Directorate of Immigration, Press Conference, "Figures for the year 2014", 30.01.2015, p.3, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

¹⁸⁵ Information provided by the Directorate of Immigration.

¹⁸⁶ Directorate of Immigration, Press Conference, "Figures for the year 2014", 30.01.2015, p.3, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

¹⁸⁷ Information provided by the Directorate of Immigration.

¹⁸⁸ OLAI, « Rapport quinquennal », December 2014, p.96, http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf

¹⁸⁹ Ibidem, p.116,

http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf

¹⁹⁰ First Instance Administrative Court, 1st Chamber, n° 34417 of 6 June 2014, 2nd Chamber, n° 34524 of 7 July 2014 and n° 35220 of 24 November 2014.

« c'est ...à tort que le ministre a basé la décision de statuer sur la demande de protection internationale des demandeurs dans le cadre d'une procédure accélérée ..., en ce que les faits présentés à l'appui de leur demande sont d'une pertinence en ce qui concerne l'octroi de la protection subsidiaire ».

¹⁹¹ First Instance Administrative Court, 2nd Chamber, n° 35220 of 24 November 2014.

Il y a « une ingérence injustifiée ou disproportionnée au sens de l'article 8 CEDH, et ce d'autant plus que le ministre aurait pu afin de se conformer à l'article 8 CEDH, faire usage de la clause discrétionnaire inscrite de l'article 17, paragraphe 12 (CE) du règlement n° 604/2013 du Conseil du 26 juin 2013 précité, selon lequel chaque Etat membre peut examiner une demande d'asile qui lui est présentée, même si cet examen ne lui incombe pas en vertu des critères fixés par ce règlement... ».

¹⁹² First Instance Administrative Court, Vacation Chamber, n° 34996 of 20 August 2014.

Le demandeur « a établi l'existence ... de motifs sérieux et avérés permettant de conclure à un risque réel de subir des atteintes graves ...en cas de retour dans son pays d'origine, pour y être exposé à la peine de mort, étant donné que le demandeur a versé à l'appui de son recours une sentence d'exécution prononcée par le Conseil des savants ».

¹⁹³ Administrative Court, n° 34827C of 4 July 2014.

¹⁹⁴ First Instance Administrative Court, 3rd Chamber, 13 August 2014, 1st Chamber, n° 34256 and n° 34226 of 17 September 2014.

En effet « en ce qui concerne l'application concrète de la législation relative au service militaire, force est de constater que la Cour européenne des droits de l'Homme a, dans un arrêt récent du 3 juin 2014 dans une affaire ... et autres contre la Turquie, rappelé que les poursuites et les peines d'emprisonnement que subissent les objecteurs de conscience en Turquie sont à qualifier de situations incompatibles avec l'article 3 de la CEDH interdisant les traitements et sanctions inhumains et dégradants ... et qu'il n'est pas établi, qu'à l'heure actuelle, les autorités turques aient changé la législation relative au service militaire respectivement son application

concrète pour se conformer aux arrêts ... de la Cour européenne des droits de l'Homme, force est de retenir que le demandeur court un risque non négligeable de devoir également subir un traitement similaire . »

¹⁹⁵ First Instance Administrative Court, 1st Chamber, n° 32897 of 28 April 2014, 3rd Chamber, n° 32895 of 14 May 2014, 2nd Chamber, n° 33303 of 22 May 2014, 2nd Chamber, n° 33621 of 26 May 2014, 3rd Chamber, n° 33341 of 15 July 2014.

¹⁹⁶ First Instance Administrative Court, 1st Chamber, n° 33765 of 29 September 2014.

« Dans la mesure où la liberté d'expression constitue un droit fondamental et qu'il n'est pas contesté que les chanteurs et/ou les personnes diffusant de la musique occidentale considérée comme contraire à la morale publique et aux valeurs islamiques risquent d'être condamnés à l'une, voire à deux des peines énumérées à l'article 640 du Code pénal iranien et notamment à de nombreux coups de fouet, sanction physique particulièrement cruelle et infamante, le tribunal est amené à conclure que le demandeur invoque à bon droit une crainte avec raison d'être persécuté en cas de retour dans son pays d'origine du fait de ses activités musicales exercées plus particulièrement depuis son départ d'Iran. En effet, les peines que le demandeur est susceptible d'encourir de ce chef doivent être considérées comme étant manifestement excessives pour le délit prétendument commis. »

¹⁹⁷ First Instance Administrative Court, 1st Chamber, n° 32107 of 12 March 2014, 3rd Chamber, n° 32069 of 26 March 2014.

¹⁹⁸ First Instance Administrative Court, 1st Chamber, n° 32107 of 12 March 2014.

¹⁹⁹ First Instance Administrative Court, 2nd Chamber, n° 33599 of 13 March 2014.

²⁰⁰ Administrative Court, Judgment n° 34344 of 10 July 2014.

²⁰¹ Gouvernement.lu, « Résumé des travaux du 13 septembre 2013 », 13.09.2013,

www.gouvernement.lu/2822874/13-conseil

²⁰² Answer to Parliamentary Question N° 123, 28.03.2014,

http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/196/23/2/129351.pdf

²⁰³ It should be noted that these persons are not recorded in the number of applications and decisions provided in 4.1. International protection procedures.

²⁰⁴ Gouvernement.lu, Press release, « Accueil des réfugiés syriens par Corinne Cahen », 17.04.2014,

<https://www.gouvernement.lu/3656941/17-refugies?context=519177>

²⁰⁵ Lëtzebueger Journal, „Ziel erfüllen. Luxemburger Flüchtlingsrat: Weiter Syrer aufnehmen“, 01.02.2014, p.10.

²⁰⁶ Déi Lenk, „Das Leben der syrischen Flüchtlinge retten!“, 17.02.2014,

<http://www.lenk.lu/de/das-leben-der-syrischen-fluechtlinge-retten/>

²⁰⁷ Le Quotidien, « Le Luxembourg assez accueillant ? », 18.06.2014, p.6.

²⁰⁸ Gouvernement.lu, Governmental Programme, p. 202,

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

²⁰⁹ Luxemburger Wort, „Caritas: Flüchtlinge aufnehmen“, 27.09.2014, p.8.

²¹⁰ Gouvernement.lu, Press Release, « Jean Asselborn au Conseil « Justice et Affaires intérieures » à Luxembourg », 10.10.2014, <https://www.gouvernement.lu/4079417/10-asselborn-guterres?context=519177>

²¹¹ Answer to Parliamentary Question N° 632,

http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1268538&fn=1268538.pdf

²¹² As well as unaccompanied minors and victims of trafficking in human beings, “vulnerable groups” include minors, disabled people, elderly people, pregnant women, single parents with minor children, persons with mental health problems and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, based on the definition of “vulnerable group” in the proposed recast of the Directive laying down minimum standards for the reception of asylum seekers (“Receptions Directive”).

²¹³ Total number of applications for international protection submitted by unaccompanied minors in Luxembourg : 2009 = 9 ; 2010 = 18 ; 2011 = 22 ; 2012 = 18 ; 2013 = 45. Information provided by the Directorate of Immigration.

²¹⁴ Please also see 4.3.1. Naming of an ad-hoc administrator for unaccompanied minors.

²¹⁵ For further information, please see LU EMN NCP, “Policies, practices and data on unaccompanied minors in 2014”, 04.12.2014, <https://www.emnluxembourg.lu/type-documentation/policies-practices-and-data-unaccompanied-minors-2014>

²¹⁶ ORK, “Report 2014”, November 2014, p.13,

http://ork.lu/files/Rapports_ORK/Rapport_ORK_2014_avecAnnexes.pdf

²¹⁷ Europaforum.lu, « Transposition des directives du paquet Asile - Le Lëtzeburger Flüchtlingsrot plaide pour de meilleures conditions matérielles d'accueil des demandeurs d'asile, un accès plus facile à l'emploi et des alternatives à la rétention », 20.06.2014,

<http://www.europaforum.public.lu/fr/actualites/2014/06/paquet-asile-lfr-avis/index.html>

- ²¹⁸ Information provided by the Directorate of Immigration.
- ²¹⁹ Information provided by the OLAI.
- ²²⁰ Information provided by the Ministry of Justice.
- ²²¹ Information provided by the Ministry of Justice. See also the answer to Parliamentary Question N°715, http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/182/364/138613.pdf
- ²²² Information provided by the Ministry of Justice.
- ²²³ Law of 9th April 2014 strengthening the rights of victims of trafficking in human beings, Memorial A N°63 of 14 April 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0063/a063.pdf>
- ²²⁴ Grand-Ducal Regulation of 11 September 2014, Memorial A N°168 of 7 October 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0186/a186.pdf>
- ²²⁵ For further information, please see: LU EMN NCP, “Policies, practices and data on unaccompanied minors in 2014”, 04.12.2014, p.23, <https://www.emnluxembourg.lu/type-documentation/policies-practices-and-data-unaccompanied-minors-2014>
- ²²⁶ Grand-Ducal Regulation of 10 March 2014 on the composition, organisation and functioning of the Monitoring Committee on the fight against trafficking in human beings, Memorial A N°37 of 18 March 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0037/a037.pdf>
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²⁶¹ Ibidem, p.18.

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²⁶⁷ Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection, Memorial A N°151 of 25 July 2011, <http://www.legilux.public.lu/leg/a/archives/2011/0151/a151.pdf#page=6>

²⁶⁸ Administrative Court, judgment n°35628C of 30 December 2014.

« Sous cet aspect, l’article 10 de la loi du 5 mai 2006 doit être considéré comme non conforme à l’article 28 du règlement UE 604/2013 dans la mesure où une personne placée en rétention sur base de l’article 10 de la loi du 5 mai 2006 en vue de son transfert vers un autre Etat membre compétent ne saurait, sur base des dispositions de droit luxembourgeois, se prévaloir de la possibilité de se voir imposer une mesure moins coercitive qu’une rétention, dont notamment une assignation à résidence, et où le ministre n’est pas obligé à se livrer à l’examen y relatif avant d’ordonner une mesure de rétention. »

²⁶⁹ Ibidem.

« Sur base de l’ensemble des pièces versées au dossier, la Cour constate que non seulement l’appelante peut valablement fournir, en vue de rendre une assignation à résidence possible, une adresse au Grand-Duché de Luxembourg, mais encore cette adresse est celle de sa sœur et de son beau-frère qui y ont leur domicile légal. »
... « Enfin, suivant une analyse individuelle du cas précis, la Cour, compte tenu des éléments de solidarité familiale et des engagements pris de part et d’autre par l’appelante et les consorts ..., estime encore que le risque non négligeable de fuite requis en la matière ne se trouve pas vérifié. »

²⁷⁰ Ibidem.

« Sur base de l'ensemble des éléments qui précèdent, la Cour vient dès lors à la conclusion que par réformation du jugement dont appel, il y a lieu de réformer la décision ministérielle critiquée du 4 décembre 2014 et de remplacer la mesure de la rétention par celle de l'assignation à résidence au domicile des époux ... à l'adresse L-.... ».

²⁷¹ Ibidem, p.10.

« Non seulement, une mesure moins coercitive est praticable à travers l'assignation à résidence rendue possible en raison de l'engagement pris par la sœur et le beau-frère de l'appelante ensemble le sien propre, mais encore un délai de plus d'un mois à partir de la délivrance du laissez-passer pour mettre en œuvre le transfert, compte tenu de la privation de liberté corrélative, ne répond pas aux exigences de proportionnalité inscrites à l'article 28, paragraphe 2, du règlement UE 604/2013. »

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