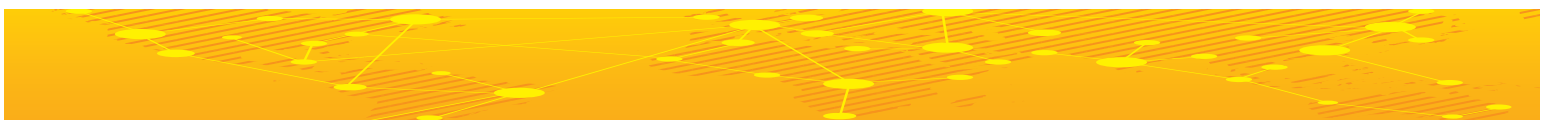




2010

Policy Report on migration and asylum

European Migration Network
National Contact Point Luxembourg



University of Luxembourg
National EMN Contact Point

P.O. Box 2

7201 Walferdange

LUXEMBOURG

www.emnluxembourg.lu

email: coordination@emnluxembourg.lu



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

TABLE OF CONTENT

FOREWORD	5
EXECUTIVE SUMMARY	6
1. INTRODUCTION	9
1.1. Methodology	9
1.2. Terminology and Definitions	10
1.3. List of used abbreviations:	11
2. GENERAL STRUCTURE OF POLITICAL AND LEGAL SYSTEM IN LUXEMBOURG	14
2.1. General structure of the political system and institutional context	14
2.2. The legislative framework surrounding immigration, asylum and integration	15
3. GENERAL DEVELOPMENTS RELEVANT TO ASYLUM AND MIGRATION	18
3.1. General political developments	18
3.2. The main political and legislative debates regarding immigration, asylum and integration	21
3.3. The institutional evolutions on the subject of immigration, asylum and integration in 2010	27
4. REGULAR IMMIGRATION AND INTEGRATION	30
4.1. Economic migration	30
4.1.1. Specific context before 2010	30
4.1.2. Developments within the national perspective	31
4.1.3. Developments from the EU perspective	43
4.2. Family reunification	48
4.2.1. Specific context before 2010	48
4.2.2. Developments within the national perspective	48
4.2.3. Developments from the EU perspective	49
4.3. Other legal migration	51
4.3.1. Specific context before 2010	51
4.3.2. Developments within a a national perspective.....	52
4.3.3. Developments from the EU perspective	52
4.4. Integration	54

4.4.1. Specific context before 2010	54
4.4.2. Developments within the national perspective	54
4.4.3. Developments from the EU perspective	66
4.5. Citizenship and naturalization.....	79
4.5.1. Specific context before 2010	79
4.5.2. Developments within the national perspective	79
4.5.3. Developments from the EU perspective	81
5. REGULAR IMMIGRATION AND RETURN	82
5.1. Irregular immigration	82
5.1.1. Specific context before 2010	82
5.1.2. Developments within the national perspective	82
5.1.3. Developments from the EU perspective	83
5.2. Return migration.....	88
5.2.1. Specific context before 2010	88
5.2.2. Developments within the national perspective	90
5.2.3. Developments from the EU perspective	96
5.3. Actions taken against trafficking in human beings.....	102
5.3.1. Specific context before 2010	102
5.3.2. Developments within the national perspective	102
5.3.3. Developments from the EU perspective	103
6. BORDER CONTROL	104
6.1. Border control and immigration follow-up at borders.....	104
6.1.1. Specific context before 2010	104
6.1.2. Developments within the national perspective	104
6.1.3. Developments from the EU perspective	104
6.2. Cooperation in border controls.....	106
6.2.1. Developments within the national perspective	106
6.2.2. Developments from the EU perspective	107
7. RIGHT TO ASYLUM AND THE PROTECTION OF REFUGEES	109
7.1. The right to asylum and the protection of refugees	109
7.1.1. Specific context before 2010	109
7.1.2. Developments within the national perspective	109
7.1.3. Developments from the EU perspective	114
8. UNACCOMPANIED MINORS	115
8.1. Unaccompanied minors (and other vulnerable groups)	115
8.1.1. Specific context before 2010	115
8.1.2. Developments within the national perspective	116
8.1.3. Developments from the EU perspective	117

9. GLOBAL APPROACH TO MIGRATION	118
9.1.1. Specific context before 2010	118
9.1.3. Developments from the EU perspective	118
10. IMPLEMENTATION OF EU LEGISLATION	120
10.1. Transposition of EU legislation in 2010	120
10.2. Experiences, debates in the (non-) implementation of EU legislation	121
BIBLIOGRAPHY	123

FOREWORD

The opinions and interpretations expressed in this report are the authors' own. They do not necessarily reflect the positions of the Ministry of Family and Integration, or the Ministry for Foreign Affairs.

The present report was elaborated by the members of the National Contact Point Luxembourg of the European Migration Network under the responsibility and the coordination of Christel Baltes-Löhr and Anne Koch, University of Luxembourg. The members of the group responsible for drafting the text were Sylvain Besch, CEFIS- Study centre for intercultural and social training¹; Claudia Hartmann-Hirsch, CEPS/Insteat; Germaine Thill, STATEC; Sylvie Prommenschenkel, Ministry for Foreign Affairs and Marc Hayot, OLAI-Reception and Integration Agency, Ministry of Family and Integration.

¹ Anc. SESOPI- Centre Intercommunautaire asbl.

EXECUTIVE SUMMARY

The Policy report on migration and asylum is destined for the European Migration Network (EMN) and gives an idea of the main political debates and developments in this area in Luxembourg during the year 2010.

The year 2010 was highlighted in particular by the **financial and economic crisis**, which was set off during the first quarter of 2008², and the reform proposals presented by the government in order to meet this crisis. Given this context, it must be understood that in terms of general political preoccupation in Luxembourg, the subject areas of migration, asylum and integration took on a more or less secondary role compared to other subject areas.

Notwithstanding, the field of migration was subject to important political debates in 2010, related either to legislative changes or to concrete themes.

Political preoccupation was mainly concerned with **national competitiveness**. **This preoccupation** also apparent in the subject area of migration, as it is shown by the government's volition to improve the convergence of immigration policy with the needs of the national economy. Several of the measures proposed by the ministry of the Economy in May 2010 intend particularly to facilitate recruitment and the mobility of highly skilled foreigners so as to promote Luxembourg as an investment center and a center to establish headquarters in.

With a view to adapting the ADEM to the needs of the employment market, the reform of the Employment Administration (to become the *Administration for the Development of Employment*) was initiated in 2010. On the one hand, it aims to restructure the internal organization of the Administration so as to move towards a more proactive approach to the development of employment and to offer a more personalized follow-up to those

² The structural crisis with subprimes was set off in 2007 when the subprime market fell in on itself setting off a global contagion. The first external signs were the loss of 1,6 billion USD by two "hedge funds" of Bear Stearns. The Bear Stearns problem in March 2008 sparked the downturn in Wall Street. ROSS SORKIN, Andrew (2009): « TOO BIG TO FAIL, inside the battle to save Wall Street », Allen Lane, London.

looking for employment. On the other hand, the reform aims to reconcile supply and demand on the domestic employment market.

The main controversial debate in 2010 turned around the **rights** and the position of **cross-border workers** within national society. This debate was launched following the presentation by the government of a bill on the granting of financial aid for students in higher education.

The presented bill introduced considerable modifications with regard to the granting of this financial aid, notably by exclusively tying public financial support for higher education to residency in Luxembourg while at the same time abrogating family benefits once the child has reached age 18 and has started higher education studies. The bill was criticized as being discriminatory against the cross-border population of Luxembourg. Furthermore the impact of the economic crisis on cross-border employment was the subject of many studies and discussions.

With regard to integration, the main legislative development was the adoption of the **Multi-annual National Action Plan on Integration and Against Discrimination 2010-2014** on November 26th 2010. This action plan constitutes the main instrument of strategic and operational coordination of transversal integration policies. This five-year plan is based on the 11 directing principles of European integration policy (PBC), which emphasize the importance of a global approach to integration. The strategy adopted by the government includes the efficient and long-term implementation of certain PBC from year to year.

The question of **electoral and political** participation of **foreign citizens** in Luxembourg took the center of the political-media scene in 2010. Preceding the modification of the electoral law, associations and political parties took position on the opening of communal mandates for third-country nationals; the same was done for automatic enrollment of foreign residents on electoral lists. Finally, the question of language and more precisely the role of Luxembourgish with regard to political participation caused numerous debates. The adoption of the bill of law is planned for early in 2011.

The year 2010 saw the emergence of another debate, which was quasi-unapparent in Luxembourg before 2010: the situation of the **Roma**. Following the politicization and media interest given to the debate on a European level, diverse actor took on the question of the Roma and the situation in Luxembourg. These debates focused on two dimensions: the problematic of the right to stay and that of reception and integration.

The Government pursues its efforts with respect to illegal immigration control. The main objective being “based on a coherent return policy of persons who are illegally present”, the Government began to draw up a bill which aims to transpose into national law the directive *2008/115/EC* “return directive”.

The government emphasized that with regard to return, the accent continues to be placed on voluntary returns. As such, in order to promote the voluntary return of dismissed applicants for international protection and persons found to be illegally present in the country, along with reintegration in their countries of origin, Luxembourg pursues its cooperation with the OIM for assisted voluntary return.

At the same time, the construction work for the new detention facility and the implementation of the framework concept, have continued in 2010. The draft grand-ducal regulation setting the conditions and general procedures of the detention system of the detention centre was adopted by the Council of Government on 19th July 2010. As such, the government proposes to introduce along with administrative retention in a closed structure, a new, less coercive measure “house arrest”. The problematic concerning detention exemplified up by a judgment of the administrative courts which declared the demand for liberation of 11 third-country nationals as justified.

1. INTRODUCTION

1.1. Methodology

The two first chapters discuss on the one hand the general evolution of the political and legal system in Luxembourg and on the other hand the political and institutional developments related to asylum, immigration and integration. While highlighting the developments that took place during 2010, we will occasionally refer to the legislative framework and to several legal dispositions that were adopted during 2009 but did not come into force until 2010.

Initially, for each heading, we have included general contextual information under « specific context before 2010 », judged to be important for comprehension of diverse developments taken place within the reference period.

The sections « developments within the national perspective » contain details of all significant policy and legislative developments in Luxembourg.

Finally, the sections « developments from the EU perspective », relate national developments to the context of the EU, in particular focusing on the implementation of the European immigration and asylum Pact and the Stockholm Program on a national level. We have referred to the declarations of intention and to the measures taken by the government or the public authorities to respond to the diverse commitments included in the Pact.

For the definition of events or significant debates, we took several criteria into consideration simultaneously:

- media coverage of the debate
- impact of the debate on the political discussions accompanying the legislation process
- numbers and types of actors (ONGs , unions, political parties, deputies, parliamentary groups, medias, members of government, etc.) who intervened or who were implicated in the debate.

We took into consideration reference documents, studies and reports related to migration and asylum which fed the debate on migratory policy in Luxembourg.

The main sources of information used are:

- information supplied by national experts, governmental or non-governmental
- systematic follow-up of debates and parliamentary questions
- systematic consultation of all articles in the written press in the main daily or weekly newspapers of Luxembourg
- the study of reference documents (studies, activity reports of the different actors, etc.)
- contact with the NGOs active in the area of migration and asylum
- consultation of NGO positions
- websites- systematic consultation of the ministries', NGOs etc. websites

1.2. Terminology and Definitions

With regard to terminology, we referred to the terms used in the European Migration Network *Asylum And Migration Glossary*³.

The used term *foreigner is based on the* definition of article 3a of the law of 29 August 2008 on the free movement of persons and immigration⁴ which stipulates that a foreigner is “all persons who do not possess Luxembourgish nationality, either because he possesses another nationality exclusively, or because he has no nationality”.

³ The asylum and migration glossary of the EMN is available on the internet website : <http://www.emn.europa.eu>

⁴ Voir <http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

1.3. List of used abbreviations:

ABBL	<i>Association des Banques et Banquiers, Luxembourg/ The Luxembourg Bankers' Association</i>
ACAT	<i>Action des Chrétiens pour l'Abolition de la Torture/ Action of Christians For the Abolition of Torture</i>
ACEL	<i>Associations des Cercles d'Etudiants Luxembourgeois/Association of Luxembourger Students' Circles</i>
ADEM	<i>Administration de l'Emploi/Agency for the Development of Employment</i>
ADR	<i>Alternativ Demokratesch Reformpartei/ Alternative Democratic Reform Party</i>
AFR	<i>Aides à la Formation Recherche/AFR Grant Plan</i>
ALEBA	<i>Association Luxembourgeoise des Employés de Banque et Assurance/ Luxembourg Bankers' Association</i>
AOT	<i>Autorisation d'occupation temporaire/Temporary Occupation Authorization</i>
ASP	<i>Autorisations de séjour provisoires/ Provisional residence document</i>
ASTI	<i>Association de soutien aux travailleurs immigrés/ Support Association for Immigrant Workers</i>
CAI	<i>Contrat d'accueil et d'intégration/ Reception and integration contract</i>
CASNA	<i>Cellule d'accueil scolaire pour élèves nouveaux arrivants/ School Reception Cell for newly-arrived pupils</i>
CCDH	<i>Commission consultative des Droits de l'Homme/Advisory Committee for Human Rights</i>
CCI	<i>Commissions consultatives d'intégration/ Integration Advisory Committee</i>
CCTS	<i>Commission consultatives pour travailleurs salariés/Consultative Commission for Employees</i>
CEFIS	<i>Centre d'étude et de formation interculturelles et sociales/ Study centre for intercultural and social training</i>
CET	<i>Centre pour l'égalité de traitement/ Center for Equal Treatment</i>
CES	<i>Conseil Economique e Social/ Economic and Social Council</i>
CNE	<i>Conseil national pour étrangers/ National Council for Foreigners</i>
CLAE	<i>Comité de liaison et d'action des étrangers/ Liaison Committee of Foreigners' Associations</i>
CNDD	<i>Conseil Supérieur pour le Développement Durable/Superior Council for Sustainable Development</i>
CPJPO	<i>Comité pour une Paix Juste au Proche-Orient/ Committee for Peace In the Middle East</i>
CRP	<i>Centre de Recherche Public/ Public Research Center</i>
CSL	<i>Chambre des Salariés Luxembourg/ Luxembourg Chamber of Employees</i>

CSJ	<i>Chrëschtlech Sozial Jugend/ Christian-Social Youth of Luxemburg</i>
CSV	<i>Parti Chrétien Social/ Christian Social Party</i>
DG	<i>Déi Gréng/ Green Party</i>
DJG	<i>Déi Jonk Gréng/ Luxembourg Young Green Party</i>
DP	<i>Parti démocratique/ Democratic Party</i>
DL	<i>Déi Lénk/ The Left</i>
ERF	<i>European Refugee Fund</i>
FEI	<i>Fonds européen d'intégration/ European Integration Fund</i>
FNCTFFEL	<i>Fédération ces cheminots, fonctionnaires et employés publics, travailleurs du transport, Luxembourg/ Federation of train operators, civil servants and public employees, transport workers, Luxembourg</i>
FNR	<i>Fonds National de la Recherche/ National Research Fund</i>
JCL	<i>Jeunesse communiste luxembourgeoise/Luxembourger Communist Youth</i>
JDL	<i>Jeunesse démocrate et libérale /Democratic and Liberal Youth</i>
JSL	<i>Jeunesses Socialistes Luxembourgeoises / Luxembourger Socialist Youth</i>
INAP	<i>Institut national de l'administration publique/National Institute for Public Administration</i>
ITM	<i>Inspection du Travail et des Mines/ Employment and Mine Inspection</i>
KPL	<i>Parti Communiste Luxembourgeois/ Communist Party of Luxembourg</i>
LaF	<i>Lëtzebuergesch als Friemsprooch</i>
LCGB	<i>Lëtzebuenger Chrëschtliche Gewerkschaftsbond/ Luxembourg Confederation of Christian Trade Unions</i>
LFR	<i>Collectif Réfugiés - Lëtzebuenger Flüchtlingsrot/ Luxembourger Refugees' Collective</i>
LSAP	<i>Parti ouvrier socialiste luxembourgeois/ Luxembourg Socialist Workers Party</i>
MAE	<i>Ministère des affaires étrangères/ Ministry for Foreign Affairs</i>
MENFP	<i>Ministère de l'Education nationale et de la Formation professionnelle/ Ministry of National Education and Vocational Training</i>
MYO	<i>Migrer les Yeux Ouverts/ Migrate with open eyes</i>
OGBL	<i>Onofhängege Gewerkschaftsbond Lëtzebuerg/ Luxembourg Confederation of Independent Trade Unions</i>
OIM	<i>Organisation internationale pour les migrations/ International Organisation For Migration</i>
OLAI	<i>Office luxembourgeois de l'accueil et de l'intégration/ Luxembourg Reception and Integration Agency</i>
PCS	<i>Parti Chrétien Social / Christian Social Party</i>
PISA	<i>Programme for International Student Assessment</i>
SDTI	<i>Service Détachement et Travail Illégal /Detachment and Illegal Work Department</i>

SFA	<i>Service de la formation des adultes/Adults' Training Department</i>
SMI	<i>Service Médical de l'Immigration/Immigration Medical Service</i>
SPIC	<i>Socialistes pour l'intégration et la citoyenneté/ Socialists for Integration and Citizenship</i>
SYPROLUX	<i>Syndicat Professionnel des Cheminots Luxembourgeois/ Luxembourg Train operators' Professional Union</i>
UEL	<i>Union des Entreprises Luxembourgeoise/ Union of Luxembourg companies</i>
UNEL	<i>Union Nationale des Etudiant-e-s du Luxembourg/ Luxembourg National Students' Union</i>
UNHCR	<i>Haut-Commissariat des Nations Unies pour les Réfugiés/ High Commissary of the United Nations for Refugees</i>
UNMIK	<i>Mission d'administration intérimaire des Nations Unies au Kosovo / Temporary administration mission of the United Nations in Kosovo</i>
VAE	<i>Validation des acquis de l'expérience/ Validation of acquired experience</i>

2. GENERAL STRUCTURE OF POLITICAL AND LEGAL SYSTEM IN LUXEMBOURG

2.1. General structure of the political system and institutional context

The structure of the political system and the institutional context were described in detail in the Annual Policy reports on migration and asylum of the years 2008 and 2009⁵.

Towards a global reform of the Constitution

As it has already been detailed in the 2009 report, the Constitution was modified by the law of 12 March 2009 revising article 34 of the Constitution. This reform abolished the right to enforcement of laws by the Grand-Duke following his refusal to sign the law on euthanasia and following the Sovereign's expressly formulated desire to do so. The prerogatives of the Grand-Duke were thus reduced to the promulgation of laws⁶ so that they may take effect.

This event reopened the debate surrounding a systematic revision of the Constitution and on April 21st 2009, the deputy Mr. Paul-Henri Meyers filed a proposal for a systematic revision of the Constitution⁷. The Chamber of Deputies voted in favor of proceeding with the legislative procedure of this bill of law.

Territorial reorganization

The government formed after the legislative elections of June 9th 2009 confirmed its need to proceed with the "territorial reorganization" started by the preceding government on

⁵ European Migration Network - National Contact Point - Luxembourg. Policy Report on migration and asylum, 2008, ch. 1.1, published in 2010,

http://www.emnluxembourg.lu/sites/default/files/2008_RapportPolitique_EMN-NCP-LU.pdf

European Migration Network - National Contact Point - Luxembourg. Policy report on migration and asylum, 2008, ch. 1.1, published in 2010,

http://www.emnluxembourg.lu/sites/default/files/2009_RapportPolitique_EMN-NCP-LU.pdf

⁶ Memorial A N°43 of 12 March 2009,

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

⁷ The publication entitled « The reform of the Luxembourg Constitution in debate », edited by a think-tank of specialists, adopts a critical approach with respect to the proposal of a systematic revision of the Constitution.

the basis of the conclusions of the special commission "Territorial Reform of Luxembourg"⁸. It plans to implement this reform until 2017 at the latest. The fusion of communes constitutes one of the key points of this territorial reform⁹.

Luxembourg is made up of 116 communes. Over the last three years, seven referendums were organized. In 6 cases, the local population approved the proposal of fusion. Sixteen communes were joined together to form six new communal administrations which will start to function on January 1st 2012, after the next communal elections. The fusion of the communes will have repercussions on the communal elections of October 2011, whereas some of these communes will move, directly or after a period of transition, from a majority poll to a proportional poll.

2.2. The legislative framework surrounding immigration, asylum and integration

Briefly let us go over the legislative framework surrounding immigration, asylum and integration in Luxembourg.

In the first place, the **laws** regarding asylum, immigration and integration must be mentioned:

- the law of 5 May 2006 on the right to asylum and complementary forms of protection, and its grand-ducal regulations¹⁰;
- the law of 29 August 2008 on the free movement of persons and immigration, and its grand-ducal regulations¹¹;

⁸ Governmental programme 2009, pp.100-101.

⁹ According to the government, the threshold of 3 .000 inhabitants constitutes the critical mass in order to be assured of the correct functioning of autonomous communes in our century and will continue to serve as a basis for discussion in rural milieus whereas in urban milieus this threshold could be modulated in consequence.

¹⁰ Memorial A N°78 of May 5th 2006,

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

Memorial A N°131 of July 31st 2006, <http://www.legilux.public.lu/leg/a/archives/2006/0131/a131.pdf>

Memorial A N°171 of September 22nd 2006,

<http://www.legilux.public.lu/leg/a/archives/2006/0171/a171.pdf> Memorial A N°245 of December 31st 2007.

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

- law of 16 December 2008 on the reception and the integration of foreigners in the Grand-Duchy of Luxembourg¹²;
- law of 28 November 2006 on equality of treatment¹³;
- grand-ducal regulation of 5 August 1989 establishing the organization and functioning in the communes of advisory commissions for foreigners¹⁴;
- law of 14 October 2008 on Luxembourg nationality and its grand-ducal regulations¹⁵;
- law of 19 December 2008 on amendment of the amendment electoral law of 18 February 2003 and of the law of 4 February 2005 concerning the national level referendum¹⁶;
- law of 17 February 2009 on the introduction of language leave¹⁷;
- law of 28 May 2009 on the establishment and organization of the Detention Centre¹⁸;
- law of 18 December 2009 on the access to civil service taking effect on January 1st 2010¹⁹ and its grand-ducal regulations²⁰;

¹¹ Memorial A N°138 of September 10th 2008,
<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2>

Memorial A N°145 of September 29th 2008,
<http://www.legilux.public.lu/leg/a/archives/2008/0145/a145.pdf#page=3>

¹² Memorial A N°209 of December 24th 2008,
<http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

¹³ Memorial A N°207 of December 6 2006, <http://www.legilux.public.lu/leg/a/archives/2006/0207/a207.pdf>

¹⁴ Memorial A N°59 of September 5th 1989,
<http://www.legilux.public.lu/leg/a/archives/1989/0059/a059.pdf#page=4>

¹⁵ Memorial A N°158 of October 27th 2008,
<http://www.legilux.public.lu/leg/a/archives/2008/0158/index.html>

¹⁶ Memorial A N°210 of December 24th 2008,
<http://www.legilux.public.lu/leg/a/archives/2008/0210/a210.pdf#page=2>

¹⁷ Memorial A N°33 of February 26th 2009,
<http://www.legilux.public.lu/leg/a/archives/2009/0033/index.html>

¹⁸ Memorial A N°119 of May 29th 2009,
<http://www.legilux.public.lu/leg/a/archives/2009/0119/a119.pdf#page=2>

¹⁹ Memorial A N°248 of December 18th 2009,
<http://www.legilux.public.lu/leg/a/archives/2009/0248/a248.pdf#page=2>

²⁰ Memorial A N° 78 of May 25th 2010,
<http://www.legilux.public.lu/leg/a/archives/2010/0078/a078.pdf#page=2>

Other legislative proposals in the domain of migratory policies must also be mentioned:

- bill of law: 1. Amendment of the electoral law of 13 December 1988, 2. Amendment of the electoral law of 18 February 2003
- draft grand-ducal regulation fixing the conditions and modalities of the system of detention of the Detention Centre on July 9th 2010
- draft grand-ducal regulation establishing the organization and functioning of advisory commissions for integration
- draft grand-ducal regulation fixing the conditions of application and the execution procedures relating to the Reception and integration contract (CAI)
- bill of law transposing directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals , or « return directive »

3. GENERAL DEVELOPMENTS RELEVANT TO ASYLUM AND MIGRATION

3.1. General political developments

The economic and financial crisis did not go unnoticed in Luxembourg. It has manifested itself by a degradation of the employment market, in spite of the fact that Luxembourg is part of the group of European countries who counted more jobs than two years previously. The economic downturn was felt in Luxembourg in 2009 not by a regression of domestic employment but by a clear slowdown, progression being about 1%. Nonetheless considerable differences exist depending upon the economic sector, some of which were characterized by a reduction of staff²¹.

Other indicators of the downturn is the unemployment rate in Luxembourg which attained a maximum height, climbing from 5% in 2008, 6,3% in 2009 to 6,5% in 2010²², as well as the explosion of partial unemployment²³.

Politics in Luxembourg were strongly affected by the context of the economic and financial crisis, and the government's reform proposals in order to meet this crisis. This climate of economic crisis dominated the tripartite negotiations among social partners in Luxembourg as mutually consented responses for meeting the crisis were sought. These tripartite negotiations, grouping the government, employers' organizations and unions, constitute the key element of the Luxembourg social model²⁴.

In the end, the negotiations resulted in a failure. Key elements of disagreement were the different points of view of the social partners and the government but also those which appeared among the coalition partners, regarding the measures of austerity proposed by the government. In particular the automatic indexation of salaries was questioned by the

²¹ Statec, Business Cycle Note n° 1-10, *La situation économique au Luxembourg. Evolution récente et perspectives*, Luxembourg.

²² Figures for the month of December, Statec, 'Emploi et chômage par mois 2000-2011', http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=1146&IF_Language=fra&MainTheme=2&FldrName=3&RFPath=91

²³ Statec, business Cycle Note n° 1-10, *La situation économique au Luxembourg. Evolution récente et perspectives*, Luxembourg, pp.72-74.

²⁴ European Migration Network- National Contact Point- Luxembourg. Policy report on migration and asylum, 2008, ch. 1, p 12, published in 2010, http://www.emnluxembourg.lu/sites/default/files/2008_RapportPolitique_EMN-NCP-LU.pdf

employer's organizations who requested its abolition. The coalition partner and the unions were mutually opposed, initially, to the proposition of the modulation of the automatic indexation of salaries. The social dialogue was stretched to its limits, as illustrated by the withdrawal of the UEL from the Economic and Social Council or its threat to withdraw also from the proceedings of decision-making of the National Health Office.

Following this failure, the Prime Minister, during his annual state of the nation address²⁵, presented to the Members of Parliament on May 5th 2010 the set of austerity measures which were retained by the government. This set was judged to be exaggerated by trade unions and judged insufficient by the heads of companies, who continued to demand the abolition, respectively of the modulation and of automatic indexation of salaries.

The government preferred finding its solutions during bilateral reunions. As such, the bipartite government – trade unions ended up on September 29th 2010 with an agreement which included notably an augmentation of the minimum social wage, a limitation of the crisis tax to 2011 and the late payment of an indicial installment in October 2011.

The bipartite agreement between the government and heads of companies of December 15th 2010 completes the agreement made with the trade unions, this time by proposing to finance the increase of minimum wage through the form of a contribution made to employers' mutual funds, or by an increase of the state's participation in continuing training.

The governmental measures taken in the context of the downturn became the subject of several bills of law, to wit:

- bill of law modifying the law on financial aid for students in higher education, filed on June 18th 2010²⁶ and adopted on July 13th 2010²⁷ ;

²⁵ State of the Nation address, Jean-Claude Juncker, May 5th 2010, <http://www.gouvernement.lu/gouvernement/etat-nation/etat-nation-2010-fr/index.html>

²⁶ Parliamentary document N°6148 of June 1st 2010.

²⁷ State Financial Aid for superior studies, in : Memorial A N°118 of July 27th 2010.

- bill of law introducing tax measures relating to the economic and financial crisis, filed on July 26 2010²⁸ and adopted on December 2nd 2010²⁹ ;
- law of 17 December 2010 regarding the budget of revenues and expenditures of the State for the 2011 fiscal year³⁰.

²⁸ Parliamentary session note N°6166 of September 9th 2010.

²⁹ Fiscal measures relating to the financial crisis, in: Memorial A N°247 of December 31st 2010. Among the planned measures can be found :

- The addition of a new maximal tax bracket at a rate of 39%
- The increase of the rate of solidarity of physical persons tax from 2.5% to 4%
- The introduction of a crisis contribution of 0.8% on all professional revenue, replacement revenue or estate revenues
- The decrease of the kilometric forfait from 99€ to 51€ per unit of distance
- The increase of the rate of companies' solidarity tax from 4% to 5%
- The introduction of a minimum of taxation for the heads of certain collective organizations whose activity is dispensed from all accreditation
- The modification of the possibility to benefit from a tax credit for registration rights.

³⁰ Memorial A N°249 of December 31st 2010. The law includes a reduction of public investments as well as functioning costs of the State.

3.2. The main political and legislative debates regarding immigration, asylum and integration

Immigration and Luxembourg

The migratory phenomenon is one of the dimensions which constitute the society of the Grand-Duchy of Luxembourg and is linked to its own history. A work of reference³¹ for Luxembourg draws up an inventory of 30 years of migration by emphasizing the political, social, economic and cultural aspects of migration.

The Prime Minister, during his address given for the 30th anniversary of ASTI, reminds one of the demographic contributions of immigrants: « *And it must be noted that from now to 2020-2030, the number of non-Luxembourgers will be greater than the number of Luxembourgers.* »³² The demographic projections of the Statec call to mind the paramount role played by immigration in the growth of the population, directly through a net positive migratory balance, and indirectly, insofar that immigration, by increasing the feminine population of child-bearing age, intervenes to create a positive natural balance³³. Robert Kieffer (President of the compensation pension fund) indicates how foreign workers, immigrants and cross-borders workers have saved social security from failure.³⁴

However, for the first time since the Second World War, the proportion of foreigners in the total population has decreased. This phenomenon is due to the sharp increase in the number of naturalizations since the taking into effect of the new law on nationality³⁵. If the year 2008 constituted again for Luxembourg a year with a large number of entering migrants and net migratory balance, for 2009, a considerable decrease in the number of arrivals was noted. As noted by the Statec, the economic downturn is not unrelated to this phenomenon.

³¹ ASTI, *ASTI 30+. 30 ans de migrations. 30 ans de recherches. 30 ans d'engagements*, Editions Guy Binsfeld, 2010.

³² ASTI, p. 16.

³³ Statec, *Projections socio-économiques 2010-2060*, Bulletin of the Statec n°5-2010.

³⁴ ASTI, *ASTI 30+. 30 ans de migrations. 30 ans de recherches. 30 ans d'engagements*, Edition Guy Binsfeld, 2010.

³⁴ ASTI, pp.238-247.

³⁵ In 2010, nearly 80% of temporary workers were cross-border workers compared to 77,8% in 2008³⁵.

The large majority of foreign residents in Luxembourg are, however, citizens of a Member State of the European Union (86%). Within the overall group of third-country nationals (accounting for 14% of foreign residents), a very large part (44.8%) come from one of the former Yugoslavian countries. Accounting for 6% of the total foreign population, the latter group is even more numerous than Germans, coming in 5th position after the Portuguese, the French, the Italians and the Belgians.

Table : Third-country residents (1.1.2010)³⁶

Selected country	Part in % in Non-EU	Part in % in total foreign population
Former Yugoslavia	44.77	6.00
Cape-Verde	7.85	1.05
USA	5.71	0.77
China	5.32	0.71
Russia	3.31	0.44
Brazil	2.96	0.40
Switzerland	2.19	0.29
Iceland	1.84	0.25
Japan	1.67	0.22
Ukraine	1.52	0.20
Marocco	1.47	0.20
Canada	1.33	0.18
Turkey	1.33	0.18
India	1.30	0.17
Albania	1.17	0.16
Norway	1.04	0.14
Iran	1.01	0.14
Thailand	1.00	0.13
Philippines	0.93	0.13
Others	12.27	1.65

Source: STATEC ³⁷

Migration policies in the context of economic downturn

The question of reinforcement of national competitiveness was at the center of the government's consideration. This preoccupation was manifested in diverse political domains, one of which is migration policy. Nonetheless, this policy did not receive primary attention in governmental proceedings.

In April 2010, the Minister of the Economy and Foreign Trade presented 60 general propositions on competitiveness.

The measures of austerity presented by the Luxembourg government afterwards (May 5th 2010³⁸) incited and dominated debates all year long.

³⁶ Residents in Luxembourg

³⁷ Statec, N° 6/2010 Regards on the population by nationality, 08/07/2010

Several of these propositions concern the field of immigration, underlining the importance of converging Luxembourg's immigration policy with the needs of the domestic economy.

Among other things, these propositions aim to:

- favor the mobility of workers, on both a national level and on the level of the cross-border area of the Grand Region, while optimizing the infrastructures involved with access to the workplace;
- favor the professional mobility of third-country national workers who are transferred to Luxembourg;

The government's willingness to attract highly skilled workers to Luxembourg was affirmed at the end of the year with the implementation of new fiscal measures.

Impact of the economic downturn on cross-border work

The debate on the subject of immigration quickly became focused on the impact of the economic downturn and the measures taken to meet this downturn on cross-border workers, who compose 44% of the salaried labour-force in Luxembourg.

In its socio-demographic projections, the Statec considers whether in the future the cross-border workers are asked to take the place of traditional immigrants or if, on the other hand, they play a complementary part in the functioning of the employment market by filling the positions demanding higher skills³⁹. Depending on the opinion retained, the impact on the net migration and on demographic growth is completely different.⁴⁰

³⁸ State of the nation address of May 5th 2010, <http://www.gouvernement.lu/gouvernement/etat-nation/etat-nation-2010-fr/index.html>

³⁹ Statec, *Projections socio-économiques 2010-2060*, Bulletin of the Statec n°5-2010, p.251.

⁴⁰ Statec, *Projections socio-économiques 2010-2060*, Bulletin of the Statec n°5-2010, p.251.

Different publications⁴¹ attracted attention to the fact that cross-border workers were more affected by the economic downturn than resident workers. Although the cross-border workers are not taken into account in figures on the level of unemployment, the impact of the downturn on cross-border workers can be observed using a certain number of indicators⁴². This phenomenon will have an effect upon the State's budget, because, since May 1st 2010, following the application of Community regulation 883/2004, Luxembourg must pay three months of unemployment benefits of a cross-border worker to the country of residence of this worker, at the rates in effect in this country. The analyses on the effects of the downturn conclude that cross-border workers work in sensitive sectors and occupy the positions which are the most affected and exposed to the unanticipated effects of the downturn (such as temporary work, fixed-length contracts, the industry sector and services to companies). Indeed, cross-border workers have on average less seniority than have resident workers⁴³. If from 2001 to 2008, 2/3 of new domestic jobs were held by cross-border workers, in 2009, this percentage fell to 1/3. In 2010, a slight rebound of employment, and a bigger one for temporary employment, can be noted⁴⁴.

The position and participation of cross-border workers in Luxembourg society

The debate on the position and participation of cross-border workers in Luxembourg society was never as much a subject favored by the media as in 2010.

⁴¹ Tibesar, A, Cellule EURES de l'ADEM, Les cahiers transfrontaliers d'EURES Luxembourg n°1/2010 'Le travail intérimaire luxembourgeois à la lumière de la crise', Source : IGSS - Calculs : F. Clément, p 5, <http://www.eureslux.org/images/biblio/biblio-6-318.pdf>

Statec, Business Cycle note n° 1-10, *La situation économique au Luxembourg. Evolution récente et perspectives*, Luxembourg, pp.68-70.

⁴² Such as the evolution of the number of requests for the E 301 form. This form is used to justify the loss of employment in Luxembourg, so as to be able to receive unemployment benefits in the country of residence.

⁴³ *Les profils des travailleurs frontaliers et résidents*, in : Business cycle note N°1-09, pp. 112-113.

⁴⁴ In 2010, nearly 80% of temporary workers were cross-border workers, compared to 77,8% in 2008, see : Tibesar, A, Cellule EURES de l'ADEM, Les cahiers transfrontaliers d'EURES Luxembourg n°1/2010, 'Le travail intérimaire luxembourgeois à la lumière de la crise', Source : IGSS - Calculs : F. Clément, p 5, <http://www.eureslux.org/images/biblio/biblio-6-318.pdf>

It is in particular the controversy and debate surrounding the bill of law on financial aid for higher education studies that caused much ink to be spilled and gave rise to several trade union manifestations. The object of this bill of law is to modify State-given financial aid for students in higher education. It was filed on June 18th 2010⁴⁵, and was adopted by the Chamber of Deputies in an exceptionally short time on July 13th 2010⁴⁶. The reform is part of the set of saving measures proposed by the government. The main motivation of the bill is to no longer take into consideration the revenues of parents when determining the amount of financial aid to be awarded. However, financial aid would be linked entirely to residence in Luxembourg.

Political and legislative debates surrounding the subject of integration

On the subject of integration, the debate on electoral and political participation was very prominent in the political-media scene. This debate was fed in several ways:

The project of reform of the electoral law aims to implement the principles written into the governmental program. It aims to modify the law in a substantial way by enlarging the passive right to vote to third-country nationals⁴⁷ and by allowing foreign nationals who were elected democratically to have access to positions of mayor and local councilor, positions which are traditionally reserved to nationals of the country. The Migration and Integration Platform brought up the question of the automatic enrollment on electoral lists while requesting a rapid reform of the electoral law.

The political parties were called upon equally by the Migration and Integration Platform as by the organizers of the national conference on integration. This conference centers its interest notably on the themes of integration of foreigners in political parties and looks to increase the awareness of the necessity to be enrolled on electoral lists. Certain political

⁴⁵ Parliamentary sessions paper N°6148 of June 1st 2010.

⁴⁶ State financial aid for students in higher education, law of 26 July 2010 modifying:

1. The modified law of 22 June 2000 regarding State financial aid for students in higher education, in: Memorial A N°118 of July 27th 2010.

⁴⁷ Adoption of the law planned for end January 2011.

formations wanted to give a new impetus to the integration of foreigners into parties by putting in place structural reforms.

Finally the increase of awareness of registration on electoral lists began by putting into place a campaign of awareness and by developing documents about awareness such as the intermediary list of registrations on communal electoral lists.

The research report on the legislative and European elections in 2009 analyzes for the first time the values and political behavior of foreigners⁴⁸.

Another subject was debated in 2010: the situation of the Roma. Whereas the question of the Roma was never debated in Luxembourg, the politicization and the media coverage given to the debate on a European scale caused the media, the members of Parliament and civil society to take a closer look at the question in Luxembourg. Two points were examined: the problematic of the right to stay and reception and integration.

3.3. The institutional evolutions on the subject of immigration, asylum and integration in 2010

Towards the setting up of instruments for integration included in the law of 16 December 2008 on the reception and integration of foreigners

The main institutional development took place with the adoption of the multi-annual action plan on integration and against discrimination 2010-2014.

This plan was adopted by the Council of Government on November 26th 2010. The action plan, established by the Luxembourg Reception and Integration Agency (OLAI), in collaboration with the inter-ministerial committee of integration, and after consultation of civil society, provides a series of measures which look to favor smooth integration and

⁴⁸ Dumont, Patrick ; Kies Raphaël ; Spreitzer Astrid ; Bozini, Maria ; Poirier, Philippe (dir.) (2006) : *Les élections législatives et européennes de 2009 au Grand-Duché de Luxembourg*, Report developed for the Chamber of Deputies, Stade, University of Luxembourg, December 2010.

to ensure that foreigners participate fully in Luxembourg society. Guided by principles of reciprocity and shared responsibility, this plan takes into consideration the political and legal commitments that Luxembourg has made, as much on a national as on a European and international level, with regard to integration.

On November 12th 2010, the Council of Government approved the draft grand-ducal regulation establishing the organization and functioning of the Advisory Commissions on Integration (CCI). According to article 23 of the law of 16 December 2008 on the reception and integration of foreigners in the Grand-Duchy of Luxembourg, such a commission must be constituted in all communes whereas previously, only the communes with 20% of foreigners in the population were required to do this.

The draft grand-ducal regulation fixing the conditions of application and the procedures to be followed relating to the Welcome and Integration Contract (CAI), was adopted by the Council of Government on November 12th 2010. According to article 8 of the law on the reception and integration of foreigners, the CAI is optional for all foreigners, whether they be EU citizens or third-country nationals, who are legally residing on the territory of the Grand-Duchy of Luxembourg and who wish to stay for the long-term. The said contract contains reciprocal commitments for the State and for the foreigner with a view to organizing and facilitating his integration.

Two other projects of reform which, while not directly implicating foreigners, must be mentioned:

1.)

The law of 18 December 2009 organizing social aid took effect on January 1st 2011. It creates the right to social aid and aims to allow citizens to lead lives which are conform to human dignity while preserving their autonomy. It completes other social measures and financial aids which already exist.

Each commune of at least 6 000 inhabitants is asked to establish a social office.

Communes which have more than 6 000 inhabitants must be grouped with other communes in order to attain a minimum population of 6 000 inhabitants to form a common social office. From January 1st 2011 on, Luxembourg must count 30 social offices.

2.)

The reform project of the Employment Administration (ADEM). The bill of law creating the Agency for the Development of Employment⁴⁹ was adopted on December 3rd 2010. The change of name from “Administration of Employment” to “Agency for the Development of Employment” demonstrates the volition to reform the ADEM to better adapt it to the needs of the employment market⁵⁰ and to go from “an approach of simple unemployment management...” to “a proactive approach to unemployment control and the promotion of the development of employment, following a logic of true service to the client⁵¹”.

⁴⁹ modifying :

- the Code of Work ;
- the modified law of 22 June 1963 fixing the system of treatment of State civil servants;
- the modified law of 30 June 1976 which: 1. created an employment fund; 2. regulated the granting of complete unemployment benefits ;
- the modified law of 29 August 2008 on the free movement of persons and immigration and abrogated the modified law of February 21st 1976 which concerns the organization and functioning of the Employment Administration and created the National Commission for Employment

⁵⁰ The figures cited by the authors of the project act as a reminder of the necessity of the reform : In a decade, the number of unemployed persons registered with the Administration of Employment went from 5.452 in January 2000 to 14.703 in October 2010 and the unemployment rate increased from 2,9%, to 6.1% during the same period. At the same time, total internal employment saw considerable growth going from 256.576 to 368.268 persons, or an increase of 43,5%. For only 40% of staffing done during the course of 2007, the unfilled vacancy had been previously declared with the ADEM. The companies made use of the ADEM in only 52% of cases for filling positions. The ADEM only intervenes in 21% of staffing done in Luxembourg and for only 7% of filled positions it played a determinant part, see Exposition of motives in: Parliamentary Sessions paper N°6232, pp 1-2.

⁵¹ Parliamentary Sessions paper N°6232, pp. 11, www.chd.lu

4. REGULAR IMMIGRATION AND INTEGRATION

4.1. Economic migration

4.1.1. *Specific context before 2010*

Specificity of the domestic employment market

The employment market in Luxembourg is a market of the Grand Region. It is characterized by having an exceptional need for foreign labour. This labour is predominantly non-resident and multilingual. More than half of the labour force in the country is composed of immigrant workers or cross-border workers who reside in one of the conterminous countries (more than 147.000 persons in January 2010⁵²). In this context, the differentiation between “internal employment”, which covers the employment of all persons working in Luxembourg whatever their country of residence,⁵³ and “domestic employment” which includes only the employment of the residents of Luxembourg, must be emphasized⁵⁴.

The law of 29 August 2008, which took effect on October 1st 2008, instituted different types of residence documents based on the diverse motivations for immigration. With regard to economic immigration, the following residence documents can be distinguished: salaried workers, detached workers, transferred workers, highly skilled workers, and independent workers. For more details, see the 2009 Policy report⁵⁵.

The current government seeks to adapt immigration to the needs of the Luxembourgger

⁵² Portrait of the Economy Employment market,
<http://www.luxembourg.public.lu/fr/economie/portrait/marche-emploi/index.html>

⁵³ Internal employment includes foreign cross-border workers but does not include neither Luxembourgger cross-border workers, nor civil servants, nor the agents of international institutions considered as being extra-territorial.

⁵⁴ Domestic employment includes civil servants and agents of international institutions as well as cross-border workers who go to work each day in a conterminous country.

⁵⁵ European Migration Network - National Contact Point – Luxembourg, Policy report on migration and asylum 2009, ch. 3.4, published in 2010,
http://www.emnluxembourg.lu/sites/default/files/2009_RapportPolitique_EMN-NCP-LU.pdf

economy. It has put in place an inter-ministerial think tank in charge of developing the guidelines and recommendations for a proactive and coherent immigration policy. This policy takes into consideration the interests of the Luxembourg economy and the current situation as well as the future of the employment market.

4.1.2. Developments within the national perspective

In April 2010, 60 measures for improving domestic competitiveness were proposed (see point 3.2)⁵⁶.

To improve competitiveness of the Luxembourg economy, the Minister for the Economy and Foreign trade wants to attract large fortunes to Luxembourg. He proposes to set up a procedure “VIP/fast-track” for new potential residents identified as bringing an extraordinary appreciation (investments, revenues from taxes, etc) to the Luxembourg economy. It looks to modify the financial criteria currently applied to immigration within the framework of the granting of a residence permit “for private life”⁵⁷.

In order to attract companies to settle in Luxembourg (creation of headquarters), the

⁵⁶ These are proposals on a purely general basis which remain to be elaborated and adopted.

⁵⁷ Currently, it is asked to certify that one has assets which generate annual incomes of 50.000€. Normally, it is about a term deposit in a Luxembourg banking institute whose equipment (between 3 and 4 € million at the current rates) is sufficient to generate interests corresponding to the above mentioned sum. It is proposed to implement an alternative to a simple term deposit. Indeed, the people who look to obtain a residence document “for private life” have financial means and have a life-style which costs considerably more than the required 50.000€. To block 3-4 € million in basic financial instruments with very low profitability hardly corresponds to the image of a sophisticated money market which Luxembourg wants to give itself. An alternative could be to ask for the investment of a smaller sum (for example 1 million € per adult and 250.000 € per child) in funds venture capital (to be managed either by the SNCI, or by an elected manager) intended to support the economic development of Luxembourg by the investment in new activities. In order to show serious funds and its interest to ensure a good management of the funds, the State should contribute by an initial placement.

Certain conditions must be respected :

- a. The investment would be blocked for 3 years. Even in case of an anticipated departure, the immigrant would not be able to remove his placement before this term. After 3 years, he could request reimbursement if he decides to reside in another country but Luxembourg.
- b. The investment would be remunerated according to the performance of the funds. In order to make immigration attractive, a remuneration corresponding to the Euribor would be guaranteed (for example, through preferential rights, with regard to the state investor).
- c. Under-funds may be constituted, allowing investment in particular development vectors (life sciences, ecotechnologies, ICT, etc.).

conditions of residence as applied to professional travels of third-country nationals⁵⁸ must be reconsidered, so as to increase the mobility of workers transferred to Luxembourg so that they can work in the countries covered by the activity of the companies in question. A preliminary study for referencing all of the legislation and the regulations which apply to this framework is currently being done.

Conditions for access to the job market

Article 42 of the law on free movement of persons and immigration provides that a third-country national can have access to the Luxembourg job market if he meets four conditions, one of which being that the intended activity must serve the economic interests of the country. The Mediator wondered about the application of this last criterion. Following the refusal of certain requests for work permits in Luxembourg for the reason that the intended activity did not serve the economic interests of the country, he researched the conditions and the criteria which brought the Minister to such a decision. According to the Minister, the economic interest can be verified by considerations related to the job market. “It can be examined notably from the angle of the possibility of long-term integration of the worker on the job market and in the social environment depending upon the economic needs of the country. The specific needs of the job market must be taken into consideration and a balance created between the interests of the economy and the risk that in case the job contract is ended, the person concerned may fall under the responsibility of the community”⁵⁹.

Financial aid for students in higher education and cross-border workers

As set out in Point 3.2, the bill of law on financial aid for students in higher education elicited controversy and debate. This bill of law introduced considerable modifications

⁵⁸ Conditions of residence minimum of 6 months in Luxembourg currently.

⁵⁹ Ombudsman, Activity report from October 1st 2009 to September 30th 2010, p.21, <http://www.ombudsman.lu/index.php>

with regard to the allotment of financial aid for higher education studies. Starting in September 2010, family benefits will no longer be paid until 25 years of age (in the case that the child/children pursuing higher education studies), but will end at 18 years of age. Whereas this loss is compensated for families residing in Luxembourg by the granting of scholarships or non-reimbursable loans of 13.000 per year, to which amount may be added enrollment fees of up to 3.700 Euros/year⁶⁰ (see modification of financial aid in point 3.1), the children of cross-border workers will no longer have access to this benefit. The system of financial aid for higher education studies has as such become linked integrally to permanent residence. In addition, the bonus for children⁶¹ will be paid exclusively to young people living in Luxembourg.

The authors transposed as well article 24(2) of the directive 2004/38/EC relating to free movement by planning to grant aid for studies to persons who have acquired a permanent residence document in Luxembourg. In order to conform to the directive 2003/19/EC relating to the status of third-country nationals who are long-term residents, the Council of State asked for inclusion of this group in the circle of beneficiaries⁶².

These measures and especially the suppression of family benefits were loudly criticized before and during the process of legalization by union organizations (OGB-L and the LCGB), as well as by organizations defending the rights of foreigners (ASTI and CLAE) and also by the UNEL (National Students' Union of Luxembourg) and the ACEL (Association of Luxembourg Student Circles).

Already in 2006, cross-border workers were penalized when the de-indexation of family benefits was compensated for resident families by the introduction of the system of service checks⁶³. In addition, the 50% reduction of the discount for travel fees would have a major effect on cross-border workers who often have further distances to travel for business than do residents.

⁶⁰ State financial aid for students in higher education, law of July 26th 2010 modifying:

1. the modified law of June 22nd 2000 on State financial aid for higher education studies, in : Memorial A n°118 of July 27th 2010.

⁶¹ The bonus for children introduced by the law of 21 December 2007 constitutes a procedure of implementation of the tax moderation.

⁶² Notice of the State Council of June 29th 2010 in: Session Paper n° 6148.

⁶³ It is a benefit in kind for day-care for young children up to age 12 on the condition of residence in Luxembourg.

In an initial press statement⁶⁴ on May 12th 2010, the OGBL denounced the degradation of cross-border workers' situation and declared that it would turn towards the European institutions in order to verify the conformity of these measures with European regulations on the free movement of persons. In an open letter⁶⁵ addressed to the Prime Minister, the LCGB requested a reconsideration of the volition to suppress family benefits for children older than 18. At the end of June, in a joint statement⁶⁶, the OGB-L and the LCGB invited the Chamber of Deputies to proceed with an extensive consultation before making a final decision on the project, which touches in particular cross-border workers with low revenues. On July 1st 2010, the LCGB launched a campaign destined to cross-border workers, inviting them to mobilize for equal treatment for all workers with the slogan: "with equal work and equal contributions, equal benefits for all workers"⁶⁷.

During this time, several organizations (CSL, OGBL) criticized the manner in which the legalization process had taken place. The Luxembourg Chamber of Employees (CSL) denounced not having been consulted in good and right procedure on the project, whereas a large part of its members were concerned by the question. It also opposed the inequality of treatment with regard to cross-border workers with older children doing higher education studies who are both excluded from financial aid for higher education studies and have lost the bonus for children. The CSL questioned the respect of the principle of equality with regard to social and fiscal advantages, and wondered about the conformity of this system with Community law⁶⁸. In any event, it exacted a compensation for the families of cross-border workers.

The contestation did not stop after the bill was voted into law.

On July 28th 2010, the OGBL addressed an open letter to the Prime Minister and called for a manifestation on September 16th 2010 via a press statement. Under the title *Austerity Measures on the back of cross-border workers*⁶⁹, the OGBL indicated that some

⁶⁴ Austerity measures. OGBL denounced the worsening of the situation of cross-border workers, Statement on May 12th 2010, http://www.ogbl.lu/html_fr/salle_de_presse/index.html

⁶⁵ Parliamentary sessions paper N°5858² of June 10th 2010.

⁶⁶ OGB-L, LCGB. Aides financières pour étudiants et allocations familiales: Une dégradation financière considérable ?, Common statement of the OGBL and of the LCGB, June 30th 2010.

⁶⁷ The LCGB refuses all unequal treatment of workers, <http://lcgb.lu/fr/articles/show/id/665>

⁶⁸ Chamber of Workers Luxembourg, NoticeI/48/2010 of July 5th 2010, pp. 10-11, <http://www.csl.lu/avis-evacues-en-2011/184-article-avis-evacues-en-2010>

⁶⁹ Frontaliers riposte_OGBL_280710, http://www.ogbl.lu/pdf/communiqués/7/Frontaliers_riposte_OGBL_280710.pdf

6000 cross-border households would be concerned by the suppression of family benefits and of the tax rebate called bonus for children, from children of cross-border workers who were older than 18 and who are pursuing higher education studies. Besides the organization of a manifestation, the OGBL introduced a complaint before the European Commission for the non-respect of Community law and launched a widespread petition, followed by another complaint introduced by the European Economic Interest Grouping “Cross-border Europeans in Luxembourg” (G.E.I.E. FEL) on September 23rd 2010. On October 21st 2010, the Commissioner László Andor⁷⁰ indicated that the Commission would proceed with the examination of the legislation in question and would seize the Luxembourg government in order to be able to have precise details on the facts in question. A decision of the Commission is expected for early 2011.

The LCGB joined the movement on September 16th,⁷¹ as did the ALEBA (union which represents the banking and insurance sectors), the FNCTFFEL⁷² and the Syprolux.⁷³ Nevertheless, divergent points of view were also expressed within the parliamentary group of the CSV between Lucien Thiel, reporter of the bill of law bringing modification of financial aid and former president of the ABBL, and the deputy Robert Weber, president of the LCGB. If the former argued for an end to the automatic indexation of salaries, the latter did not see the necessity of ending, or of modulating the index.⁷⁴ The law on State financial aid for higher education studies took nonetheless effect on October 1st 2010.

Nevertheless, the OGBL filed a complaint with the European Commission against the Grand-Duchy of Luxembourg « for violation, by the law of July 26th 2010, of several provisions of Community law by excluding the non-resident students, children of cross-border workers in Luxembourg, from the benefits of family benefits and of the bonus for

⁷⁰ The European Commissioner designated to employment and to social affairs, László Andor, emphasized in October 2010 that the introduction of a residence clause for obtaining financial aid for superior studies is probably against the European dispositions on the subject of the mobility of workers because this clause penalizes above all the children of cross-border workers. See Financial Sector Trade Union website. <http://sesf.lu/2010/10/la-commission-europeenne-donne-raison-aux-syndicats-dans-le-dossier-de-la-suppression-des-allocations-familiales-pour-etudiants/>

⁷¹ <http://lcgb.lu/fr/articles/show/id/681>

⁷² Landesverband, <http://www.landesverband.lu/index.php?lang=de>

⁷³ Equal rights for all workers!, www.ogbl.lu

⁷⁴ Ein Streitgespräch zwischen christlich-sozialen Politikern. Eine Frage, zwei Parteifreunde, zwei Meinungen, in: Luxemburger Wort of July 31st 2010, p 3.

children, respectively State financial aid for higher education studies »⁷⁵. The OGBL considers that this law violates the regulation 883/2004,⁷⁶ as well as the regulation 1612/68⁷⁷ and constitutes a violation of the MEEUSEN law⁷⁸.

The implementation of the provisions of Community regulation 883/2004

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems replaced, on May 1st 2010, the former regulation (EC) 1408/71 and its rules for application (EC) 574/72. This regulation had an important impact on Luxembourg where the job market of the country is the Grand Region market, with a large proportion of cross-border workers (more than 147.000 cross-border workers in 2010-almost 44% of domestic salaried employment⁷⁹. As such, in case of unemployment, since May 1st 2010, cross-border workers who lose their jobs must make a declaration with the ADEM before taking any action within their own respective countries⁸⁰.

Already, at the end of 2009, the OGBL reacted to this new disposition by diffusing a statement to the State.⁸¹ This text underlined the importance of trying insofar as possible to maintain, for cross-border workers having lost their jobs during collective layoffs, the status of worker in Luxembourg, and to allow them to benefit from continuing training and other measures rather than sending them back to their country of residence as unemployed workers. The union emphasized as well that cross-border workers constitute a large proportion of the workers of the domestic economy and by consequence pay their

⁷⁵ <http://www.europaforum.public.lu/fr/actualites/2010/09/plainte-ogbl/index.html>

⁷⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:fr:PDF>

⁷⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31968R1612:fr:HTML>

⁷⁸ http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=fr&numdoc=61997J0337

⁷⁹ Portrait of the economy, job market, <http://www.luxembourg.public.lu/fr/economie/portrait/marche-emploi/index.html>

⁸⁰ Fernand Kartheiser questioned the competent Ministers on the subject of the possible consequences of the application of the « new European regulation on the coordination of social security systems » for Luxembourg on May 17th 2010, <http://www.europaforum.public.lu/fr/actualites/2010/05/qp-secu-sociale/index.html>

⁸¹ Press statement, OGBL, Cross-border workers, reimbursement of unemployment benefits in the country of residence November 25th 2009, http://www.ogbl.lu/pdf/communiqués/28/Chomage_Frontaliers_251109_FIN.pdf

taxes, including the solidarity tax which feeds the employment fund and the social contributions, in Luxembourg.

The reform of the ADEM

On December 22nd 2010, the government filed a bill of law for the reform of the Employment Administration⁸². Already on July 6th 2010, the Minister of Work, Employment and Immigration presented the outline of the reform of the ADEM with regard to modifications of internal organization⁸³. According to the bill, the Agency for the Development of Employment would replace the Employment Administration. The change of name demonstrates the desire to reform the ADEM to be better adapted to the needs of the job market⁸⁴ and to go from “an approach of simple management of unemployment...” to “a proactive approach, with a veritable logic of client service”⁸⁵.

The goal of the reform is, on the one hand, to be more attentive to the needs of the unemployed and to offer a more personalized form of follow-up. The individual follow-up of the unemployed worker would be reinforced through increased personnel, a simplification of the admissions procedure, and the application of a convention of cooperation with the unemployed worker. The improvement of relations with employers would be part of the professional counselors’ responsibilities. These include: prospection with companies, making direct contact with the employer as soon as a declaration of a job

⁸² http://www.gouvernement.lu/salle_presse/conseils_de_gouvernement/2009/03-mars/26-conseil/index.html#8

⁸³ Note related to the internal organization of the reform of the ADEM « Agency for the Development of Employment ».

This note only covers aspects related to the internal organization of the ADEM, excluding, notably, the points regarding accompanying job seekers. These elements are in the process of being finalized and will be put in place in the autumn when the new agencies are opened, <http://www.adem.public.lu/Divers/reformeadem.html>

⁸⁴ The figures cited by the authors of the project recall the necessity of the reform: in one decade, the number of unemployed workers registered with the ADEM has gone from 5.452 in January 2000 to 14.703 in October 2010 and the unemployment rate has increased from 2,9% to 6,1% during this same period (6,5% in December 2010); at the same time total interior employment increased considerably going from 256.576 to 368.268 persons or an increase of 43,5%. For only 40% of hiring done in 2007, the unfilled vacancy had been declared with the ADEM. Companies turn the ADEM for filling positions in only 52% of cases. The ADEM only intervenes for 21% of hiring done in Luxembourg and in only 7% of hiring done did the ADEM play a determinant role, see exposition of reasons, in : Parliamentary session paper N°6232, pp1-2.

⁸⁵ Parliamentary session note N°6232, p 11, www.chd.lu

offer is filed, the development by the regional agencies of information about companies and of recruitment projects in the region. In addition, the role of the new administration in the initial and continuing training of unemployed workers would be reinforced. The skills assessment would be used to orient an unemployed person either towards a job offer or towards training if his skills do not permit him to find a job rapidly. An advisory committee which exists for this purpose currently, on an informal basis, has been definitively instituted.

On the other hand, the reform looks to better match job offers and job demands. The study and research department⁸⁶ will be developed, so as to be able to obtain better knowledge of the job market and the required qualifications, as well as of the skills of those seeking employment and the positions held by migrants or cross-border workers. This agency will play a central role in the employment Observatory which organizes a network of producers, analysts and those using studies on the job market, employment and immigration.

In addition, a better-performing computer system which would allow to match efficient job offers and demands more efficiently is in the process of being installed, and the procedures for recruiting abroad will be simplified.

In terms of personnel, 35 additional professional counselors coming in from the private sector were recruited in 2010 in order to improve the ADEM's performance. They received training relating to the requirements of this trade.

The creation of regional agencies at Differdange, Dudelange and Wasserbillig⁸⁷ along with the opening of agencies in Luxembourg-City, Esch-Alzette, Diekirch and Wiltz should facilitate relations with, and bring closer together, those seeking employment and regional employers.

⁸⁶ Other services: service to the development of employment and training, service to unemployment and reemployment and the professional reorientation service.

⁸⁷ Grand-ducal regulation of April 14th 2010 creating regional agencies of the Administration of Employment at Differdange, Dudelange and Wasserbillig, in Memorial A n°63 of April 23rd 2010.

At the same time as the reform of the ADEM, the sectorial initiative « Fit 4 Job » was put into place with the banking profession in order to adjust the demand and offer in this sector⁸⁸.

According to available figures, the Direction of Immigration and the Ministry for Foreign Affairs granted a total of 440 temporary residence documents (AST) in 2010 (1st granting), 1853 residence documents (TS) (permits and renewals) as well as 332 work permits (AT) ‘for workers’:

Category \ Type	Temporary residence document (1st granting)	Residence Document (1st granting and renewal)	Work Permit
Worker	136	1306	303
Posted Worker	16	18	2
Transferred Worker	154	226	11
Highly skilled Worker	125	128	16
Independent Worker	9	70	
Pensioned Worker		105	

Source: MAE, Directorate of immigration, Internal working document, 2010

Research

Assuming that research is one of the main drivers of a competitive economy, the government made particular efforts to develop the scientific capacities of the University of Luxembourg and the public Research Centres (CRP). Five institutions are accredited in Luxembourg to receive third-country national researchers following the procedure set

⁸⁸ See: Articles of current events. Presentation of the “fit4job” program developed in the financial sector and in the framework of the government’s employment policy,

http://www.gouvernement.lu/salle_presse/actualite/2010/02-fevrier/25-schmit/index.html

Similar initiatives could be put into place with sectors concerned by the loss or creation of employment, the goal being to provide a proactive environment for those concerned to allow rapid rehiring of these persons in this sector or in other sectors.

out by the law of 29 August 2008 on the free movement of persons and immigration⁸⁹.

The multi-year establishment contract between the State and the University of Luxembourg for the years 2010-2013⁹⁰ which took effect on January 1st 2010 defines the general framework for the attribution of State financial contributions in the form of a block grant with a view to financing the activities of the University of Luxembourg. Already launched in 2006 by convention, the cooperation among the public Research Centres and the University of Luxembourg continues to develop, aiming to facilitate and to intensify scientific, technological and pedagogical cooperation among the different facilities.

In 2009, the Ministry of Culture, Higher Education and Research announced a plan of action whose goal would be to attract and to retain the human resources indispensable for the development of research in Luxembourg. The Ministry also established “contract of performance” conventions between the State and the research institutions. The government supports the projects which look to attract researchers from all over the world. While there were no specific actions in 2010 to attract researchers, the tools which were instituted by the law of 19 August 2008 relating to aid given for education and research⁹¹, as well as by the law on the free movement of persons and immigration improved the situation for researchers in Luxembourg, especially for those in doctoral and post-doctoral programs. As such, in July 2009 the National Research Fund launched the structural program Pearl destined to attract high-level researchers to Luxembourg. Work contracts are proposed to high-level researchers during doctoral and post-doctoral training. For third-country national researchers, entry into the country is facilitated by the removal of the necessity to apply for a work permit and by the introduction of a reception convention between the research institutions and the researchers which acts as a basis for the establishment of the residence document.

⁸⁹ Public Research Centre Gabriel Lippmann, Public Research Centre Henry Tudor, Public Health Research Centre, CEPS/INSTEAD, University of Luxembourg.

⁹⁰ Multi-year establishment contract between the State and the University of Luxembourg, 2010-2013, <http://www.fr.uni.lu/universite/documents>

⁹¹ www.afr.lu

A survey done in 2009 among research institutes on the procedures of researcher management, which were instigated to attract and retain the human resources indispensable for the development of research in Luxembourg, allowed in 2010 the structural indicators of the management of researchers within the research institutions to be defined. These indicators will be incorporated into the performance contracts for 2011-2013 signed at the beginning of 2011 with the research institutes.

The FNR (National Research Fund) is, besides this, in charge of AFR scholarships (training-research aids) thereby proposing an attractive framework for doctoral and post-doctoral candidates in Luxembourg and abroad, whatever their nationality. The establishment of work contracts between the AFR beneficiaries and their host institute is encouraged, as are public-private partnerships. This system of scholarships functioned for the first time for a complete year in 2009. During the years 2008-2010, 666 research projects were selected (184 in 2010) within this framework⁹².

The government also supports the development of the section of health sciences and technologies. It invested 156 million € in a research project relating to biomedicine. This project, done in collaboration with three American research institutes covers the 2009 and 2014 periods.

The ATTRACT program (2006-2013) aims to attract young researchers in the areas of sciences and technology who are not previously established in Luxembourg⁹³. In 2010, 2 candidates were accepted.

Within the AM2c program, which aims to increase the mobility of researchers between Luxembourg and diverse countries (EU and third countries), the mobility of researchers was developed as follows in 2010 : 4 researchers in Luxembourg went to work within a

⁹² National Research Fund Luxembourg, Internal working document, 2010.

⁹³ National Research Fund Luxembourg, "ATTRACT Program", <http://www.fnr.lu/fr/content/view/full/445>

foreign research centre, while 14 researchers working within a foreign research centre came to Luxembourg on a temporary basis⁹⁴.

In 2010, 35 temporary residence documents, 36 residence documents and 14 ‘researcher’ work permits were granted:

Category \ Type	Temporary Residence Document (1st granting)	Residence Document (1st granting and renewals)	Work Permits
Researcher	35	36	14

Source: MAE, Directorate of immigration, Internal working document, 2010

Moreover, the government continues to support the reception of third-country national students by financial aid granted to certain student exchange programs instituted by the University of Luxembourg and other research institutes in the Grand-Duchy.

As such, in 2010, 432 temporary residence documents (AST), 519 residence documents (TS) and 1 work permit (AT) were granted ‘for studies’.

Category \ Type	Temporary Residence Document (1st granting)	Residence Document (1st granting and renewals)	Work Permits
School Pupil	234	241	
Student	177	266	
Intern	21	12	1

Source: MAE, Directorate of immigration, Internal working document, 2010

⁹⁴ National Research Fund Luxembourg, <http://www.fnr.lu/en/Grants-Activities/Accompanying-Measures/AM2c-Mobility-of-Researchers>

4.1.3. Developments from the EU perspective

Development of policies promoting a better matching between the supply and the demand for labour

In the context of global economic downturn, the government did an overall analysis of the economic situation in Luxembourg. Within this framework, the Ministry of the Economy and Foreign Trade proposed in April certain measures for the improvement of national competitiveness, one aspect of which were the propositions relating to the bringing together of immigration policy and economic needs⁹⁵. An interdepartmental think tank is in the process of developing recommendations for the implementation of these propositions, looking to conciliate the need for proactive economic immigration policy with other considerations, such as those related to security and to the country's obligations towards its European partners.

Several of these general propositions were related to migration and looked in particular to facilitating recruitment and mobility of certain types of third-country workers, and, as well, to promote the attractiveness of Luxembourg for investors, particularly foreign investors. Based on the conclusions of this study, improvements could be made, if needed, so as to make Luxembourg more attractive for the establishment of headquarters.

The Ministry of the Economy and Foreign Trade proposes has also expressed the desire that more flexible legislation regarding the immigration of third-country nationals who wish to exercise an independent activity be passed, with, in particular, a simplification of the conditions for family reunification⁹⁶.

⁹⁵ General propositions of the Ministry of Economy and Foreign Trade for the improvement of national competitiveness, with the tripartite Committee of coordination, Version of June 30th 2010, http://www.eco.public.lu/salle_de_presse/com_presse_et_actu/2010/04/Propositions_d'ordre_general_du_Ministre_de_l'Economie_et_du_Commerce_exterieur/index.html

⁹⁶ Currently, the independent worker does not have the right to be accompanied by his family during the first year.

The same Ministry moreover proposes to create a system which would be adapted to those who wish to invest their wealth into Luxembourg economy by instigating an accelerated procedure which would include personalized follow-up for new potential residents identified as bringing an important value-added⁹⁷ to the Luxembourg economy.

The Agency for the Development of Employment

With the bill of law bringing the creation of the Agency for the Development of Employment⁹⁸, the Luxembourg Government began work on facing another big challenge which is closely tied to economic immigration policy, that being the matching of supply and demand on the domestic labour market. According to the bill of law, the recruitment procedure for third-country workers would be adjusted. Whereas up until now, the market test was done during the procedure of examination of applications for residence documents, it is henceforth planned to perform the market test before a residence document is requested.

Thus, the ADEM will initially play the part of filter for requests for residence documents by applying the labour market test. If, at the end of three weeks after the declaration of an unfilled vacancy is made by the employer, the ADEM has not proposed a candidate with the required profile to the employer, the employer may request a document from the ADEM certifying that he has the right to hire the person of his choice for this position⁹⁹. The ADEM must give him this certificate within 5 days. Only third-country residents who have found an employer having this document – which presupposes that the employer had declared the vacancy – may present an application for a residence document¹⁰⁰

⁹⁷ Investments, fiscal revenues, etc.

⁹⁸ Parliamentary session note N°6232, www.chd.lu.

⁹⁹ Le recrutement à l'étranger, Exposé des motifs, in : Parliamentary sessions paper N°6232 pp.17-19, Article L.622-4 (4), in : Parliamentary sessions paper N°6232 p.27.

¹⁰⁰ Currently, a request for a residence document for workers may be made with the Ministry of Employment, Work and Immigration, without the hiring priority which certain workers benefit from

Attracting and facilitating the recruitment of highly skilled researchers and students

The government is preparing the transposition of the directive 2009/50/EC of the Council of May 25th 2009 which sets out the conditions of entry and residence for third-country nationals for highly skilled employment.

Tax relief for highly skilled foreigners

Looking to increase the attractiveness of Luxembourg for highly skilled foreign labour, the government has implemented specific fiscal measures for these persons. On December 31st 2010, the Administration of direct contributions published a memorandum which introduced the new system of taxing for expenditures and fees relating to the hiring of highly skilled and specialized workers¹⁰¹ from the international market. The provisions of the memorandum propose to reimburse part of the fees that the companies take on for hiring highly qualified specialized workers through income taxes and will be applicable to highly skilled workers who settle in Luxembourg after December 31st 2010¹⁰². As such, by tax relief, the recruitment of executives with highly specialized profiles would become less costly for the employers and the individuals concerned.

Recognition of skills

On the subject of the recognition of skills, the government pursued its efforts in the area of professional training. The grand-ducal regulation of January 11th 2010 on the organization and the validation of acquired experience for granting certificates of

through national or European provisions, having been examined for a declared vacancy. It is up to the ADEM and to the advisory board for workers to determine if hiring priority has been respected, or if the position had been declared to be vacant.

¹⁰¹ By highly skilled worker can be understood 1.A worker who normally works abroad and who is loaned temporarily to a local company in Luxembourg, and 2.A worker recruited directly in a foreign country by a local company.

¹⁰²http://www.impotsdirects.public.lu/legislation/legi10/Circulaire_L_I_R_n°952_du_31_d%C3%A9cembre_2010.pdf

competency, diplomas and other certifications,¹⁰³ was published on January 19th 2010. The concept and the procedures of validation of acquired experience (VAE), introduced by the law of December 19th 2008 bringing reforms to professional training¹⁰⁴, was presented on March 16th 2010¹⁰⁵. The basic premises are the acquisition of knowledge, aptitudes and attitudes in other places outside the school system. This new procedure permits the certification of professional or extra-professional experience. The VAE is open to the general public, whatever the age group, the level of studies or professional situation. The only condition is to have had at least three years or 5.000 hours of paid or volunteer activity, continuously, or not. This activity must be directly related to the diploma or certification requested. If the candidate meets these conditions, he can be granted a certification or a diploma of secondary technical education¹⁰⁶. Two information reunions were organized in 2010 and the validation committee met once at the end of 2010.

Since the VAE was launched, 299 files of admissibility were presented, 231 were considered admissible, 48 were incomplete and 19 were not admissible, either because the experience (3 years or 5 000 hours) was insufficient, or because the certification requested does not exist.

¹⁰³ Grand-ducal regulation bringing the organization and the validation of acquired experience for the granting of certificates of competency, diplomas and other certifications in : Memorial A N°6 of January 19th 2010, <http://www.legilux.public.lu/leg/a/archives/2010/0006/a006.pdf>

¹⁰⁴ Memorial A N°220, <http://www.legilux.public.lu/leg/a/archives/2008/0220/2008A3274A.html>

¹⁰⁵ http://www.men.public.lu/actualites/2010/03/100316_vae/index.html

¹⁰⁶ CITP; CCM; CATP, diploma of technician, or leaving diploma for technical secondary studies, or a master craftsman certificate.

Certifications requested out of the 299 requests for admissibility: ¹⁰⁷

Leaving Diploma for secondary technical studies	68
Master craftsman	47
Technician's Diploma	22
CATP	151
CCM/CITP	1
OTHERS (requested diploma not included in the VAE, diploma not indicated precisely)	10

Source : MENFP, 2010

The most requested certifications of the 299 requests for admissibility were:

- Educator (leaving diploma for secondary technical studies): 30
- communication and organization section (leaving diploma for secondary technical studies) : 18
- commercial and administrative employee (CATP) : 8
- cook (CATP) : 15
- care giver (CATP) : 13

With regard to the recognition of leaving diplomas, it should be noted that the grand-ducal regulation of October 27th 2006¹⁰⁸ establishes the criteria¹⁰⁹ of recognition given to

¹⁰⁷ MENFP, Activity report 2010,

http://www.men.public.lu/publications/periodiques/rapports_activites/rapport_activite_2010/110302_rapport_activite2010.pdf

¹⁰⁸ Grand-ducal regulation of October 27th 2006 for the implementation of article 4 of the modified law of June 18th 1969 on superior education and the accreditation of foreign titles and grades of superior education in : Memorial A N° 195 of November 15th 2006,

<http://www.legilux.public.lu/leg/a/archives/2006/0195/2006A3383A.html>

¹⁰⁹ Art. 4: the equivalence of the Luxembourg secondary studies leaving diploma or technical studies leaving diploma or diploma of technician will only be recognized among the diplomas included in the Article 1 in the two following cases :

1. if the applicant holds a diploma granted by an establishment of higher education which is recognized and situated in a member State of the European Union, and awarded for completion of a cycle of superior studies lasting at least three years
2. if the applicant is entitled to enrollment for superior studies in a member State of the European Union and if the diploma meets the following conditions :
 - the tests of examination of the diploma must include two languages, one of which must be French or

leaving diplomas. Since the beginning of the year 2010, some 1729 persons requested the recognition of foreign diplomas with respect to the leaving exam in Luxembourg, 210 requests were for the equivalence with a leaving exam from a third-country which did not sign the conventions of Paris and/or Lisbon.

4.2. Family reunification

4.2.1. Specific context before 2010

Family reunification of third-country nationals is regulated by the law of 5 September 2008 which defines the criteria of revenues and housing provided by the law¹¹⁰. Article 72 (6) of the law provides that a maximal decision-making time for a request for family reunification be 9 months¹¹¹. In 2010, there were no new measures implemented beyond those already in existence¹¹². Moreover, national legislation does not take into consideration the capacity of reception or integration in the framework of an admissions procedure.

4.2.2. Developments within the national perspective

There were no legislative evolutions with regard to family reunification in 2010. Nonetheless, several basic questions treating family life were brought up by the

German, as well as in areas belonging to at least three of the following domains: human and social sciences, natural sciences, mathematics, technology, fine arts and music.

-The diploma must be awarded at the end of schooling lasting for at least 12 years of primary and secondary progressive studies.

¹¹⁰ Memorial A N°138, of September 10th 2008,

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=36>

¹¹¹ The waiting period is 9 months for the third-country national (who is not a highly skilled worker) who meets the conditions demanded by the law (one year of residence, showing that he has the means to take charge of the member(s) of his family, and have insurance). In the case where the petitioner is a Luxembourg national or member of the European Union the waiting period is 3 months.

¹¹² European Migration Network- National Contact Point- Luxembourg. Policy report on migration and asylum, 2009, ch. 3.5, pp 35-37, published in 2010,

http://www.emnluxembourg.lu/sites/default/files/2009_RapportPolitique_EMN-NCP-LU.pdf

Mediator¹¹³. The Mediator received a complaint from a Luxembourg national who had created a partnership with a third-country national, who had been refused the granting of a residence document¹¹⁴. The basic question is to know if a third-country national in possession of a valid passport may create a partnership in Luxembourg during the validity of his visa, or during the first three months after arrival if such a visa is not required for entry onto the national territory. The Mediator recommended that the Ministry grant the claimant a residence document as the family member of a Luxembourg citizen.

Another complaint concerns a third-country national family member, who was refused a residence document for salaried workers for the reason that the activity he intended to practice did not serve the country's economic interests. In its reply, the Ministry evokes the criteria and the conditions that determine whether an activity serves the country's economic interests. It indicated, in addition, that Luxembourg applies the conditions of the one-year waiting period provided by the directive, period during which the Member States can examine the situation of their job markets before authorizing family members to practice a salaried or independent activity¹¹⁵.

4.2.3. Developments from the EU perspective

Luxembourg does not require any conditions of integration for family members who join before the residence document is obtained.

The law of 16 December 2008 relating to the reception and the integration of foreigners in Luxembourg does not distinguish between different « categories » but is applicable to all foreigners residing legally on the Luxembourg territory. As such, all foreigners have

¹¹³ Ombudsman, Activity report from October 1st 2009 to September 30th 2010., pp. 19-22, <http://www.ombudsman.lu/index.php>

¹¹⁴ The declaration of partnership is submitted notably to the condition of legal residence on the Luxembourg territory, article 4 of the law of July 9th 2004 relating to legal effect of certain partnerships. Article 12 of the modified law on the free movement of persons and on immigration considers as a member the partner with whom the EU citizen has created a partnership registered following article 4 of the law of July 9th 2004. The same article 12 stipulated that family members, Union citizens or third-country nationals, of a Luxembourg citizen are assimilated to the family members of an EU citizen.

¹¹⁵ Ombudsman, Activity report from October 1st 2009 to September 30th 2010, pp. 20-22, <http://www.ombudsman.lu/index.php>

the possibility to have access to measures of integration, and especially those included within the multi-annual action plan for integration and against discrimination 2010-2014, as well as to the Reception and integration contract (CAI).

Like all foreigners, joining family members may thereby benefit from the services offered by the action plan and the CAI.

On the subject of access to the job market, the third-country national who comes to Luxembourg as a family member of another third-country national must obtain a residence document. The market test is applied to the third-country national arriving in Luxembourg for family reunification only during his first year of residence. After one year of residence, the market test is no longer done.

According to the bill of law creating the Agency for the Development of Employment, a third-country national who has a valid residence document which permits long-term residence, may register with the ADEM. Family members can also benefit from this provision if they have a family member residence document¹¹⁶.

Authorizations/permits granted for ‘family member’ during the period of January 1st to December 31st 2010:¹¹⁷

Type Category	Temporary Residence Document (1st granting)	Residence Document (1st granting and renewal)	Work Permits
Family Member	520	2999	10

Source : Directorate of Immigration, Internal working document, 2010

These figures do not contain, however, the titles granted to EU citizens’ family members. In 2010, were delivered:

- 1.496 1st residence documents for family members of a EU citizen
- 324 permanent residence documents for family members of an EU citizen

¹¹⁶ Article L.622-5, in: Parliamentary session note N°6232 p.28. Cannot be registered: seasonal workers, posted workers detached workers, or persons residing in Luxembourg to study or for professional training.

¹¹⁷ For residence documents, the figures available for Luxembourg always contain 1st grantings and renewals.

4.3. Other legal migration

4.3.1. Specific context before 2010

In addition to the types of residence documents described above, it is appropriate to cite the following residence documents:

- Residence document for a third-country national for athletic or coaching activities
- Residence document for a third-country national who wishes to perform an unpaid internship for training
- Residence document for a third-country national who wishes to take part in a volunteer program
- Residence document for a third-country national for private reasons
- Residence document for a third-country national for studies
- Residence document for a research project
- Residence document for medical reasons
- Residence document for exceptional circumstances

4.3.2. Developments within the national perspective

According to available figures, the Directorate of Immigration and the Foreign Affairs Ministry granted 689 temporary residence documents (AST), 2057 residence documents (TS) (1st granting and renewals) as well as 10 work permits (AT) during the period going from January 1st to December 31st 2010 for the following categories :¹¹⁸

Type Category	Temporary Residence Document (1st granting)	Residence Document (1st granting and renewal)	Work Permits
Athlete player	28	19	4
Athlete coach	3	5	2
Athlete player-coach	5	4	
Students	432	519	1
Others	221	1510	3
Total	689	2057	10

Source: MAE, Directorate of Immigration, Internal working document 2010

Practical information about settling in Luxembourg

The new, fourth edition (2010-2011) of the ‘just arrived’¹¹⁹ brochure was published in September 2010. Started in 2005, this brochure is a practical guide assembling diverse information on moving in and getting settled and the related administrative procedures as well as supplying practical information about daily life in Luxembourg.

4.3.3. Developments from the EU perspective

¹¹⁸ The category ‘other’ contains the following sub-categories: ‘private life’, ‘long-term resident’, ‘EU service providers’, ‘international protection’. The category ‘students’ contains the sub-categories: ‘school pupil’, ‘student’, ‘intern’, ‘volunteer’.

To see the precise figures for each sub-category, please see the related points of this report.

¹¹⁹ <http://www.justarrived.lu/>

Improving the available information about the possibilities of and conditions required for legal immigration

On a national level, the government is in the process of improving and making uniform the information diffused on the State internet websites on immigration. As such a collaboration was started between the department in charge of Immigration (Directorate of Immigration, Foreign Affairs Ministry) and the department in charge of the unique virtual government window (Centre of Information Technology of the State).

The government gave its support to the development of two brochures relating to the free movement of Union citizens and their family members (in 2009) on the one hand and on the immigration of third-country nationals¹²⁰ (in 2010) on the other. These brochures, done in collaboration with the Luxembourg Reception and Integration Agency (OLAI) and the Directorate of Immigration of the Foreign Affairs Ministry, aim to make the provisions of the law of August 29th 2008 on the free movement of person and on immigration more accessible and easier to understand for third-country nationals. They were edited by the Association of support for immigrant workers (ASTI) and are available in French and in English. As a complement to these brochures, the Internet website¹²¹ already launched in 2008 centralizes the main information in an electronic form.

The government also continued with the implementation of the project « Migrate with Open eyes » in Cape-Verde, started in 2006, and whose objective is to allow the members of the Cape-Verde population who plan to emigrate to do so knowledgably, notably by informing them about the opportunities and the constraints of emigration to Luxembourg by, and by an increase in human and institutional capacities. This project also has the ambition of strengthening the contacts between the Cape-Verde population and the Cape-Verde diaspora in Luxembourg through the civil society of the two countries.

¹²⁰ 'Welcome to Luxembourg', Information Guide for third-country nationals and for their families http://www.gouvernement.lu/salle_presse/actualite/2010/09-septembre/13-schmit/index.html

¹²¹ www.bienvenue.lu

4.4. Integration

4.4.1. Specific context before 2010

The law on reception and integration of foreigners of December 16th 2008, which took effect on June 1st 2009, instigates diverse instruments destined to encourage the integration of foreigners, with a special note for the national multi-year plan of integration and discrimination control 2010-2014, and the CAI.

The Luxembourg Reception and Integration Agency (OLAI) is in charge of implementing the policies of reception and integration of foreigners in the Grand-Duchy of Luxembourg which are applicable to all foreigners, European citizen and third-country nationals.

4.4.2. Developments within the national perspective

The reception and integration of foreigners was highlighted regularly during the year 2010. The National Conference for Integration, a forum of exchange in which some 200 persons participated, allowed a closer look to be taken at the different dimensions of integration. The criticisms of the civil society dealt mainly with the application of the law on reception and integration of foreigners. The debate was concentrated on certain communities (situation of the Roma), or surrounded the particular problematic of integration (political and electoral participation of foreigners, access of European Union citizens to civil service, integration in the school system of children of migrants). Several studies looked at integration of foreigners and social cohesion. On November 6th 2010, the Forum “with equal citizenship’ brought together several hundred representatives of associations of the Grand Region of the non-Community immigrant population in order to think and reflect on the citizen participation and the inclusion of migrants from third countries. This Forum took place with the intention of creating as space for reflection, through this network of associations, on citizenship in the Grand Region. Besides CLAE,

who organized the forum, several political actors looked at many themes related to integration of third-country nationals, and especially political participation, mobility, housing, schooling, and intercultural dialogue.

Access to civil service

At the beginning of the year, the Statec made a close examination of the public sector. According to the Statec, the public sector constitutes, in Luxembourg, a 'protected sector, a sort of refuge, in which Luxembourgish workers can make use of their particular skills which shelter them from competition from foreign workers with more diplomas'¹²².

The principle of the opening up of civil service to community citizens was previously endorsed by the law of December 18th 2009 which took effect on January 1st 2010. What was missing, among other things, was the grand-ducal regulation which determines the positions that remain reserved to Luxembourgish citizens.

The Council of State was highly critical of the project of the grand-ducal regulation¹²³ which lists, administration by administration, the jobs which include a participation in the exercise of the sovereign powers, and were hence reserved to Luxembourgish citizens:

« One must face the evidence of the very relative value of the statement of employment to the project of draft regulation in light of community law. The fact that it appears on the statement does not necessarily protect the position from critical analysis of Community authorities, nor from the sanction of a judge. Also, it does not appear reasonable to publish an incoherent statement and, from different points of view, contrary to the principles of community law, as applied to national law. Such an approach would place our country inevitably in the firing line of the European Commission»¹²⁴.

¹²² 'Le secteur public', Working papers of the Statec, December 2009, <http://www.statistiques.public.lu/catalogue-publications/economie-statistiques/2009/34-2009.pdf>

¹²³ Project of grand-ducal regulation determining the jobs in State administrations and public institutions which include direct or indirect participation in the exercise of the public power and in the functions which aim to conserve the general interest of the State or other legal persons of public law.

¹²⁴ Opinion 48.623 à 48.626 of February 23rd, on the projects of grand-ducal regulations about employment with a participation in public power, the recruitment Civil service- knowledge of languages... , http://www.conseil-etat.public.lu/fr/avis/2010/02/48_623/index.html

The Council of State prefers to list the functions throughout the entire administration. The government followed the advice of the Council of State and the Council of Government of April 30th 2010 by adopting the project for the grand-ducal regulation. The grand-ducal regulation,¹²⁵ like the grand-ducal regulation of May 12th 2010 bringing modification of the organization of exams-competitions for gaining access to civil service, introduced a significant change: A new exam entitled “Test of Luxembourgish history and culture” was added to the tests which were part of the program of the exam-competition for civil service.

On July 30th 2010, the Council of Government approved the project of the grand-ducal regulation¹²⁶. In the wake of the new provision put into place recently on the subject of the opening-up of civil service to community citizens, the project for the grand-ducal regulation defines for the communal section of civil service the jobs which include a participation in the exercise of public power and in the functions which aim to conserve the general interests of the State or of other legal persons of public law. This definition is totally ambiguous because it uses terms which are not legally determined.

The Council of State indicates that this ambiguity may enter into conflict at the moment foreign nationals can have access to the positions of mayor and local councilor. This is because the exercise of their functions includes participation in the exercise of public power (for example the right to directly require the help of public force) whereas according to the grand-ducal regulation, this type of position is reserved for nationals¹²⁷.

¹²⁵ Memorial A, N° 78 of May 25th 2010.

¹²⁶ The project of the grand-ducal regulation determining the jobs in communal administration, communal unions and public institutions placed under the surveillance of the communes which include a participation, direct or indirect, in the exercise of public power and in the functions who aim to conserve the general interests of the State or other legal persons of public law and modifying a) the grand-ducal regulation of November 15th 2001 relating to the system of communal employees, b) the modified grand-ducal regulation of September 25th 1998 setting the conditions of training, of admission to employment and of payment of those in charge of classes of music institutions of the communal sector, http://www.conseil-etat.public.lu/fr/avis/2010/12/48_985/48985_texte_prg.pdf

¹²⁷ Council of State, opinion 48.985 of December 7th 2010 on the project of the grand-ducal regulation relating to the exercise of public power in communal Administrations

Studies on integration in Luxembourg

Diverse research projects have looked at the problematic of reception and integration of foreigners in Luxembourg. The common theme of these studies is to evoke the evaluation of integration and social cohesion while giving enough room to the subjective dimension of integration (meaning the perception and attitudes of residents and resident aliens on integration).

The European Values study¹²⁸ and its diverse publications showed the attitude of residents with regard to immigration,¹²⁹ as well as the evolution of the attitudes of tolerance with regard to diverse groups in the population. Generally, it can be noted that negative statements received much support. It must be concluded that the negative perceptions are far from inexistent and that the degree of tolerance with regard to diverse groups in the population has diminished¹³⁰.

¹²⁸ The European Values survey is part of a European project born in the early 1980s. Luxembourg participated for the second time in the survey in 2008. The second survey done in 2008 by the CEPS/Instead allowed the questioning of a representative sample of the population of 1610 residents aged at least 18 years. It concerned subjects as diverse as the attitude with respect to work and to the economy, family, politics, religion and the meaning of life, see :

<http://valcos.ceps.lu/>, <http://www.europeanvaluesstudy.eu/>

¹²⁹ Marie Valentova; Guayarmina Berzosa, '*Attitudes toward immigrants In Luxembourg – Do contacts matter ?*', Ceps/Instead, Working papers N° 2010-20, July 2010 ; Marie Valentova, Guayarmina Berzosa, '*Do men and women perceive immigrants differently ? Analysis of gender gaps in attitudes toward immigrants among different groups of Luxembourg residents*', Ceps Notebooks/Instead, Notebook n°2010-November 26th 2010 ; Marie Valentova; Guayarmina Berzosa, '*Does age influence attitudes toward immigrants among different groups of Luxembourg residents*', Ceps Notebooks/Instead, Notebook n°2010-December 29th 2010.

¹³⁰ The statements according to which immigrants increase criminality and that there are too many immigrants in Luxembourg obtain the highest approval rate with respectively 48% and 40% of responses. The weakest rate of approval was obtained for the following propositions: « the country's culture is threatened by immigrants » (25%) and « immigrants are taking the jobs of the people born in Luxembourg » (24%)

Generally, the negative perception of immigrants is the most widespread among natives, followed by second generation immigrants and, lastly by first generation immigrants. The degree of tolerance changed considerably between 1999 and 2008:

As such, the proportion of persons who do not like to have certain categories of persons as neighbors has increased considerably during this period going from a rejection rate of 19% for moslems, 18% for refugees, 15% for immigrants, 14% for Jewish, and 13% for a person of another « race¹³⁰ ».

A publication about integration in Luxembourg¹³¹ brings to light that social participation through associations constitutes from the point of view of migrants, an important factor in the process of integration as much as does knowing of one or more official languages of the country. Nationality and political participation have less priority for the persons who were questioned¹³².

Still in this same context must be mentioned the results of a poll on integration done for the National Conference for Integration¹³³. This study highlights two models of integration in Luxembourg: a pragmatic model which associates the dimensions of Luxembourgish nationality and linguistic knowledge with the realistic indicators which are employment and school success for children, and a model of reciprocity in which the value is placed more on compromise and sharing cultural wealth, all the while respecting nationality and the traditions of the country of origin, while requiring equal rights and duties.

The first national report on the situation of youth in Luxembourg highlights the deficiencies of integration and of social and political participation of young people with a migrant background¹³⁴.

¹³¹ Annick Jacobs, Frédéric Mertz, *L'intégration au Luxembourg. Indicateurs et dynamiques sociales. Parcours de personnes originaires du Cap-Vert et de l'ex-Yougoslavie*, CEFIS Red N°14, Luxembourg, 2010.

¹³² The study, by listing a series of indicators of integration for Luxembourg questions the strategy for the evaluation of integration and insists for the case of Luxembourg on different aspects, such as: the creation of missing data, taking into consideration for the evaluation of integration the different population categories such as second generation, non-community nationals and community nationals, the implementation of quantitative and qualitative methods for "measuring" integration.

¹³³ CEFIS, OLAI, *Approches de l'intégration. Sondage réalisé auprès d'un échantillon représentatif de la population résidente au Grand-Duché de Luxembourg, Premiers indicateurs*. November 2010. The study gives as principle factors of integration the reciprocity of efforts and compromises and the fact of having a job. Nationality is, on the other hand, given far less value as a factor of integration.

¹³⁴ *Rapport national sur la situation de la jeunesse au Luxembourg*, Family and Integration Ministry, Luxembourg, 2010.

Participation in language classes

Classes for adults in Luxembourgish: ¹³⁵

	SFA ¹³⁶	INL	SFA+INL
2001/2002	1870	1164	3034
2002/2003	1914	1367	3281
2003/2004	2314	1211	3525
2004/2005	2791	1326	4117
2005/2006	2312	1417	3729
2006/2007	2456	1502	3958
2007/2008	2879	1641	4520
2008/2009	3750	1986	5736
2009/2010	4350	2056	6406

In 2009-2010, 6.406 persons were enrolled in the Luxembourgish language classes proposed by the national Language Institute (INL), the National Education and Vocational Training Ministry, and by the communes. This represents a consequential increase of more than 200% with respect to the year 2001-2002, the year during which 3.034 persons were enrolled¹³⁷. In addition, some 19.000 persons were enrolled in on-line language courses. This increase in enrollments in Luxembourgish language classes is linked to the new law on Luxembourgish nationality- which took effect on January 1st 2009- and which retains the practice of spoken Luxembourgish language as one of the conditions for acquiring Luxembourgish nationality. As such, each candidate must pass the tests « Sproochentest Lëtzebuergesch » which are organized by the national Institute of Languages (INL) and henceforth reimbursed by the State. In 2010, 1.064 candidates took the exam, among which 809 passed (average success rate: 79%)¹³⁸.

Moreover, the INL gave the examinations « Lëtzebuergesch als Friemsprooch (LaF) »¹³⁹ to 135 candidates for which the rate of passing was 90%. In 2010 the Institute had thus received 1.220 candidates for the examinations and tests in Luxembourgish language¹⁴⁰.

¹³⁵ Response to the parliamentary question n° 0988 of November 5th 2010 of Monsieur the Deputy Marc Spautz.

¹³⁶ Adult training service, Service with MENFP

¹³⁷ <http://www.luxembourg.public.lu/fr/actualites/2010/12/28-courslux/index.html>

¹³⁸ Statistical data of the National Language Institute, 'Evolution du nombre de candidats inscrits aux examens et tests par année- INL', internal work paper, 2010

¹³⁹ The examination LaF « diploma of Luxembourgish as a foreign language » is open to any person whether enrolled in Luxembourgish classes or not. When the examination is passed, the candidate receives a diploma

Besides this, in 2009, in order to promote the linguistic participation of foreigners in Luxembourg society, the government introduced the linguistic leave of absence¹⁴¹ through the law of February 17th 2009. This special leave of absence is intended to allow workers of all nationalities to take Luxembourg language classes. Workers and employees having worked for at least 6 months for the same employer established on the territory of the Grand-Duchy of Luxembourg, as well as independents who exercise an activity on the Luxembourg territory and who have been established there for at least 6 months, may take advantage of this. The total length of the linguistic leave of absence is limited to 200 hours, which must be divided into two tranches of 80 and 120 hours respectively during the professional career of the beneficiary. A diploma or another certificate of competency must be obtained in order to be able to benefit from the second tranche.

Figures on linguistic leave of absence (October 31 2010):

692 requests were presented

84 hours were requested on average

98 candidate files were reimbursed

As for the status of the files:

509 are being currently treated

65 are in suspense

30 were refused (seniority less than 6 months, request presented too late, non-eligible request, etc.)

certifying the respective level of knowledge (level A1, B1, B2, C1) of the Luxembourg language. However, unlike the « Sproochentest Lëtzebuergesch », this diploma does not give its holder access to acquiring Luxembourg nationality.

¹⁴⁰ *Activity Report 2010*, Ministry of National Education and Vocational Training

¹⁴¹ Memorial A N°33 of January 26th 2009,

<http://www.legilux.public.lu/leg/a/archives/2009/0033/a033.pdf#page=2>

The debate about the political participation of foreigners

During the year 2010, the Migration and Integration Platform has advocated increased electoral participation of foreigners. During successive interviews with political parties¹⁴², the platform proposed the idea of automatic registration of foreigners on communal electoral lists. It pleaded for the quick adoption of the project of reform of the electoral law which would allow elected foreigners to have access to the offices of mayor or alderman, while reclaiming a reduction of the 5-year length of residence required for participation in elections. It called upon political parties to be actors of increasing awareness about registration on electoral lists¹⁴³. The question of automatic registration was also defended by the initiative “Refresh Democracy”¹⁴⁴ composed of the political organizations CSJ, DJG, JDL, JCL, JSL.

The question of language was also evoked within the framework of the said reform. Several persons did not hesitate to bring up the image of a future burgomaster who could not communicate in the national language, the Luxembourgish language. Language conflicts would thus be inevitably pre-programmed¹⁴⁵.

According to the intermediary count of registrations on lists for the communal elections of October 9th 2010, the rate of registrations of foreigners (of voting age) on these lists was only 13%, of which the large majority was from the European Union. The CEFIS notes that the approximate rate of registration of foreigners varies necessarily depending upon age. It is observed that, in fact, from age 45 onward, the registration rate increases noticeably to attain a peak in the 55 to 64 year age group. For the younger than 45 age groups, the registration rate is below average. Because of their low rates of registration,

¹⁴² The DP first party to respond to the request for interview of the Migration and Integration Platform, *Comment renforcer la participation politique?*, in : Journal of July 29th 2010, page 4. ; *Vote des étrangers : une année riche en défis*, in : Quotidien of December 29th 2012, page 5 ; *Gemeindewahlen : hohe Beteiligung erwünscht*, in : Luxemburger Wort of December 30th 2010, page 4.

¹⁴³ *La démocratie en marche*, in : Journal *Är Meenung* of December 19th 2010, page 6.

¹⁴⁴ *Listes électorales. « refresh democracy ! » : inscrire d’office les étrangers*, in : Journal of July 29th 2010, page 4.

¹⁴⁵ *Babel an de Gemengen*, in: Luxemburger Wort of December 11th 2010, *Babel an de Gemengen?* in : Luxemburger Wort of December 18th 2010 ; *Eis Sprooch*, in : Luxemburger Wort of December 18th 2010.

young people (only 5% of 25-34 year olds participate), women, the people of Cape-Verde (only 4% were registered in November 2010) and foreigners from neighboring countries who are settled in Luxembourg¹⁴⁶ should become the groups targeted by awareness campaigns.

The research report on the legislative and European elections of 2009 analyzes for the first time, through an electoral and post-electoral poll, the values and virtual political behavior of foreigners. In the first place, the report demonstrates the high level of interest in politics among the foreign nationals in Luxembourg¹⁴⁷. The study also highlights an adaptation of behavior of foreigners to that of Luxembourgers. If the foreigners were not excluded from the right to vote, they would have voted in the same proportions as the Luxembourgers: they felt preoccupied by the same themes as the Luxembourgers: unemployment and employment being more important than the economic and financial downturn, as well as education and training. 35, 7% of foreigners felt close to the PCS whereas, against all expectations, only 23% of Portuguese confirm their proximity with the party in power. When questioned about their knowledge of the electoral system,¹⁴⁸ 24,4% of foreign nationals declare that they do not know how the legislative elections are organized. Faced with this limited knowledge of the electoral system, only 89,8% wish to maintain the current electoral system which allows the choice of the vote for a list, the vote for candidates who figure on only one list, or the vote for candidates figuring on several lists. There is also a plebiscite with 79, 9% of votes for electoral participation if the mandatory vote were abolished. From the point of view of foreigners, the fact that they do not master the Luxembourg language constitutes the first obstacle to their better political participation with 59, 8% of votes cast¹⁴⁹. While they are excluded from the right to vote in legislative elections 52, 7% of foreigners are not interested in the electoral

¹⁴⁶ <http://www.europaforum.public.lu/fr/actualites/2010/11/cefis-elections/index.html>

¹⁴⁷ 66.9% of foreigners claim to be interested in politics The following question: How interested would you say that you are in politics? 1 Very interested 2. Fairly interested, 3. slightly interested 4. not at all interested 5 Do not know, 6. No reply).

¹⁴⁸ The question was the following: In Luxembourg, the electoral law allows: 1. To vote for an entire list 2. To vote for candidates on one single list 3. To vote for candidates on several lists 4. I don't know 5. No answer

¹⁴⁹ Passing even the lack of knowledge of Luxembourg political institutions, the fact that the political parties are directed above all towards Luxembourgers and the proposition according to which many foreigners are not interested in politics in general.

campaign for the national elections. Notwithstanding this fact, close to 50% of foreigners had obtained information on the national political scene beforehand, essentially through reading newspaper articles. The adaptation of voting behavior of foreigners is confirmed while if they could vote, the votes of foreigners would not have modified the final results of the elections of 2009.¹⁵⁰ The breakdown by nationality of the virtual vote reveals the continuity of voting reflexes acquired in the national political systems of the country of origin. The vote for different parties would be made based on the same factors which determined the vote of Luxembourg nationals.¹⁵¹

Finally, the main political parties are putting into place structures that are destined to help foreigners become integrated into these parties. As such, with the SPIC (Socialists for integration and citizenship), the LSAP created, during the national Convention on March 14th 2010, a new task force¹⁵². This task force, composed of members who are immigrants who have become naturalized Luxembourgers and other supporters from the LSAP, is intended to strengthen the ties with the citizens of immigrant origin by proposing ways in which they can participate actively in political life, and also to hold discussions with party leaders on current political topics. It aims also to increase the number of electors and non-national candidates on the electoral lists and to prepare files about themes of general interest. Among the major achievements of the year 2010, can be noted the organization of a series of citizen meetings and the presentation of a project that is part of the awareness campaign for registration on electoral lists.

The structure CSV international, started in November 2008, is destined to help integrate foreigners in the CSV; On November 29th 2010, it expressed the volition to have access to the status of CSV section, following the women's sections or the youth section¹⁵³.

¹⁵⁰ The PCS would have been chosen by 40,3% of electors, passing the LSAP (20.5%), the Green party (18.2%) the liberals (15.8%), the Left (2.7%) and the ADR (1%).

¹⁵¹ The basic premises moving ahead of the achievements of the last 5 years and the level of confidence given to politicians, men and women.

¹⁵² <http://www.lsap.lu/2009/index.php?idnavigation=102&fidlanguage=2>

¹⁵³ Ausländische Mitbürger in christlich-soziale Politik einbinden, in: Luxemburger Wort of December 1st 2012, p. 25.

The « imported » debate on the Roma

The debate surrounding the Roma has also crossed Luxembourg borders in 2010. For about the first time, the position and treatment of the Roma was brought up in public and media debates in Luxembourg.

The CLAE is critical of the attitude of the authorities with regard to the Roma¹⁵⁴, having traditionally attempted to keep the Roma community from settling on the territory of the Grand-Duchy. According to the CLAE, the authorities do not respect rights relating to free movement. Moreover, in Luxembourg, there are no specific stopping areas for these communities. It has asked the Luxembourg Government to rethink its policy of reception. The association Chachipe talks of driving the Roma back to the border¹⁵⁵ and is critical of the police campaign launched with the Merchants Union against begging, which targets, according to the association, essentially the Roma¹⁵⁶.

When replying to a parliamentary question regarding the Roma, the Minister of Work, Employment and Immigration Nicolas Schmit insisted on the right of European citizens to free movement within the EU¹⁵⁷.

According to the Minister, EU citizens benefit in Luxembourg of the same rights with regard to residence and working documents. They must respect the laws of the country whether they are Luxembourg national, or not. All discrimination based on ethnic origin is unacceptable, from the Minister's point of view, who states that "Luxembourg does not have a problem with the Roma".

During their exchange of points of view with Minister Schmit, the deputies noted that there exists a difference between the real situation as lived out on a daily basis by the Roma and their legal situation. The deputies decided to put off certain points for a later meeting

¹⁵⁴ Roms : le CLAE épingle le Luxembourg, in : Quotidien of September 24th 2010, p. 10 ; Gens du voyage. CLAE : Le Luxembourg pas en règle, in : Journal of September 24th 2010, p. 4.

¹⁵⁵ Luxembourg : Impossible de stationner dans ce pays ?, in : CLAE, Horizon N°104, September 2010.

¹⁵⁶ David Wagner, Roms. Les parias, in : Woxx of November 19th 2010, p. 6.

¹⁵⁷ <http://www.europaforum.public.lu/fr/actualites/2010/11/qp-giberyen-roms/index.html>

- the construction of specific stopping areas for itinerant peoples, a subject on which both the minister in charge of environmental protection and the municipalities concerned have a say
- the actions of the grand-ducal Police with regard to vagrancy and begging are under the responsibility of both the Interior and Justice Ministers.

Criticisms made about the application of the law on the reception and the integration of foreigners

The associations have mainly criticized the absence of three statutory grand-ducal regulations included in the law of 16 December 2008 on the reception and the integration of foreigners.

The implementation of the Reception and integration contract (CAI) continued in 2010. As such, a draft of the grand-ducal regulation laying down the conditions of application and the procedures of implementation of the CAI, developed jointly with the National Education and professional Training Ministry, was approved on November 12th 2010 by the Government Council.

The future instigation of the CAI caused concern among diverse actors.

The Migration and Integration Platform, while sharing the differentiated approach of the contract which permits the signing candidate to learn one or several of the official languages of the country, is critical of the lack of ambition of the contract. Indeed, the linguistic part would allow the candidate to attain a very modest linguistic level, which corresponds to 60 to 80 hours whereas the integration classes in Germany or in France provide a far greater number of hours. The ADR, partisan of the valorization of the Luxembourgish language, would have preferred that there be an obligation of taking Luxembourgish language classes.

The Migration and Integration Platform¹⁵⁸, in its opinion on the Integration Advisory Committees (CCI), relates several new items which are highlighted in the draft of the

¹⁵⁸ Un vent nouveau pour l'intégration ?, in : Quotidien of December 21st 2010, p.5.

grand-ducal regulation and which are also noted in the successive reviews of the manner of functioning of the CCIs, this being the systematic gathering of information about the work done by the communal advisory and of the committee and the opening of other advisory committees to foreigners. The obligatory consultation of the CCI on a certain number of topics allows the CCI to be confident in its political role.

The platform wishes to know if the CCIs, which have been bestowed with a role of boosting and management have indeed the means to accomplish this task. In its opinion, the absence of a manager in charge of integration could cause the CCI to quickly lose steam.

4.4.3. Developments from the EU perspective

In 2010, the process of developing a five-year plan of action for integration and discrimination control (2010-2014) was concluded and the plan of action was adopted by the government on November 26th 2010. The plan sets the strategy for the coming years in terms of integration policy. Guided by two innovative principles which are the reciprocity and shared responsibility, the plan of action provides a series of measures and annual strategic priorities which tend to encourage smooth integration and will ensure the full participation of foreigners within Luxembourg society.

It aims for greater coordination of the national integration policies and of European initiatives in this area. The action plan is based on the eleven guidelines of European integration policy (PBC) which underline the importance of a global approach to integration. With a view to aligning the volition and the efforts of the different ministries in the area of integration of foreigners, the future governmental plans of action must be based on the main strategies retained by the present action plan¹⁵⁹.

¹⁵⁹ For 2010, the OLAI disposes of a total budget of 320,000 euros for the implementation of the measures and objectives of the action plan.

PBC 1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States

and

PBC 4. Basic knowledge of the host society's language, history, and institutions is indispensable to integration, enabling immigrants to acquire this basic knowledge is essential to successful integration.

Integration being a reciprocal process, the CAI, which is concluded for a maximum period of two years, contains reciprocal commitments for the State and for the foreigner with a view to organizing and facilitating his integration (developed above). The State is expected to provide language training¹⁶⁰, civic instruction as well as measures which facilitate social and economic integration of resident foreigners. The foreigner for his part undertakes to participate in the linguistic training, the civic instruction and the orientation day. For the launch of the CAI, the OLAI personnel received intercultural training.

In addition, for the implementation of the civic instruction training of the CAI, the OLAI will train potential instructors on the methodological approach and contents, especially on the key points of political history of Luxembourg, on migration, on rights and duties of citizens, values, languages and traditions in Luxembourg, as well as on communication in an intercultural society¹⁶¹. This training session, at the end of which the “Trainer of civic instruction within the framework of the Reception and integration contract” certificate is issued, offers the possibility to teach classes in civic instruction included in the CAI.

The instigation and development of the integration pacts concluded for the period of three years between the communes, the ASTI (Association of Support for Immigrant Workers) and the Family and Integration Ministry, offer another example of the idea of reciprocity. The desired objective is the establishment of a communal policy of integration of newly-

¹⁶⁰ The linguistic training proposed within the CAI gives the possibility to foreigners who sign such a contract to learn the Luxembourg language, French, or German. The choice being left to the candidate for one, or several of the three official languages of the country, is part of the consideration of the candidate's personal or professional needs.

arrived persons and of foreigners in order to overcome their difficulties and to facilitate their integration into Luxembourg society.

To date, three communal integration pacts have been signed¹⁶².

PBC 5. Efforts in education are essential in preparing immigrants, and particularly their descendants, to be more successful and more active participants in society.

One of the biggest challenges of the Luxembourgish school system is to manage the growing heterogeneity of the school population which is a result of migratory phenomena, whilst improving the success level of students. The results of the latest PISA survey¹⁶³, presented by the National Education and Vocational Training Ministry (MENFP), demonstrate the difficulty of the education system to manage the diversity of its school population¹⁶⁴.

The approach by skills

To meet this challenge, the government has developed a fundamental reform over the last years aiming to differentiate teaching and to implement, progressively, a method of

¹⁶² With the commune of Beggembourg, with the local action Group leader Rédange-Wiltz which regroups 14 North-Western communes : Beckerich, Boulaide, Esch sur Sure, Goesdorf, Grousbous Heiderscheid, Lac de la Haute Sûre, Merzig, Neunhausen, Rambrouch, Redange, Wahl, Wenzeler, Wiltz and Luxembourg city.

¹⁶³ On December 7th 2010, the Ministry of National Education and Vocational Training and the University of Luxembourg presented the results of the PISA 2009 study : http://www.men.public.lu/actualites/2010/12/101207_cp_pisa2009/index.html According to the minister of National Education and Vocational Training, « the challenges identified in the 2009 PISA study confirm the necessity to continue the reforms which have been started so as to durably improve the skills and raise the level of qualification for all students ». Among the priorities noted, there is the continued need to work to define the skills and their evaluation, the generalization of pedagogical concepts (teaching by skills, supervision by a stable teaching team, the absence of repeating classes in 7th and 8th grades, a greater autonomy granted to high schools) in the inferior cycle of secondary technical education.

¹⁶⁴ In the three areas evaluated (written comprehension, mathematic culture, and scientific culture), Luxembourg is situated below the average of the OCDE. These results confirm the differences of performance among certain categories of students, especially between nationals and foreigners, and among students coming from difference socio-economic backgrounds, these differences being more pronounced than in other States of the OCDE. These insufficiencies are noted as much for the weakest as for the strongest students.

teaching that is based on core skills. This reform looks to encourage equal opportunity. At the same time, according to the 2009 governmental program, the Luxembourgish authorities intend to fight against failure in school and dropping out.

The student moves on to the next cycle only if he has acquired the core skills required at the end of the cycle¹⁶⁵. To fight against dropping out, the government has instigated the second chance school¹⁶⁶ which allows dropouts to have a personalized environment and follow-up.

Among the measures in 2010, must be mentioned the implementation of the reform of professional training¹⁶⁷ which will take place following a staggered calendar: since the beginning of the 2010-2011 school year, 10th grade classes with about twenty training sessions offered by technical high schools, started to function following a new system based notably on teaching by module and, based on the core skills approach.¹⁶⁸

The government plans to give a central position to the teaching of languages in the Luxembourgish educational system¹⁶⁹. During the presentation of the results of the 2009

¹⁶⁵ The organization of education by cycles allows a better view of the needs and different learning paces of children. The objective is to allow the students to reach the highest possible qualification given their possibilities. As such, stronger students will be able to benefit from teaching which goes beyond the objectives aimed for in the core skills whereas others who have learning difficulties will have access to measures of support and will benefit from extra time to achieve the core skills. Additionally, evaluation without grades had been introduced which provides better motivation for students.

¹⁶⁶ Law of May 12th 2009 bringing creation of a 2nd Chance School,
http://www.men.public.lu/legislation/lois_rgd_recents/090518_ecole_2e_chance.pdf

¹⁶⁷ Law of 19 December 2008 and its grand-ducal regulations. The law bringing reform of professional training has 5 points: basic professional training and initial professional training, dispensed in the framework of secondary technical education, continued professional training and the professional reconversion training, which is directed at adults, and the validation of acquired experience.
http://www.men.public.lu/priorites/formation_professionnelle/100216_loi_rgd_sfp/index.html

¹⁶⁸ http://www.men.public.lu/priorites/formation_professionnelle/index.html

The reform will include in the coming years in its first phase the lower classes of secondary and secondary technical education, then it will move to higher classes

http://www.men.public.lu/actualites/2010/03/100302_reforme_formation_professionnelle/index.html

¹⁶⁹ According to the governmental program: « Multilingualism must be preserved, while ensuring that multilingual teaching does not create an insuperable obstacle for a large number of students in order to reach a qualification. This is why the teaching of languages is adjusted so as to give all students in Luxembourg schools access to skills in the three languages of the country, to allow them to learn English in the greatest number and to valorize native languages other than the languages of school. It is illusory to imagine that the students of the Luxembourg schools have identical skills in all of the languages. Levels of competence in language will be defined for the different channels, see: achieved 2010.

PISA survey, the National Education and Vocational Training minister declared his agreement to maintain “literacy in German for all students”, while at the same time reflecting on the “introduction of a parallel method of literacy in German, founded on the learning of German as a foreign language and thus better adapted to students of romance languages”.

Luxembourg schools have also proposed for the last several years, on a level of each order of teaching, measures and specific classes to receive and educate foreign children¹⁷⁰.

Information tools

The brochure « *Welcome to Luxembourg school* » of the school reception Cell for newly-arriving students (CASNA) and the website www.men.public.lu/sys_edu/scol_enfants_etrangers/ informs the parents of students of the specific offers for the education of foreign children. The offer has been progressively enlarged to include: support classes, welcoming classes, allet (German as a foreign language classes), international bac, specific linguistic system classes.

In addition, vade mecums relating to the reception of newly-settled children are regularly sent to the educative personnel. Information brochures in different languages also exist for parents of foreign children. A service of intercultural mediation is also offered by the MENFP to facilitate the communication with teachers.

In 2010, the department for the education of the foreign children worked especially on the implementation of the grand-ducal regulation of June 16th 2009 which determines the manner of functioning of support classes and welcoming classes¹⁷¹ for children recently arrived in the country¹⁷². It published an information paper destined to some 90 teachers

http://www.men.public.lu/ministere/programme_gouvernemental/index.html

¹⁷⁰ http://www.men.public.lu/sys_edu/scol_enfants_etrangers/mesures_specifiques/index.html

http://www.men.public.lu/sys_edu/scol_enfants_etrangers/demandeurs_asile/index.html

¹⁷¹ In welcoming courses or classes, the students receive intensive teaching in one or several school languages (German, French, Luxembourgish, mathematics in French) so as to allow them to integrate the normal educational system.

¹⁷² Memorial A N°144 of June 19th 2009.

who intervene in the welcoming classes and to some 800 children of primary school¹⁷³ and put into place a platform of exchange among teachers.

The same department developed an educational document about the opening up of languages¹⁷⁴, a document which is sent primarily to teachers of grade schools. Three continuing training programs on the use of this document were organized for interested teachers.

PBC 9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local and regional levels, is a key to effective integration.

The Council of Government of April 9th 2010 noted its agreement with the bill of law bringing modification to the electoral law. On May 26th 2010, governmental amendments were filed for the bill of law¹⁷⁵.

The text proposes to follow through on the principles written into the governmental program and extends the right to passive vote to communal elections, currently reserved to EU nationals, to third-country nationals. It proceeds as well with the abolition of the current ban on allowing a non-Luxembourger to have access to the position of mayor or communal councillor¹⁷⁶.

The government charged the OLAI to instigate a campaign of information and increased awareness for foreigners with regard to the communal elections of 2001. In order to encourage electoral participation of non-Luxembourger nationals in the communal

¹⁷³ Students detected by the ministry answering to the criterion of having arrived in Luxembourg less than a year and a half ago.

¹⁷⁴ Service of education for foreign students MENFP, Opening-up to languages at school, MENFP, Luxembourg, 2010

http://www.men.public.lu/publications/enseignement_fondamental/brochures_enseignants/

This approach builds on the choices made under the Plan of action for the readjustment of the teaching of languages (March 2007), of which the main goal is a better comprehension of languages and an increased motivation to learn them.

¹⁷⁵ Bill of law bringing the modification of the modified communal law of 13 December 1988

2. Of the electoral law of February 18th 2003, Parliamentary sessions paper N°5858, www.chd.lu

¹⁷⁶ Article II 6) in: Parliamentary sessions note N°5858/02, p 6.

elections which will take place on October 9th 2011, the OLAI associated the civil society to the development of a campaign to increase awareness about registration on communal electoral lists¹⁷⁷. A follow-up committee for the campaign was put into place to reflect upon the issues of the campaign on the one hand and on the objectives and priorities that it should have, on the other.

The question of political participation was also a central theme of the National Conference for Integration, organized by the OLAI on November 20th 2010¹⁷⁸.

The advisory bodies on local and national level

a) The National Council for foreigners (CNE)

The mandate of the former CNE, advisory body for foreigners on a national level about migratory policy came to an end at the end of 2010. The new grand-ducal regulation determining the procedures of the CNE representatives is in the process of being developed.

The new national Council will include henceforth 22 foreigners (against 14 before) elected by associations of foreigners which are regularly constituted by and registered with the OLAI. The members of the CNE are henceforth elected for a five-year mandate, whereas before the law of December 16th 2008 took effect, their mandate was limited to 3 years. 7 foreign members of the CNE must be third-country nationals.

¹⁷⁷ The campaign under the slogan « *I can vote* » is based on the one hand on the establishment of national tools of increasing awareness and on the other hand on specific projects to be presented by the actors of civil society targeted for example within such and such community. An appeal for projects was launched on September 15th 2010 which intends to support associations, communes, political parties and all other organization which starts or continues actions and concrete initiatives to encourage the political participation of foreigners in view of the next communal elections.

The main message is that each foreign resident who meets the legal conditions should be able to recognize himself in this image and that the message gets through to him easily. The image developed desires also to give mores responsibility to residents, insofar that the right to vote remains a privilege and an important right, not to be neglected.

¹⁷⁸ A round table was organized with the political parties relating to the integration of foreigners in political parties and on the measures proposed by the parties to encourage integration on a local level. A workshop of exchange took place regarding the increased awareness of electoral registration.

b) The Integration Advisory Committees (CCI)

The government wishes to reform the participation of foreigners on a local level. The draft of the grand-ducal regulation about the organization and the functioning of the Integration Advisory Committee was adopted by the Council of Government of November 12th 2010 and repeals the grand-ducal regulation of August 5th 1989 setting the organization and the functioning of advisory committees for foreigners¹⁷⁹.

The text of the draft introduces certain modifications in the current manner of functioning of the CCIs, such as:

- the obligation of the CCI to communicate its works to the population
- the opening of other communal advisory committees to members of the CCI¹⁸⁰,
- the obligation of the communal counsel to consult the CCIs about a certain number of theme¹⁸¹.

If on a national level Luxembourg counts nearly 44% of foreign residents, the large majority of communes have a proportion of foreigners of more than 20%. To follow the demographic evolution, and to strengthen the role of the CCI, the CCIs have become mandatory for all of the communes, independently of the number and of the composition of their residents¹⁸².

Moreover, the project ends the parity between Luxembourgish members and foreign members within the committees. The foreign naturalized member may as such continue to sit there as a Luxembourgish member. Also, this will allow proportional representation

¹⁷⁹ In the communes having already put into place a communal advisory committee for foreigners, these committees do not have to be renewed until after the communal elections of October 9th 2011. According to the information of the Family and Integration Ministry, 63 communes dispose currently of a CCE;

¹⁸⁰ Articles 2, draft of grand-ducal regulation about the organization and the functioning of integration advisory committees.

¹⁸¹ Article 3, draft of grand-ducal regulation about the organization and the functioning of integration advisory committees

¹⁸² Formerly, it was only applicable to communes with more than 20% of foreigners.

of residents within the integration advisory committee, if this is wished by the communal counsel.

PBC 11. Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective, so as to transfer good experience.

Under the FEI (European integration Fund), a study looking at the indicators of integration of third-country nationals¹⁸³ was done. In the same way, with a view to the National Conference for Integration (see PBC 9), the OLAI gave its support to a study about the approaches to integration¹⁸⁴.

Within this framework, the OLAI gave its support to diverse activities encouraging the integration of third-country nationals. Diverse projects¹⁸⁵ were supported by Community co-financing, targeting intercultural integration, the strengthening of partnerships in exchange of good practices and experiences on a national and European level.

Exchange of information and the best practices for integration on a European level

In September 2010, the platform « local Integration » was put into place: it is a place of exchange and meeting with a view to promoting the networking of actors working on local integration projects, to encourage exchanges of good practices and to create synergies.

The European Forum on integration gave representatives of civil society the occasion to express their points of view on questions of integration of migrants and to debate the current issues and future priorities with representatives of European institutions.

¹⁸³ Annick Jacobs ; Frédéric Mertz, *L'intégration au Luxembourg. Indicateurs et dynamiques sociales. Parcours de personnes originaires du Cap-Vert et de l'ex-Yougoslavie*, CEFIS Red N°14, Luxembourg, 2010.

¹⁸⁴ CEFIS, OLAI, *Approches de l'intégration*, November 2010. Assuming that integration is a two-way process, this survey-poll is based on a representative sample of the resident population of the Grand-Duchy of Luxembourg. Some results regarding the form, nature and intensity of social relations and activities which favor the integration of third-country nationals were published during this Conference.

¹⁸⁵ Projects co-financed under the FEI 2010, <http://www.olai.public.lu/fr/fonds-programmes/fei/projets-cofinances/index.html>

Luxembourg is represented at this Forum by two members of the national Council for foreigners.

Since September 15th 2010, the OLAI is present on the antenna of Radio Latina with a monthly show called « Olá OLAI: the journal of integration ». This show has a double objective, to inform auditors on topics and current events relating to integration of foreigners and also to improve their knowledge of the way the host society functions¹⁸⁶.

On November 20th 2010, on the invitation of the minister of Family and Integration, of the OLAI and the national Council for foreigners, more than 200 persons from the associative and political milieus met on the occasion of the National Conference for Integration to discuss subjects related to the integration of foreigners in Luxembourg¹⁸⁷.

Establishment of a global approach to integration policy

1. The inter-ministerial Committee to integration, which is composed of representatives of the diverse ministries, has the mission of coordinating the measures made by the different ministerial departments in the area of integration of foreigners. It was implicated in the development as much of the CAI as of the Multi-annual national Action Plan on Integration and against Discrimination.

The action plan involves 14 ministries and governmental administrations who join their efforts to encourage inter-ministerial uniformity of actions that are implemented and which they support financially and of which they assume the responsibility in the area of integration of foreigners in Luxembourg and discrimination control.

¹⁸⁶ The auditors obtain practical information relating to daily life in Luxembourg and have the opportunity to express their thoughts and ask questions on the air. The first four shows discussed the following themes: presentation of the OLAI (15.09.10), older migrants (13.10.10), National Conference for Integration (3.11.10) and the call for projects in the framework of two European funds FER and FEI (1.12.10).

¹⁸⁷ For the first time, a round table with the representatives of six political parties in Luxembourg allowed them to explain the position of their party with regard to the political participation of foreign residents and, more specifically, their participation within the parties and their registration on electoral lists. Afterwards, the participants were grouped into four thematic workshops focusing on the political participation, integration on a local level, and integration by employment.

The government, through this action plan, recognizes the importance of continuing the work and renewing efforts accomplished to substantially encourage over the long term the reception and integration of foreigners in Luxembourg society.

It is planned to increase the number of ministries represented there and to redefine the main mission of the inter-ministerial committee of the implementation of a global approach to integration policy.

Integration policy in Luxembourg is composed of general measures which refer to the whole resident population and specific measures destined to migrant populations.

The national educational system tries to adapt the school system to a population which is more and more diversified by turning to measures which are at the same time general and specific (see PBC 5).

Consultation of civil society

The government continues to consult civil society and the associative milieu about projects or measures which should favor the integration of foreigners.

Associations such as ASTI, CLAE, among others, constitute a key actor of the integration of foreigners in Luxembourg¹⁸⁸. They are partners in the implementation of projects introduced under the FEI, the FER and Progress.

Among others, a study¹⁸⁹ was done to know the needs of associations with regard to the development and management of projects which are financially supported on a National or European level.

¹⁸⁸ In 2010, three associations saw their contracted personnel increase with respect to 2009.

¹⁸⁹ *Renforcement de la société civile active dans le domaine de l'intégration des étrangers*, Mouvens (in process).

Civil society was consulted about a draft of the multi-year plan of integration during the forum of consultation of December 9th 2009 (2009/2010).

It was associated with the development of a national campaign of registration of non-Luxembourger nationals on communal electoral lists managed by a committee composed representatives of unions, of political parties, of associations, of communes and of the ministries.

In 2010, associations and union organizations were also invited to reflect on the procedures of designation of the CNE before the adoption of the grand-ducal regulation which would determine the procedures of designation of the new Council¹⁹⁰.

As for public events, the OLAI organized the national Conference for integration on November 20th 2010, a forum of exchange to which was invited, in particular, political parties, unions, associations and integration advisory committees.

On November 25th 2010, the National Contact Point in Luxembourg for the European Migration Network, during its 3rd national Convention, invited representatives of associations working in the area of migration, of asylum and of integration in Luxembourg to speak on topics related to the areas mentioned during the « opinion fair ».

PBC 7. Frequent interaction between immigrants and citizens of the Member States is a fundamental prerequisite for integration

Public services participated, as they do each year, in the Festival of migration, cultures and citizenship organized on 19th, 20th and 21st March 2010 by the CLAE (Foreigners' Associations liaison Committee).

¹⁹⁰ It is appropriate to remember that the associations regularly formed and registered with the OLAI propose foreign candidates to the CNE who are thereafter designated by the supervising minister.

The OLAI gave support to the training of intercultural instructors. This training session organized by the CEFIS is directed to persons who are involved in actions, an organization or a group where an intercultural dimension exists, and who already have had some experience on this level. There is a double goal: not only is work done on the development of the participants' intercultural skills, but also they acquire tools, knowledge and know-how which will allow them to become, themselves, instructors with an intercultural approach.

The National Institute of public administration (INAP) invited communal civil servants to a training session for reception and intercultural communication. This session was organized under the national plan for integration and discrimination control 2010-2014 and was launched further to an initiative of the OLAI.

Furthermore, the OLAI supported the « Festivasion » project started in 2010 by the House of Associations with the goal of promoting the participation in social and cultural life for one and all. The purpose of this festival is to create meeting spaces where each individual, whatever his age or cultural references, shares his skills, his desires and his enthusiasm with others in a convivial and friendly environment.

4.5. Citizenship and naturalization

4.5.1. *Specific context before 2010*

The year 2009 was a prolific year with regard to acquisitions of Luxembourgish nationality. It can be noted that a total of 9.566 acquisitions of Luxembourgish nationality can be broken down into three large groups:

4.022 transfers of nationality due to the naturalization process

4.209 transfers of nationality due to the application of the principle of double jus soli

1.335 transfers of nationality of minor children who became automatically Luxembourgish after the naturalization of one of their parents.

This data highlights the success of the law of October 23rd 2008 on Luxembourgish nationality. Before this legislative reform, approximately 1.000 requests for nationality were presented per year.

The consequence was that, for the first time in many years, the Luxembourgish population progressed greatly in absolute figures despite negative natural balances and net migration¹⁹¹ and the proportion of foreigners regressed with respect to the preceding year, being at 43% on January 1st 2010.

4.5.2. *Developments within the national perspective*

In 2010 there were 4.311 acquisitions of Luxembourgish nationality due to naturalization procedures,¹⁹² which represents an increase of 7, 2% with respect to the preceding year.

¹⁹¹ Statec, Germaine Thill-Ditsch, Views on demographic evolution N°3/2010, April 2010, <http://www.statistiques.public.lu/catalogue-publications/regards/2010/PDF-3-2010.pdf>

¹⁹² This figure does not take into consideration the transfers of nationality due to the application of the principal double jus soli and transfers of nationality of minor children becoming automatically

Third-country nationals¹⁹³ were involved for 24, 4% (1.055) of new acquisitions of nationality for 32, 8% (1.320) in 2009.

In the ranking of nationalities in 2010, 31.3% of transfers concerned Portuguese nationals (1.351), 15, 4 % (665) Italian nationals, 7, 9% (342) French nationals, 7, 7% (333) German nationals and 5, 9% (258) Belgians (258). Among the third-country nationals, Montenegrins (218), Bosnians (202) and Serbs (194) were the most numerous to be naturalized.

The National Conference for Integration of November 20th 2010 was the opportunity to recall the positions of the Luxembourgish political parties with regard to the political participation of foreigners on a national level¹⁹⁴.

When questioned for the research report on the 2009 legislative elections on their position with regard to the right to vote in the legislative elections, 89.7% of foreigners were favorable to this, preferably after a period corresponding to a legislature. The survey shows the widespread support of Luxembourgish citizens (78.2%) in favor of the electoral participation of community and extra-community nationals in all elections (Europeans, legislatives, communal): among those, 57.9% were favorable with the condition of 5 years of residence, 13% with the condition of 2 years of residence, and 7.3% without particular conditions.

Luxembourgish with the naturalization of one of their parents, http://www.mj.public.lu/chiffres_cles/ind_stat_2010.pdf

¹⁹³ Third-country nationals: nationals of a country which does not belong to the EU. It should be noted that this category **excludes** the citizens of assimilated countries (Iceland, Lichtenstein, Norway, Switzerland) who are henceforth treated as 'community citizens' in the statistics of this report. However, included in the category 'third-country nationals' are persons *without nationality*.

¹⁹⁴ Dei Gréng (DGL) : Citizenship of residence including the right to vote for foreign residents;

Déi Lénk (DL) : Citizenship of residence including the right to vote for foreign residents;

DP, LSAP : Opening to reflection on the electoral participation on a national level, after evaluation of the measures of integration or the impact of the new law on nationality;

ADR: Full and entire citizenship comes through the acquisition of Luxembourgish nationality as unique nationality ;

CSV : Full and entire citizenship comes through the acquisition of Luxembourgish nationality - plural nationalities;

KPL : Full and entire citizenship comes through the acquisition of Luxembourgish nationality - to facilitate the acquisition of Luxembourgish nationality;

Sylvain Besch, Nénad Dubajic, Michel Legrand, *Les partis politiques et les étrangers au Luxembourg*, November 2009, SESOPI-CI, RED N°13, Luxembourg 2010.

Despite this attitude of openness regarding political inclusion persists what researchers qualify as social chauvinism on the side of Luxembourgers who prefer at a rate of 70% to accord national priority to employment for Luxembourgers rather than for other European nationals, in the case of scarcity of employment¹⁹⁵.

4.5.3. *Developments from the EU perspective*

No complementary information

¹⁹⁵ The question was as follows: When the number of jobs diminishes, do you think that employers should give the priority to hiring a Luxembourger rather than to other European Union nationals? 1. Strongly agree 2. Agree 3. Disagree 4. Strongly disagree, 5. Don't know, 6. No answer
Les élections législatives et européennes de 2009 au Grand-Duché de Luxembourg, Programme Gouvernance européenne, Etudes parlementaires et politiques, Université du Luxembourg, Décembre 2010,
<http://www.chd.lu/wps/wcm/connect/8f8a2800457d03d39209f3811027f04d/RapportChDUnivElect+2009.pdf?MOD=AJPERES>

5. REGULAR IMMIGRATION AND RETURN

5.1. Irregular immigration

5.1.1. *Specific context before 2010*

For the government, the organization of legal immigration goes along with efficient illegal immigration control. Currently, the government is in the process of developing a bill of law¹⁹⁶ which intends to transpose in national law the directive 2008/115/EC, “return directive”. In its 2009 program¹⁹⁷, the government confirms its volition to fight illegal immigration. The law on immigration gives the government related instruments by reinforcing sanctions against employers of foreigners who don’t have residence documents for workers¹⁹⁸.

5.1.2. *Developments within the national perspective*

In this same spirit, the government is currently starting the transposition of the directive 2009/52/EC of the European Parliament and the Council of June 18th 2009 providing minimal norms regarding sanctions and measures to be taken against the employers of third-country nationals illegally present in the country.

Moreover, persons from Kosovo were regularized on a case-by-case basis based on the following criteria: benefit from a tolerance, must have arrived in Luxembourg before 2005, must have school-age children or benefit from an AOT (temporary occupation authorization). In 2010, 347 persons were regularized by work, the majority of these persons being originally from Kosovo. According to the minister of Immigration, the

¹⁹⁶ Bill of law n°6218 modifying- the modified law of August 29th 2008 on the free movement of persons and immigration – the modified law of May 5th 2006 on the right to asylum and to complementary forms of protection, www.chd.lu

¹⁹⁷ Governmental program, p.21, <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>

¹⁹⁸ Article 144 of the law on the free movement of persons and immigration.

regularization by work “constitutes the proper path to follow”. He emphasized in this context the need to “put into place a specific service with the ADEM which could propose work to these populations”¹⁹⁹.

The associations assembled for the «with equal citizenship» forum claimed regularization of persons found to be illegally present in the country who could prove that they have been on the territory for three years²⁰⁰.

In its comments regarding the bill of law²⁰¹ which intends to transpose the «return directive», the LFR points out the restrictive transposition of article 6.4 of the directive, which provides the possibility to grant an autonomous residence document or another authorization which confers the right to residence «for charitable, humanitarian or other» reasons for a third-country national found to be illegally present in the country. Indeed, the legislature only provides a residence document for persons who can show exceptionally serious, humanitarian reasons.

5.1.3. Developments from the EU perspective

Case-by-case regularization

There is no generalized regularization program in Luxembourg

However, immigration legislation provides several possibilities for regularization if certain well-defined conditions are met, and after examination of the individual case file. Article 89 of the law of August 29th 2008 on the free movement of persons and immigration provides that a residence document may be granted to a third-country

¹⁹⁹ Current events article, 2010 review regarding asylum and immigration: Influx of requests for asylum coming from Serbian nationals, 01/02/2011, http://www.gouvernement.lu/salle_presse/actualite/2011/02-fevrier/01-schmit/index.html

²⁰⁰ ‘With Equal Citizenship’ Forum, Luxembourg, November 6th 2010.

²⁰¹ Lëtzebuurger Flüchtlingsrot, Comments of the LFR regarding the bill of law of November 3rd 2010 bringing modification to the law on the right to asylum of 2006, December 2010

national is he has remained continuously on the territory and has worked there for at least eight years²⁰².

Besides this possibility, regularizations of third-country residents found to be illegally present in the country take place only based on a case-by-case examination, taking into consideration factors such as very serious humanitarian considerations or familial situation.

The bill of law transposing in national law the « return directive »²⁰³ was filed on November 9th 2010 by the Chamber of Deputies. The bill of law provides for the transposition of article 6 of the directive allowing a Member State to grant an autonomous residence document or another authorization which confers the right to residence for charitable, humanitarian or other reasons to a third-country national found to be illegally present on the territory. Where the current legislation already provides the possibility to grant a “private life” residence document for exceptionally serious humanitarian reasons, the text of the bill of law makes the conditions more flexible by abolishing the condition of constant residence and sufficient resources for the third-country national who requests a residence document for private reasons based on exceptionally serious humanitarian considerations. Moreover, the maximum length of validity of the “private life” residence document will be lengthened to 3 years instead of one year.

Preventive measures to meet illegal immigration

The government continues to consider return policy as a primordial element in illegal immigration control. The bill of law modifying the modified law of 29 August 2008 on the free movement of persons and immigration and the modified law of 5 May 2006 on the right to asylum and complementary forms of protection aims to transpose in national law the “return directive”. According to the bill of law, the government wishes to better

²⁰² This causes a problem of proof because it is difficult to find persons who are ready to testify, especially for the sanctions taken against employers who hire illegal immigrant personnel.

²⁰³ <http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=6218>

encourage voluntary returns, by setting the time period granted to a person found to be illegally present in the country so as to allow him to satisfy the obligation to leave the territory voluntarily by solidifying the possibility of the concerned persons to benefit from an assistance for return package. On the subject of detention, the government proposes with the transposition of the “return directive” to introduce, along with administrative detention in a closed structure, a new measure, less coercive, such as house arrest. A new detention centre is being constructed and will be in operation mid-2011. The work done to establish the type of framework within which the new detention centre will function, continued in 2010.

The draft of the grand-ducal regulation setting the conditions and the general procedures for the detention system of the Detention Centre aims to set, in implementation of the law of May 28th 2009 bringing creation and organization of the Detention Centre the rights and duties of the persons placed in administrative detention. It looks at the same time to repeal the grand-ducal regulation of September 20th 2002 which creates a temporary residence centre for third-country nationals found to be illegally present in the country.

Whereas the persons placed in administrative detention are done so currently in a special section reserved of the Luxembourg Penitentiary Centre, the draft of the text reposes on a distinct philosophy which emphasizes psychosocial counseling of the persons retained. The text does not, however, make reference the problematic of unaccompanied minors. The bill of law transposing the return directive notes precisely, however, that the placement in detention of an unaccompanied minor child must be done in an appropriate place adapted to the needs of his age-group while account is taken of the superior interior of the child²⁰⁴.

From a preventive point of view, the « Migrate with Open eyes » project which was established in 2006 in Cape-Verde by the Luxembourg cooperation-and renewed from 2009 to 2010- allows the persons who plan to emigrate to Luxembourg to learn about the

²⁰⁴ Article 1 (18) bill of law modifying the modified law of 29 August 2008 on the free movement of persons and immigration and the modified law of 5 May 2006 on the right to asylum and complementary forms of protection ; parliamentary sessions paper N06218 of November 25th 2010.

opportunities and constraints of emigration, as well as those of returning to Cape-Verde (in full knowledge). In the same way the Partnership for mobility between the European Union and Cape-Verde signed on June 5th 2008 by Luxembourg, aims to simplify legal migration and to fight clandestine immigration²⁰⁵.

Control of Illegal work

The government is now starting the transposition of the directive 2009/52/EC of the European parliament and of the Council of June 18th 2009 providing minimal norms regarding the sanctions and measures to be taken against employers of illegally present third-country nationals²⁰⁶. The current legislation already provides for sanctions of estate against employers using illegal workers.

According to the work code²⁰⁷, the Work and Mines inspection (ITM) is the appropriate national authority to apply the provision regarding the posting of workers²⁰⁸. The ITM must enforce the respect of the norms related to clandestine or illegal work including the provisions regarding work permits for workers who are not nationals of a Member State of the European Economic Area. Within this framework the ITM cooperates closely with the Grand-ducal Police and the Customs and excises Administration. Up until now, no administrative or criminal penalty has accompanied the injunctions of compliance with for posting. The latest available figures dating from 2009 report 77 orders to cease undeclared work²⁰⁹.

The department of posted and illegal work (SDTI) of the Work and Mines Inspection who since 2007 assumes the mission of illegal work control in general, ensures a motor

²⁰⁵ Current events article, Signature of the Partnership for mobility between the European Union and Cape Verde, http://www.gouvernement.lu/salle_presse/actualite/2008/06-juin/05-schmit-jai/index.html

²⁰⁶ Transposition date : 20/07/2011

²⁰⁷ Work Code, First book - Title IV, Art. L.142-1. and Art. L.142-4, http://www.legilux.public.lu/leg/textescoordonnes/codes/code_travail/Code_du_Travail.pdf

²⁰⁸ If by December 31st 2010, 7378 detached companies were counted in Luxembourg, by December 22nd 2010 the number was 8437.

²⁰⁹ Work and Mines Inspection, *Annual report 2009*, p.80.

and organizer function within the inter-administrative cell of illegal work control of which the Customs Administration is also a part. This Cell, which can mobilize if needed more than 200 agents coming from 6 to 8 ministries or administrations, actively contributes to surprise interventions which are organized on work sites or within big companies. In 2010, 1 surprise intervention took place. Generally speaking, surprise interventions have lost ground to much smaller interventions. In 2010, the SDTI organized 3 “afterwork” interventions, meaning checks between 5:00PM and 9:00PM, with as main target the illegal/clandestine work as well as extra hours’ service; 17 control actions for “organized clandestine work” during the week-ends and 196 smaller-size controls were done.

Fight against trafficking in human beings / clandestine immigration networks

To date, no clandestine immigration networks have been detected in Luxembourg, and as a consequence, no arrests have been made. Notwithstanding this fact, Luxembourg cooperates with the other Member States to break down clandestine immigration networks.

With regard to trafficking in human beings, the police concentrate mainly on prostitution.

There are no clues which suggest that Luxembourg would be concerned by traffic in human organs or other forms of traffic.

Luxembourg cooperates with other countries by turning to the law on the assistance, the protection and the security of victims of trafficking in human beings. In all, less than 5 persons have been declared « victims » in Luxembourg. The declarations have all been related to prostitution, but have not been resolved.

Cases of trafficking in human beings have been detected, but the perpetrators are in the majority accused/condemned for procuring.

In 2010 three judgments regarding affairs tied to trafficking in human beings were passed.

Liaison agents in the countries of origin and in transit countries

Luxembourg disposes currently of only one liaison agent within Europol. Nonetheless, based on the enforcement action related to the common use of the BENELUX liaison officers, Luxembourg can have access to Belgian or Dutch liaison agents who are affected or one or several accredited States or within one or several international organizations.

5.2. Return migration

5.2.1. Specific context before 2010

Illegal immigration control is based on a coherent return policy of persons found to be illegally present in the country. The government formed by the legislative elections of 2009 wishes to promote voluntary returns of persons requesting international protection who are unsuccessful (DPI) and for persons found to be illegally present in the country.

In order to encourage voluntary returns, the ministry signed with the OIM a project of cooperation relating to the assistance for the voluntary return of foreign nationals and for their reintegration into their country of origin. The first program covering the period from August 1st 2008 to March 15th 2009 was limited to DPI from Kosovo, who were no longer covered by the measure of tolerance. Sixteen persons from Kosovo took advantage of this program. The second program covering the period from August 1st 2009 to December 31st 2009 removed the geographic limitation and the reference to a group of

beneficiaries. It targeted, besides those requesting international protection who were unsuccessful, persons found to be illegally present in the country, along with third-country nationals. Thirty and eight persons were able to take advantage of the OIM program. The support and assistance for return were described in detail in the 2009 report²¹⁰.

However, all the persons were not able to be repatriated at the same time. The government has decided to return, in priority, persons without children in school, and persons who do not have a temporary occupation authorization²¹¹.

According to article 22 of the law of 5 May 2006, as modified by the law of 29 August 2008 on the free movement of persons and immigration, the Minister may grant a measure of tolerance to an applicant for international protection who is unsuccessful if the circumstances, which are in fact independent of the petitioner's control, make his return impossible.

The minister of Immigration tolerated the Kosovo asylum applicants and of the Kosovo minorities on the Luxembourg territory until 2009, at which time it was decided that these persons should be repatriated. To make this repatriation possible, the government turned to the Kosovo authorities and made requests for readmission. It should be noted that Luxembourg officially recognized Kosovo, on February 21st 2008²¹².

²¹⁰ European Migration Network- National Contact Point- Luxembourg, Policy report on migration and asylum, 2009, ch.3.11, pp 53-55, published in 2010,
http://www.emnluxembourg.lu/sites/default/files/2009_RapportPolitique_EMN-NCP-LU.pdf

²¹¹ Report of « Lëtzebuurger Flüchtlingsrot » on the application of the law of 5 May 2006 on the right to asylum and complementary forms of protection, June 2010.

²¹² See speech of Jean Asselborn to the Chamber of Deputies,
http://www.gouvernement.lu/salle_presse/discours/autres_membres/2008/02-fevrier/20-asselborn-kosovo/index.html

5.2.2. *Developments within the national perspective*

Transposition of the « return directive »

The government is in the process of preparing the transposition of the directive 2008/115/EC, called the « return directive ». The bill of law bringing the modification to the 2008 law on immigration and to the 2006 law on the right to asylum was filed with the Chamber of Deputies on November 9th 2010. Judging this legislative revision as being indispensable for the transposition of the “return directive” and in light of certain practical difficulties and problems of jurisprudence posed by the application of the two above-cited laws, the LFR published on December 22nd a critical opinion with regard to the proposed reform²¹³. The LFR highlights a certain number of preoccupying points brought up by the project.

The debate on returns was marked in 2010 by the Diallo case. Even if it was an isolated case, it illustrates the basic questions surrounding the conditions of implementation of forced returns such as the use of force during these types of operations or the medical follow-up before a forced return but also the failure of these actions. This case which dates from March 9th 2008²¹⁴ concern a Guinean national who physically opposed his return and who was hurt during an intervention at the Roissy-Charles-de-Gaulle Airport along with a Luxembourgish policeman. After the failure of the forced return, the person involved was brought back to the Detention centre in Luxembourg. The case was at the time the object of an investigation of the Ministry of Justice and of the General Inspection of Police. A medical certificate written 16 days later was produced in which the medical officer did not note any signs of violence whereas five persons had previously seen injuries. The case, which became at the time the object of several parliamentary questions, rebounded in Luxembourg following the publication of the opinion made on September 13th 2010 by the National Ethics committee of the Security

²¹³ Opinion of Lëtzebuurger Flüchtlingsrot, regarding the bill of law of November 3rd 2010 modifying the law on immigration of 2008 and of the law on the right to asylum of 2006

http://www.clae.lu/pdf/migrations/legislations/avis_et_projets_loi_2010/avis_lfr_projet_loi3nov2010.pdf

²¹⁴ <http://www.lequotidien.lu/politique-et-societe/17968.html>

of the French Republic which placed suspicion on the Luxembourger medical officer. Following this opinion the ACAT seized the Minister of Justice and the medical college who had not detected the infraction to medical ethics²¹⁵. The case was the subject of an explanation, on December 1st 2010, of the Minister of Justice and of the Minister of Immigration before the legal Commission of the Chamber of Deputies²¹⁶. In a press statement the ACAT regretted that the absence of a detailed investigation on this case²¹⁷ and the political youth organizations JSL, Jonk Gréng and Jonk Lénk asked for reexamination of the file²¹⁸.

Detention

In its opinion, the LFR is critical of the lack of alternative measures to placement in detention, the legislature retaining only house arrest. It proposes removing the possibility of increasing the maximum length of administrative retention up to 6 months.

The definition of the risk of escape seems much too wide for the LFR, more so because this risk constitutes a condition for the placement in retention for return. According to the LFR, the legislature, by assuming an escape risk for the foreigner who remains on the territory beyond the length of his visa equates the situation of a person found to be illegally present in the country with a person who presents an escape risk. The LFR is categorically opposed to the placement in detention of unaccompanied minors. Finally the LFR considers that the use of force during forced returns should not be permitted except for cases of force majeure. It argues for the presence of independent observers not only during the trip itself, but also during the phase preceding boarding.

²¹⁵ <http://www.asti.lu/2010/11/10/un-certificat-medical-lhematome-invisible>

²¹⁶ L'Affaire Diallo au menu de la Commission juridique de la Chambre des Députés, In : Journal of 2December 2nd 2010, p. 2 ; Plein de contradictions, in : Quotidien of December 2nd 2010, page 5.

²¹⁷ Affaire Diallo. Acat : quand en tirera-t-on les conséquences ? in : Journal of December 15th 2010, page 4.

²¹⁸ Affaire Diallo. JSL, Jonk Gréng et Jonk Lénk exigent un réexamen, in : Journal of December 23rd 2010, page 2.

The legitimacy and conditions of detention of foreigners illegally present in the country were brought up several times in 2010.

Thus, a decision of the administrative courts²¹⁹ ordered the immediate liberation of a detained person, whereas the detention is still practiced in the provisional residence centre for foreigners illegally present in the country in the Penitentiary Centre. The courts had referred to a decision of the Administrative Court²²⁰ which set an ultimatum on October 2nd 2010 or 2 years after the law which created an autonomous retention center for retained persons took effect. The government, considering that the placement of persons within the Penitentiary Centre in a separate unit from prisoners responded to the provisions of the “return directive”²²¹, appealed the judgment. The Administrative Court, in an extraordinary public session on October 15th 2010 (decision 27345), finally overturned the judgment of the first trial by declaring that the residence centre for persons found to be illegally present in the country within the Penitentiary Centre of Schrassig responds, in principle, to the requirements of the law of 29 August 2008 on the entry and residence of foreigners²²².

In **2010**, 175 persons were placed in detention, of which

- 69 « Dublin »²²³ cases and

-106 cases to be returned to their country of origin

²¹⁹Administrative Court, Public session of October 4th 2010, role number 27321, <http://www.ja.etat.lu/27321.doc>

²²⁰Administrative Court, Session of April 2nd 2009, role number 25559C. According to this decision the center for residence for foreigners found to be illegally present in the country inside the prison can no longer be used for the retention of foreigners starting October 1st 2010.

²²¹Response to the urgent parliamentary question n° 920 of Monsieur Félix Braz, September 24th 2010, www.chd.lu

²²²This confirmation was based more on an error of argument of the recurrent party than for a real analysis of the situation. The Court on this point says: “Insofar that the intimated party essentially only criticized the position of principle that the detention centre should not be, for this precise case, within the walls of a penitentiary centre but does not criticize the concrete procedures of detention advanced by the State, the Court is brought, by reformation of the judgment undertaken, to retain that as things stand currently, even after October 1st 2010, the provisional residence centre qualifies as a closed structure responding in its principle to the requirements of article 120 (1) of the law of August 29th 2008”.

²²³Based on the Dublin Regulation (2003/343/EC), establishing criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. In this case, another Member State is competent to examine the files in question.

Ranking of placements in retention (by country of origin):

1. Algeria 22 persons
2. Nigeria 17 persons
3. Iraq 13 persons
4. Kosovo 11 persons
5. Iran 8 persons

The average length of detention was 38 days. This figure includes, nonetheless, the said “Dublin” cases (much shorter stay in general) as the cases of return to the country of origin. Of the 106 persons placed in detention for return to their countries of origin, only 36 were finally returned²²⁴.

Measures of tolerance

In its review relating to the law of 5 May 2006 on the right to asylum²²⁵, the LFR notes that with regard to measures of tolerance, there exists an inequality of treatment depending on nationalities; certain nationalities being more easily granted a measure of tolerance (such as Iranian nationals) than others (Algerian nationals for example). On their end, the authorities demonstrate that there is no inequality of treatment or again that some persons do not cooperate with the authorities.

Several decisions of the ministry reject the prolongation of the tolerance for the reason there is no evidence of the physical impossibility to perform the removal. The administrative jurisdictions²²⁶ also argue that it is incumbent upon the interested party to prove the existence of circumstances which make the physical return impossible. The

²²⁴ Directorate of Immigration, Internal working paper, 2010.

²²⁵ LFR, Report of « Lëtzebuurger Flüchtlingsrot » on the application of the law of May 5th 2006 on the right to asylum and complementary forms of protection, June 2010.

²²⁶ Public session of January 7th 2010 on the Administrative Court 2nd chamber, role N°25893, Public session of January 25th 2010 of the Administrative court, 1st chamber, role N°26097, Public session of April 20th 2010 of the Administrative Court role N°26618C, Public session of April 20th 2010 of the Administrative Court, role N°26575C

LFR invites the MAE and the administrative jurisdictions to reconsider their approach with regard to the burden of proof so as to obtain a measure of tolerance.

The courts reject the argument of the invalidity of the readmission agreement based on the contestation of the legitimacy of the Kosovar authorities. Luxembourg having recognized the independence of Kosovo, it would be obliged to recognize the validity of a readmission agreement emanating from Kosovar authorities²²⁷.

Regularly the Administrative Court recalls that references to the general situation in the country of origin or to a risk of meeting with serious threats or a persecution in case of return would not be considered obstacles making the physical execution of a removal from the territory impossible²²⁸. An eventual need for protection is not of a nature to make the physical execution of the removal measure impossible.

The bill of law for the transposition of the « return directive » aims as well to replace the measures of tolerance provided for by article 22 of the modified law of 5 May 2006 on the right to asylum. Indeed, the legislature plans to extend to all foreigners and thus not only to those requesting international protection who are unsuccessful, a return delay which would replace the tolerances. In its opinion, on the bill of law in question, the LFR is opposed to the possibility included in the text of house arrest of the foreigner during the period or return delay.

Year	Tolerances accorded
2010	18
2009	30
2008	200

Source: MAE, Directorate of Immigration, Internal working document 2010

²²⁷ Public session of January 21st 2010 of the administrative Court, 2nd chamber, role N°26015

²²⁸ Public session of January 7th 2010 of the administrative Court 2nd chamber, role N°25867

Public session of January 21st 2010 of the administrative Court 2nd chamber, N°26015 du rôle, Public session of March 17th 2010, role N°26060 of the Administrative Court, 1st chamber, Public session of May 17th 2010 of the Administrative Court, 2nd chamber, role N°26379 , Public session of May 5th 2010 of the Administrative court, 3rd chamber, role N°26380.

Immigration Medical Service and the suspension of return

On July 13th 2010 the inauguration of the new offices of the Immigration Medical Service took place. This service, created in 2008, is dependent upon the Ministry of Health, attached to the Directorate of Health/Work medicine Division, and puts into effect the provisions of the law of 29 August 2008 on the free movement of persons and immigration and the of grand-ducal regulation of 3 February 2009²²⁹ relating to medical checkups for foreigners. The applicant for a residence document (third-country national) must be present for a mandatory medical exam upon entering the country, which serves the purpose of screening for infectious diseases, in particular tuberculosis. In 2010, 1366 consultations took place for these persons who came from 87 different countries²³⁰.

The other principal mission²³¹ of the SMI, which includes two doctors and one secretary, is the development of founded medical opinions, upon the request of the Ministry of Immigration, in view of a suspension of the return.

The law provides in fact that all persons unsuccessful in obtaining the right to asylum or who are at the end of their right, may obtain a return suspension if, and only if, it is established that his state of health requires a treatment the lack of which could be fatal for him, and if such a treatment does not exist in the country to which he is returned²³². In 2010, 259 opinions were given. The countries involved are mainly Kosovo (108 opinions in 2010), the African countries (81 opinions in 2010) and the former Yugoslavian states (46 opinions in 2010).

Of these opinions, 143 (55%) lead to a suspension of return in 2010. With regard to the pathologies treated, most of the opinions given concerned psychiatric problems (34, 7%),

²²⁹ Memorial A N ° 16 of February 2nd 2009,

<http://www.legilux.public.lu/leg/a/archives/2009/0016/a016.pdf#page=3>

²³⁰ According to the greatest number : United States nationals : 377(27,6%), Indian nationals : 100 (8%) ; Chinese nationals : 107(8%) ; Russian nationals : 37 (2,7%) ; and Japanese nationals : 34 (2,5%)

²³¹ Other principal missions :

- organization of the medical checkups of foreigners who request a residence document,
- the processing of files relating to foreigners who wish to receive treatment in Luxembourg and who are not covered by social security
- medical checkups for EU nationals or nationals of assimilated countries (Norway, Switzerland, Iceland, Lichtenstein),

<http://www.sante.public.lu/fr/impacts-milieu-vie/sante-travail/007-service-medical-immigration/index.html>

²³² Thursday 15/07/2010, Santé sans frontières, http://www.lejeudi.lu/Hebdo/2427.html#SlideFrame_1

followed by cardiac problems (9, 2%), infections (8, 9%) and neurological problems (8, 5%)²³³.

5.2.3. *Developments from the EU perspective*

No « bilateral » agreement for readmission was finalized or negotiated in 2010. The accords which are applicable in Luxembourg were either negotiated with the Benelux partners, in the Schengen agreement, or were negotiated by the European Commission on mandate conferred by the Council of the European Union²³⁴. A bilateral community readmission agreement with Pakistan (signed in 2009) took effect on 01/12/2010.

As regards other accords or administrative arrangements which include a readmission clause for foreigners found to be illegally present in the country, Luxembourg had previously signed a “Memorandum of Understanding (MoU)” with Nigeria on March 28, 2006.

For the government, the readmission agreements constitute a very important instrument for the organization of returns of persons found to be illegally present in the country because they contain obligations for all contracting States. On the one hand, they sacrifice the responsibility for each contracting party to readmit its nationals onto its territory, and, on the other hand, they contain provisions on the procedure to be followed for example with regard to the time allowed for response or for the granting of travelling documents.

²³³ Immigration medical service, Internal document, 2011.

²³⁴ Response of Monsieur the Minister of Work, Employment and Immigration to the parliamentary question N°1207 of the Honorable Deputy Monsieur Félix Braz, www.chd.lu

Number of returns of persons found to be illegally present in the country (to third countries (non-members of the EU)) based on existing agreements:²³⁵

Country of origin	Number of persons returned in 2009 (on the basis of existing agreements, including the MoU ²³⁶)	Number of persons returned in 2010 (on the basis of existing agreements, including the MoU)
Albania	15	4
Bosnia-Herzegovina	3	5
Croatia	2	4
Macedonia (ARYM)	2	0
Moldavia	0	4
Montenegro	10	10
Nigeria	13	10
Russia	3	2
Serbia	5	10
Ukraine	1	0
Total	54	49

If the Kosovar authorities accept easily enough the return of unsuccessful applicants for international protection to Kosovo, even in the absence of a readmission agreement, this process is more difficult with regard to other countries. There is no systematic acceptance of returned persons to Kosovo especially if the UNMIK refuses to give its accord for the readmission²³⁷.

As referred to above, the bill of law modifying the modified law of August 29th 2008 on the movement of persons and immigration and the modified law of May 5th 2006 on the

²³⁵ Response of Monsieur the Minister of Work, Employment and Immigration to the parliamentary N°1207 of the Honorable Deputy Monsieur Félix Braz, January 31st 2011, www.chd.lu

²³⁶ On March 28th 2006, Luxembourg signed a "Memorandum of Understanding (MoU)" with Nigeria for the readmission of persons found to be illegally present in the country.

²³⁷ Public session of January 25th 2010 of the Administrative court, role N° 26097. The delegate of the government indicated during arguments that if the repatriation of applicants had been accepted by the Kosovar authorities, this would not systematically be the case, by citing cases where the UNMIK would have refused to give its agreement with regard to readmission, such that the minister would consent to extend as a consequence the statute of tolerance.

right to asylum and complementary forms of protection aims to transpose the provision of the « return directive ». In accordance with the said provision, the legislature leaves the person who is subject to a return decision a period of time to comply voluntarily with the obligation to leave the country²³⁸. Except in the case of urgency, this period of time is 30 days. The bill of law indicates that this person may in fact request a form of assistance for return. If necessary, with regard to the foreigner's personal situation the minister may exceptionally grant a period of time for voluntary departure which is extended beyond thirty days.

The government continued in 2010 its cooperation with the International Migration Organization (OIM) with regard to the voluntary return and reintegration of third-country nationals found to be illegally present in the country.

The program covering all of the year 2010 is the subject of a new convention between the Foreign Affairs Ministry and the International Organization of Migrations²³⁹ and contains, as in 2009, assistance for return and reintegration. The assistance for return includes: information of the specific points of the AVRRL program (Assistance for Voluntary Return and Reintegration from Luxembourg), information on the country of origin, personal counseling, assistance for obtaining travel documents, the transport from Luxembourg to the country of origin, assistance at the departure, during the trip, and upon arrival as well as financial aid once returned. The reintegration assistance includes temporary room and board, material assistance and may also include job search assistance, support for a money-earning activity as well as, if indicated, medical assistance. If the 2009 program counted 3 categories of beneficiaries, that of 2010 distinguishes among 7 categories and provides a digressive schedule for these aids. Certain categories of persons may have access to total aid (A1, B1, C1, C2), and other to basic aid (A2, B2, D)²⁴⁰.

²³⁸ New article 111, bill of law modifying the modified law of August 29th 2008 on the free movement of persons and immigration and the modified law of May 5th 2006 on the right to asylum and complementary forms of protection, parliamentary sessions paper N°6218 of November 25th 2010.

²³⁹ http://www.gouvernement.lu/salle_presse/actualite/2010/01-janvier/11-convention-OIM/index.html

²⁴⁰ The categories of beneficiaries for complete aid are as follows :
The third-country resident

The 2010 project emphasizes the assistance for reintegration and the aid provided for developing money-earning activities whereas the financial aid for return (pocket money) is reduced with respect to 2009.

In 2010, the assistance for return is presented as follows:

	Categories A1, B1, C1, C2	Categories A2, B2, D
Material return assistance	600€ maximum per adult 300€ maximum per child	300€ maximum per person
Reintegration assistance	2000€ maximum per family +2000€ maximum per family (money-earning activity) Or 600€ maximum per family to help with the search for employment +600€ maximum for vulnerable cases	500€ per family

A1 who is in the process of a making an application for international protection which dates from less than 12 months and who decides to renounce voluntarily to his application and to return voluntarily to his country of origin;

B1 who has received the order to leave Luxembourg territory under the provision of the modified law of May 5th 2006 relating to the right to asylum;

C1 who did not file a request for international protection and who was on the Luxembourg territory before January 1st 2010, to whom a residence document and/or residence had been refused under the provision of the modified law of August 29th 2008 on the free movement of persons and on immigration. The person must show proof of uninterrupted residence in Luxembourg of at least 12 months at the time of presentation ;

D1 who did not file an application for international protection and who was on Luxembourg territory before January 1st 2010 illegally, who decides of his own volition to return voluntarily to his country of origin. The person must show proof of uninterrupted residence in Luxembourg of at least 12 months at the time of presentation;

The categories of beneficiaries of basic aid are the following:

The third-country resident who :

D illegally present in the country and is placed in retention in adherence with the modified law of May 5th 2006 on the right to asylum or the modified law of August 29th 2008 on the free movement of persons and immigration and who wishes to return voluntarily ;

A2 who during the procedure of application for international protection filed less than 12 months ago decided to renounce his request and to return voluntarily to his country of origin ;

B2 who received the order to leave the Luxembourg territory under the provisions of the modified law of May 5th 2006 on the right to asylum, who comes from a sure country under the provisions of the grand-ducal regulation of December 21st 2007 setting the list of sure countries as described by the modified law of May 5th 2006 on the right to asylum and who files an application for international protection after January 1st 2010.

The OIM proposes, besides weekly stand-by sessions, general information sheets in several languages (English, German, Portuguese, Chinese, Russian, Serbian, Albanian) and information sessions.

In 2010, 103 persons took advantage of the assistance for voluntary return and for reintegration.

In all, **202** persons were returned in 2010.

Distribution according to country of origin:

1. Kosovo: 89 persons
2. Brazil: 14 persons
3. Nigeria: 10 persons
4. Montenegro: 10 persons
5. Serbia: 10 persons

Return by commercial flights: 165 persons

Return by security flights: 37 persons

Number of security flights: 4

- National flights: 3 (destination Kosovo)
- Frontex flight/ Return Ireland Fund: 1 (destination Nigeria)

Returns (persons) in 2010					
Nationality	forced (with escort)	after rétention (without escort)	voluntary		Total
			with or without assistance of the OIM	with assistance of the OIM	
Albania	0	3	1	2	4
Algeria	0	5	1	3	6
Afghanistan	0	0	4	4	4
Belarus	0	2	6	6	8
Bosnia/H	0	3	2	2	5
Brazil	0	3	11	6	14
Cape-Verde	1	5	0	3	6
China	0	1	5	6	6
Congo (R.D.)	1	0	0	0	1
Croatia	1	3	0	0	4
Gambia	1	1	1	1	3
Guinea(Conakry)	2	2	0	0	4
Iran	0	0	2	2	2
Kosovo	35	3	51	53	89
Malaysia	0	1	0	0	1
Mali	1	0	0	0	1
Morocco	0	4	0	1	4
Moldavia	4	0	0	0	4
Montenegro	0	1	9	9	10
Nigeria	9	1	0	0	10
Panama	0	0	1	0	1
Russia (Fed.)	0	0	2	2	2
Serbia	4	3	3	3	10
Tanzania	0	1	0	0	1
Tunisia	0	2	0	0	2
TOTAL	59	44	99	103	202
Percentage	29,2	21,8	49	50,9	100

Source : MAE, Directorate of Immigration; 31/12/2010

Participation in Community initiatives

In a spirit of solidarity, Luxembourg continues to take common initiatives on the subject of asylum. After its ad hoc participation in the reinstallation projects of Iraqi refugees and the relocation of persons coming from Malta seeking international protection (see 7.1.3.), the Government decided on a more systematic participation of relocation by setting an annual contingency of persons to be relocated.

Shared flights

As indicated above, Luxembourg participated in shared flights organized by the Frontex Agency as well as shared flights organized by other Member States. As such, Luxembourg participated in 2010 in a shared flight organized by Ireland, with destination Nigeria.

5.3. Actions taken against trafficking in human beings

5.3.1. Specific context before 2010

See 5.1.3

5.3.2. Developments within the national perspective

In 2010, three judgments were passed with regard for trials linked to trafficking in human beings:

Judgment n°188/10 x. of May 5th 2010 On May 5th 2010, the Appeals Court passed judgment against the owner of a cabaret who had forced women who were Ukrainian nationals into acts of prostitution. He was sentenced to a prison term of 3 years and a fine of 4000 Euros.

Judgment n°3429/2010: On October 21st, the district court acquitted the accused of the main offense of trafficking under the provisions of article 382-1 of the criminal code.

Judgment n°3939/2010: On November 30th 2010, the district court sentenced two accused persons born in Albania of the main offense of procuring and trafficking in human beings. The accused had recruited and brought to Luxembourg Albanian women and forced them into prostitution while taking advantage of their situation of vulnerability.

5.3.3. Developments from the EU perspective

The Grand-ducal Police are still part of the AWF Phoenix of Europol, which is in charge of gathering and analyzing information regarding the trafficking of human beings.

Besides the classical channels of police cooperation, the countries of the European Union look more and more to organizing common investigation teams.

6. BORDER CONTROL

6.1. Border control and immigration follow-up at borders

6.1.1. Specific context before 2010

Border controls which take place at the Airport of Luxembourg, Luxembourg's only external border, are done mainly for illegal immigration control and trafficking in human beings. According to the Schengen Border Code, border controls are done by the personnel of the Airport Control Service at border crossing points, so as to ensure that travellers are authorized to enter or to leave the territory of the Grand-Duchy of Luxembourg.

The agents of the territorial police have scanners with infrared/ultraviolet lights at their disposition. In case of doubt regarding the legitimacy of a document, the document in question will be transmitted to the Airport Control Service, Section for Document Verification.

6.1.2. Developments within the national perspective

No complementary information

6.1.3. Developments from the EU perspective

External border controls

All passengers and flight personnel passing through terminal A and the GAT (General Aviation Terminal) coming from or going to a « Non-Schengen » country must go

through border controls before respectively entering or leaving the Luxembourg territory. The control procedures include:

- Previous verification of « APIS » lists for all flights originating in a « Non-Schengen » country
- Verification of the validity and the authenticity of the travelling documents through use of the specialized material available at the check windows.
- checking computer data bases (SIS, Interpol...) by using the « Passport reader » and the « chip verifier » for biometric passports
- Comparison of photos on travel documents with the physiognomy of the traveller (« imposter » analysis)
- Different appreciations as to whether the traveller is a tourist, a student, a business man or woman, is travelling in a group or alone
- Use of the « profiling » method: asking questions, verifying linguistic knowledge, checking the « routing », verification of the airline ticket with regard to the place of departure and the destination, observing the traveller's behavior.

The SCA possesses two devices of the « Dokucenter » 4500 model which allow the verification of the authenticity of an official document. In order to complete this analysis several technologies (oblique illumination, detection of invisible security marks, analyses of printing techniques) are implemented.

All of the operational windows of Terminal A are equipped, according to the Schengen Border Code, with a « passport reader » of the « Bundesdruckerei » which allows the verification of the following details:

- a reading of the MRZ (machine readable zone)
- a reading of the integrated chip and its contents
- comparison of the contents of the integrated chip with the data written on the travelling document

Several actions have been implemented so as to put in place tools for connection with the European system SIS II and VIS. Indeed, the SIS extension must be cited in order for

new member States to be included in the “SISone4all” framework and to be able to receive border control tools which include biometric technologies and tools for the capture of biometric information.

Border control includes not only the checking done on persons at the windows, but also the risk analysis with regard to illegal immigration. The Airport Control Service is the unit responsible for risk analysis at the Luxembourg Airport and it establishes bimonthly reports based particularly on the statistics and the FRAN reports of the Frontex Agency. These reports are destined to all members of the service.

With the same goal, the members of the SCA do steady and unexpected checks at strategic places at the Luxembourg Airport, especially at boarding points and after the “check-in” windows. These passenger inspections, done spontaneously and not systematically, nor discriminatorily, while respecting human rights, target as often flights to and from Schengen countries as well as those from non-Schengen zone countries, based essentially on the “profiling” method.

Cooperation and a good working relationship with the directors of the surrounding countries’ airports are evidently of great importance to ensure a continual exchange of information on this subject. Participation in seminars and training sessions organized by Frontex are indispensable for border control and the acquisition of new knowledge about clandestine immigration networks.

6.2. Cooperation in border controls

6.2.1. Developments within the national perspective

No complementary information

6.2.2. Developments from the EU perspective

Commitments made within the framework of Frontex operations

In 2010, the Grand-Ducal Police took part in the following Frontex operations:

Operation NEPTUN: 1 participation

Participation in other activities:

Trainings sessions:

- RABIT (basic training session): 2 participation
- Mid-level course: 1 participation
- False document specialist courses: 1 participation

Working groups:

- FRONTEX risk analyses network: 2 participations
- European training day: 2 participations

Management:

- Board meetings : 2 participations
- Management board working group: 1 participation
- RABIT Mission Greece: 3 participations

The VIS project and cooperation with the consular services of other Member States

Further to some technical problems at the level of the European Commission and other Member States, the VIS project has been pushed back. The new date of entry into force was set to June 24th 2011.

In order to accomplish this community project, Luxembourg has taken connectivity tests provided by the Commission and developed a new data entry program (conforming to the requirements of the VIS regulation and the 810/2010 regulation (Visa code). Furthermore, the Luxembourg diplomatic missions, who are supposed to deliver visas, were provided with the necessary equipment, notably a fingerprint reader.

Further to the introduction of the visa code, most of the existing accords of representation were confirmed. Luxembourg cooperates closely with Belgium, the Netherlands, and other Member States of the Schengen Area who represent the Grand-Duchy in many countries. Luxembourg also participates in shared Visa Application Centres in Chisinau in Moldavia, in Praia in Cape-Verde, and in Podgorica in Montenegro.

A change took place in the representation at Praia in Cape Verde where Luxembourg participates currently in the Common Application Centre (directed by Portugal). The previous French representation came thus to an end.

Another development with regard to cooperation in 2010 with consular services of other Member States is planned to start on January 1st 2011. Luxembourg will ensure the representation of the Netherlands in 13 European cities (Geneva, Madrid, Prague, Rome, Brussels, Paris, Vienna, Copenhagen, Berlin, Berne, Lisbon, Athens, and Warsaw).

7. RIGHT TO ASYLUM AND THE PROTECTION OF REFUGEES

7.1. The right to asylum and the protection of refugees

7.1.1. *Specific context before 2010*

The right to asylum and international protection is regulated by the law of 5 May 2006 relating to the right to asylum and complementary forms of protection and the grand-ducal regulations. More information can be found on this in the Policy report on migration and asylum 2009²⁴¹.

The ministry in charge, who is competent for registering, processing and approving applications for international protection and for temporary protection, is the Ministry for Foreign Affairs and Immigration (MAE).

The ministry which is competent with regard to social aid is the Family and Integration Ministry, and more particularly the OLAI which ensures the administrative reception, the guidance, psycho-social, sanitary, and socio-educative follow-up of DPI.

7.1.2. *Developments within the national perspective*

On June 29th 2010 the Refugees' Collective presented a detailed evaluation of the law on asylum²⁴². This evaluation looks at 9 different points.

The LFR regrets that the government did not do an evaluation given that a motion adopted by the members of parliament during the second vote for the law of May 5th 2006 at the Chamber of Deputies invited it to do so. If the LFR applauds the advances made by the law, it points out several problems related to the criteria which allow the

²⁴¹ European Migration Network -National Contact Point- Luxembourg. Policy report on migration and asylum, 2008, pp 23-25, published in 2010,

http://www.emnluxembourg.lu/sites/default/files/2008_RapportPolitique_EMN-NCP-LU.pdf

²⁴² Report of "Lëtzebuenger Flüchtlingsrot" on the application of the law of 5 May 2006 relating to the right to asylum and complementary forms of protection. Press statement on June 29th 2010.

granting of refugee status. Even if the situation has improved, certain decisions refer to the former jurisprudence without taking into consideration the criteria of the new law. The application of the definition of refugee as related to the concept of a well-founded fear is not always conform to the Geneva Convention. The LFR criticizes the fact that the burden of proving the facts required to establish whether the application for international protection is founded cannot repose exclusively on the applicant, meaning that the government has no obligation to prove that the request is not founded. The MAE and the jurisdictions often do not recognize fear by association in the analysis of applications. The LFR regrets the restrictive practice of the administration and the jurisdictions in the area of the recognition of subsidiary protection. It also proposes to introduce the status of statelessness in the law on asylum and to ratify the Convention of 1961 on the reduction of cases of statelessness. Even if there exist no figures on the length of the procedure, the LFR notes that for certain countries of origin (such as for example Kosovo), the lengths of time required for processing were noticeably reduced since the adoption of the new law, whereas for certain countries in Africa, the procedure can last up to 12 months.

The absence of sufficient means for magistrates to make a new decision is criticized, as is the insufficient training of Luxembourgish lawyers in the rights of foreigners, and in particular for the litigation surrounding international protection. Recalling the criticisms of the Council of State, the LFR called for the re-establishment of the double degree of jurisdiction, for all of the litigation relating to international protection.

The LFR calls attention to certain problems relating to granting social aid (in the case of a new application for international protection, in the case of the granting of a residence document) where different rates exist for the moment for minors under 16 years of age and those older than 16.

Based on the different themes of reflection and the recommendations given by the Luxembourgish Red Cross, the Caritas Foundation of Luxembourg and the UNHCR²⁴³, the LFR asks for increased flexibility in the systems of temporary occupation documents in order to allow DPI and those benefitting from a measure of tolerance easier access to

the labour market. It proposes a more flexible approach for access to apprenticeships for minor or adult DPIs by requesting an exemption to the condition of being a holder of an AOT and by abolishing the 9-month waiting period for adult DP.

The administrative jurisdictions are confronted with many cases related to the rights of foreigners, although the relative proportion of cases has decreased between 2007/2008 and 2008/2009²⁴⁴. The decrease in police cases with regard to foreigners can be attributed to article 19 of the law of 5 May 2006 which provides that the two appeals of decisions of refusal of the application for international protection, and against an order to leave the territory, must be part of a single orienting motion. According to the president of the administrative court, Marc Feyereisen, the decrease in the number of cases did not result in a decrease in the workload because the analysis of the legal means and of the factual situations tend to become more complex. The president of the First Chamber again suggested that a unit specialized in the rights of foreigners should be put into place, as is the case for the other member countries of the European Union. This is even more pertinent given that in the future the number of cases to be processed will increase with the establishment of the Detention Centre, and with the introduction of a special appeal against disciplinary measures that are taken by the Director of the Detention Centre.

From January 1st to December 31st, a total of 336 judgments were handed down with regard to « police of foreigners » cases (included therein are judgments in the area of international protection), 76 of which were judgments of radiation.

Applications for international protection in 2010:²⁴⁵

In 2010, 786 persons filed an application for international protection in Luxembourg. These 786 persons are spread over 505 households. It should be noted that in the last quarter of 2010 there was a notable increase in applications for international protection

²⁴⁴ Activity Report of the administrative jurisdictions; in Activity Report 2009, Ministry of Justice, April 2010.

²⁴⁵ Activity Report 2010, Luxembourg Reception and Integration Agency

(107 persons during the month of November) coming in particular from Serbian nationals.

Evolution of applications for international protection(2008-2010)

Year	Applications	Applicants	Distribution by continent (%)	Main countries of origin (applicants)
2010	505	786	Africa: 20 Asia: 23 Europe: 57	1. Kosovo: 162 2. Serbia: 148 3. Iraq: 95 4. Algiers: 44 5. Iran: 32
2009	333	505	Africa: 20 Asia: 25 Europe: 54 America: 1	1. Kosovo: 132 2. Iraq: 65 3. BosniaHerzegovina: 35 4. Russia: 27 5. Albania: 26
2008	299	463	Africa: 17 Asia: 15 Europe: 68	1. Kosovo: 201 2. Bosnia-Herzegovina: 31 3. Iraq: 29 4. Iran: 18 5. Serbia: 18

Source: MAE, Directorate of Immigration, Internal working paper 2010

With regard to decisions made for international protection in 2010, 570 decisions were made (persons) for 373 files. 83 persons were granted refugee status and 19 persons were granted subsidiary protection status.

Evolution of decisions with regard to international protection (2008-2010)

Year	Granting of refugee status	Subsidiary protection	Rejected (normal procedure)	Rejected (accelerated procedure)	inadmissibility ²⁴⁶ (Individuals concerned)	Tolerances granted
2010	83	19	237	3	29	18
2009	141	11	169	16	46	30
2008	107	0	188	39	30	00

Source: MAE, Directorate of Immigration, Internal working paper, 2010

Housing for DPIs

The Housing Department of the OLAI is responsible for the management of the different types of foster homes for DPI. As such, it organizes and administers housing for some 1250 persons, all categories combined²⁴⁷. Of the 786 newly arrived persons (DPI) in 2010, 704 turned to housing which was made available by the OLAI²⁴⁸, whereas 82 persons were taken in by family or private acquaintances.

²⁴⁶ Applications are considered to be « inadmissible » if:

- referring to art. 316.1 of the law of May 5th 2006, the application comes from a citizen of the EU ;
- referring to art. 16.3, there is a first country of asylum-the applicant benefits from protection in this country ;
- referring to art. 23, this is a second application.

²⁴⁷ DPI ,unsuccessful DPI having obtained a tolerance or a suspension of expulsion, unsuccessful DPI waiting for return to their country of origin, and refugees who have been recognized as such and who are looking for independent housing.

²⁴⁸ Family reception centres, guarded reception centres for single persons, reception centres managed by NGOs, full pension- and other structures loaned to refugee households who have been recognized as such, with rent adapted to their revenues.

7.1.3. Developments from the EU perspective

Solidarity with MS which are faced with specific and disproportionate pressures on their national asylum systems

Whereas Luxembourg has loaned personnel to countries which are under disproportionate pressure, during its participation in the actions of Frontex, such a loan of personnel did not take place in 2010.

The government pursues its commitment to common initiatives in the area of asylum and the establishment of a common asylum area. Luxembourg participated in the European Re-Allocation for Malta (EUREMA) pilot project which aims to relocate refugees from Malta to other Member States. The pilot project was conducted in close cooperation with the Maltese government, UNHCR and OIM, and was co-financed by the European Refugee Fund (ERF).

In this context, 6 persons (one couple of Ethiopian/Eritrean origin and two women of Somali origin accompanied by their two babies of Somali origin) were relocated to Luxembourg in July 2010.

<i>Asylum applications and decisions</i> ²⁴⁹								
	Applications	First instance decisions on asylum applications						
	Total applications under consideration	Total positive ²⁵⁰	Rejected ²⁵¹	Inadmissible	Geneva Convention	Subsidiary protection	Temporary protection	Humanitarian status
Asylum applications	786 ²⁵²	102	269	29	83	19	0	0

Source: MAE, Directorate of Immigration, Internal working document, 2010

²⁴⁹ Concerned individuals

²⁵⁰ Not including grants of tolerances (18) and regularization through work (347)

²⁵¹ Inadmissible applications and included in 'rejects'.

²⁵² Asylum applicants- total number of persons.

8. UNACCOMPANIED MINORS

8.1. Unaccompanied minors (and other vulnerable groups)

8.1.1. *Specific context before 2010*

The law of 5 May 2006 on the right to asylum and complementary forms of protection includes certain articles which refer explicitly to unaccompanied minors²⁵³. The same law contains specific provisions for minor children who have been granted refugee status or subsidiary protection status. As such, as for applicants for international protection, according to article 52(1) the, the representation of unaccompanied minors is taken on by a legal tutor or, if necessary, by an organization. With regard to housing, the same provisions prevail as for minor children applying for international protection, the law not differentiating between minor children under 16 and those older than 16. Unaccompanied minors older than 16 may be placed in housing centres for adult asylum applicants.

Insofar as possible, brothers and sisters are not separated, in view of the superior interest of the minor child concerned and especially with regard to age and maturity-level. In the case of unaccompanied minors, changes of place of residence are limited to the strict minimum.

The personnel who is in charge of unaccompanied minor children receives appropriate training with regard to their needs and must adhere to a rule of confidentiality as concerns the information that they have access to through their work.

The grand-ducal regulation of 1 September 2006 which sets the conditions and the procedures for granting social aid to applicants for international protection includes as

²⁵³ As such, according to article 12(1) an unaccompanied minor child applicant can be assigned, as soon as possible, a tutor who will assist him during the examination of his application. According to § (2), the interview of the unaccompanied minor child is conducted by an agent who has the necessary knowledge about the particular needs of minor children. Article 12 (3) authorizes the minister to order medical exams in order to determine the applicant's age.

well several references to unaccompanied minor children or to vulnerable groups²⁵⁴.

Thanks to the networks of the International Red Cross Committee, a search for the members of the minor child's original family may be done with the child's assent.

The government follows the evolution of applications for international protection made by unaccompanied minor children very closely. Voluntary returns of minor children to their country of origin may be organized with the cooperation of the International Organization for Migration (OIM).

8.1.2. Developments within the national perspective

In its report²⁵⁵ on the application of the law of 5 May 2006 on the right to asylum and complementary forms of protection, the LFR emphasizes the necessity to take account of the distinct situation of unaccompanied minor children, with regard to some points of the said law.

With regard to the revision of social aid after an AOT is obtained, the particular situations must be taken into consideration and especially a distinction should be made between adults and unaccompanied minor children who are granted an AOT. Furthermore, the LFR recommends that the distinction between minor children under 16 and those older

²⁵⁴ As such, article 1 cites among the services of social aid notably the supervision of unaccompanied minor children, and the free psychological care and follow-up for the persons who are in need of this, especially trauma victims. Moreover, according to article 4(1), social aid is determined depending on the household composition, the age of its members, as well as the household's revenues. It takes into account the particular needs of vulnerable persons, such as minor children, unaccompanied minor children, handicapped persons, older persons, pregnant women, single parents accompanied by minor children, and persons who have been tortured, raped, or have suffered other serious forms of psychological, physical or sexual violence and whose particular needs have been proven after an individual evaluation of their situation.

According to article 5, a specific amount of monthly benefits is provided for an unaccompanied minor child. Only the case of a minor child aged between 16 and 18 years of age is included.

²⁵⁵ Evaluation Report of the Refugees' Collective on the application of the law of 5 May 2006 on the right to asylum and complementary forms of protection 20/06/2010, <http://www.clae.lu/html/m1sm3ssm1.html>

than 16 be abandoned so as to guarantee that each unaccompanied minor child may receive the same social aid, regardless of age²⁵⁶.

8.1.3. Developments from the EU perspective

Following article 12 (3) of the law of May 5th 2006 on the right to asylum and to complementary forms of protection, a medical examination in order to determine the age of the international protection applicant may be performed with the applicant's consent.

From January 1st to October 18th 2010, Luxembourg received 13 unaccompanied minor children aged from 13 to 17 years²⁵⁷. The youngest of these - those under age 16 – are placed in structures specialized for minor children (Reception Home of the Children's Homes of the State). Minor children aged 16 and older are being placed in homes for international protection applicants which are managed by the Luxembourg Red Cross and Caritas, and put under the charge of the care takers who work there. This personnel counsels the minor children and orients them especially with regard to schooling and training. For all minor children under 18, a tutor is named by the guardianship judge who is appointed to juvenile and guardianship court.

Thanks to the networks of the International Red Cross Committee, a search for the members of the minor child's original family may be done with the child's assent.

The government follows the evolution of applications for international protection made by unaccompanied minor children very closely. Voluntary returns of minor children to their country of origin may be organized with the cooperation of the International Organization for Migration (OIM).

²⁵⁶ While the text of the law mentions that unaccompanied minor children aged 16 to 18 have the right to a monthly aid of 86, 32 euros, and no mention is made for those who are under age 16. However the same text provides housing for this last category in specialized places.

²⁵⁷ MAE, Second Annual Report on Immigration and Asylum 2010, Internal document 2010.

9. GLOBAL APPROACH TO MIGRATION

9.1.1. *Specific context before 2010*

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

Before launching the partnership for mobility, Luxembourg started the « Migrate with Open Eyes » project in 2006. In 2009, Luxembourg pursued the implementation of this bilateral program, with a budget of 109.050€ affected to this program for the 2008-2010 period.

In addition, the University of Luxembourg and the University of Praia signed a cooperation agreement in February 2009.

9.1.2. *Developments within the national perspective*

The number of persons who participated in information and awareness activities of the said program is estimated at about 2.200. Between December 2008 and October 2010, 216 persons filed an application for a residence document for family reunification via the Luxembourg Cooperation Office in Praia. 156 of these applications received a positive response.²⁵⁸

9.1.3. *Developments from the EU perspective*

Within the partnership for mobility between the European Union and Cape Verde, Luxembourg has committed itself to studying the possibility of establishing an initiative

²⁵⁸ Response to the parliamentary question N°955 of M. Eugène Berger (DP) regarding the partnership for mobility with the European Union and Cape Verde, www.chd.lu

in the area of circular migration of a temporary nature with Cape Verde and to strengthen the « Migrate with Open Eyes »²⁵⁹ program. This program, which was started in Cape Verde by the Luxembourg cooperation aims to, among other things, “familiarize future Cape Verde migrants for family reunification to the social, linguistic and other realities of life in Luxembourg”²⁶⁰.

This program reaches its deadline, however, at the end of 2010 and in consequence the MYO office in Praia closed at the end of 2010. A similar project shared among the EU, Spain, Luxembourg and Portugal will start and a new office will open its doors in 2011²⁶¹.

Moreover, Luxembourg has proposed starting a twinning program between partner universities.

In view of the establishment of an initiative of circular migration, talks with Cape Verde authorities took place in 2009. According to the minister of Work, Employment and Immigration, Luxembourg plans to include measures which will encourage migratory exchanges between Cape Verde and Luxembourg, including for the Cape Verde diaspora in Luxembourg²⁶².

Moreover, Luxembourg has participated in the establishment of a common centre for visa applications and in the preparation of a community project which aims to strengthen the capacities of Cape Verde in the area of migratory flux management.

²⁵⁹ The bilateral « Migrate with your Eyes Open » program is endowed with a budget of 109.050€ for the 2008-2010 period.

²⁶⁰ Response of Monsieur the Minister of Work, Employment and Immigration to the parliamentary question N° 955 on the partnership for mobility with Cape Verde asked by the honorable Deputy Monsieur Eugène Berger, 13/10/2010, www.chd.lu

²⁶¹ Migrate with Open Eyes, 02/04/2010, <http://www.land.lu/index.php/printarchive/items/migrer-les-yeux-ouverts.html>

²⁶² Response to the parliamentary question N°955 de M. Eugène Berger (DP) regarding the partnership for mobility between the European Union and Cape Verde, www.chd.lu

10. IMPLEMENTATION OF EU LEGISLATION

10.1. Transposition of EU legislation in 2010

On June 14th 2010, the government presented its 4th report on the state of transposition of EU directives²⁶³ to the Chamber of Deputies before the Committee of Foreign and European Affairs.

The three directives in the area of migration, asylum and integration will be transposed by successive modifications of the modified law of 29 August 2008 on the free movement of persons and immigration under the auspices of the Directorate of Immigration.

The bill of law which projects to transpose the directive 2008/115/EC, the said « return directive » of the European Parliament and of the Council of December 16th 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, was filed with the Chamber of Deputies on November 6th 2010.

Other projects in question remain to be submitted to the Council of Government among which are:

- 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals; transposition deadline: 20/07/2011;
- 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

²⁶³ This report examines the state of the transposition of directives during the period going from April 1st 2009 to May 10th 2010. On May 10th 2010, Luxembourg has had a transposition deficit (taking into account all directives) of 1, 5%.

10.2. Experiences, debates in the (non-) implementation of EU legislation

As stated, the bill of law which aims to transpose the « return directive » was filed with the Chamber of Deputies on November 6th 2010. The directive 2008/115/EC is already partially transposed through the adoption of the laws cited in the title of the bill of law under review as well as in the framework of the law of 28 May 2009 regarding the Detention Centre.

At this stage in its development, the directive project has been vigorously contested by NGOs working in the area of human rights because of the barriers that it brings to the freedom of movement of persons who are not citizens of one of the Member States of the European Union. As such, in particular 6 associations (ACAT, ASTI, Caritas, CLAE, the CPJPO and the SeSoPi) called upon public and politicians' attention on the topic of the directive project²⁶⁴.

The associations' worries concentrated mainly on three points: the lengthening of the maximum detention period to 18 months, the possibility of placing minor children in detention and the inadmissibility onto the territory of 5 years following a forced return.

Faced with the bill of law of 3 November 2010 modifying the law of 29 August 2008 on the free movement of persons and immigration and the law of 5 May 2006 relating to the right to asylum and complementary forms of protection, and in light of the necessity to transpose the « return directive », the LFR²⁶⁵ estimates that even if the proposed reform brings some improvements to the legal framework applicable to immigration and asylum, it nonetheless entails various preoccupying elements with regard to several questions. A change would be necessary with regard to the approach adopted by the government to the project, which is at times more restrictive than the one adopted through the directive. This opinion criticizes in particular:

²⁶⁴ La directive de la honte, Dossier de Presse, 08/05/2007,
<http://www.asti.lu/media/asti/pdf/directivehontedossierpresse.pdf>

²⁶⁵
http://www.clae.lu/pdf/migrations/legislations/avis_et_projets_loi_2010/avis_lfr_projet_loi3nov2010.pdf

- the fact that the possibility of access to alternative measures to placement in administrative detention remains too limited,
- the increase of the maximum length of the retention period,
- the possibility of placing children, and in particular, unaccompanied minor children, in detention
- the more restrictive transposition of the directive for the conditions required to obtain a residence document for humanitarian reasons, as for the possibility of granting a prolongation of the time period for voluntary return.

BIBLIOGRAPHY

ASTI (2010): ASTI 30+. 30 ans de migrations. 30 ans de recherches. 30 ans d'engagements, Editions Guy Binsfeld

Besch Sylvain, Dubajic Nénad, Legrand Michel (2010): Les partis politiques et les étrangers au Luxembourg, November 2009, SESOPI-CI, RED N°13, Luxembourg

CEFIS, OLAI (2010): Approches de l'intégration. Poll done on a representative sample of the resident population of the Grand-Duchy of Luxembourg, First indicators.

Dumont, Patrick, Kies Raphaël, Spreitzer Astrid, Bozinis, Maria, Poirier, Philippe (2010): Les élections législatives et européennes de 2009 au Grand-Duché de Luxembourg, Report developed for the Chamber of Deputies, Stadium, University of Luxembourg

<http://www.chd.lu/wps/wcm/connect/8f8a2800457d03d39209f3811027f04d/RapportChDUnivElect+2009.pdf?MOD=AJPERES>

EVS, European Values Survey (2008): <http://valcos.ceps.lu/>, <http://www.europeanvaluesstudy.eu/>

Gerkrath, Jörg (2010): La refonte de la Constitution luxembourgeoise en débat, Larcier, Bruxelles

Jacobs Annick, Mertz Frédéric (2010): L'intégration au Luxembourg. Indicateurs et dynamiques sociales. Parcours de personnes originaires du Cap-Vert et de l'ex-Yougoslavie, CEFIS Red N°14, Luxembourg

Juncker Jean-Claude (2010): State of the Nation Address, May 5th 2010
<http://www.gouvernement.lu/gouvernement/etat-nation/etat-nation-2010-fr/index.html>

Government of the Grand-Duchy of Luxembourg (2009): 2009 Governmental Program
<http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>

Justice Ministry (2010): Procédures de nationalité luxembourgeoise évacuées -Année 2010, Luxembourg : MJ
http://www.mj.public.lu/chiffres_cles/ind_stat_2010.pdf

Pigeron-Piroth, Isabelle (2009): Le secteur public, Working papers of the Statec
<http://www.statistiques.public.lu/catalogue-publications/economie-statistiques/2009/34-2009.pdf>

Ross Sorkin, Andrew (2009): Too Big to Fail, Inside the battle to save Wall Street, Allen Lane, London

Statec (2010): La situation économique au Luxembourg, in: Business Cycle Note n° 1-10, Evolution récente et perspectives, Luxembourg, Juin 2010
<http://www.statistiques.public.lu/catalogue-publications/note-conjoncture/2010/PDF-Note-conjoncture-1-2010.pdf>

Statec (2010): Projections socio-économiques 2010-2060, Bulletin of the Statec n°5-2010, Luxembourg
<http://www.statistiques.public.lu/catalogue-publications/bulletin-Statec/2010/PDF-Bulletin-5-2010.pdf>

Statec (2009): Les profils des travailleurs frontaliers et résidents, in: Business Cycle Note N°1-09, Luxembourg
<http://www.statistiques.public.lu/catalogue-publications/note-conjoncture/2009/PDF-Note-conjoncture-1-2009.pdf>

Thill-Ditsch Germaine (2010) : Regards sur la population par nationalités, Regards 6-2010, Statec
<http://www.statistiques.public.lu/catalogue-publications/regards/2010/PDF-6-2010.pdf>

Thill-Ditsch Germaine (2010) : Regards sur l'évolution démographique, Regards, 3-2010, Statec
<http://www.statistiques.public.lu/catalogue-publications/regards/2010/PDF-3-2010.pdf>

Tibesar Arthur, Jacquet Fabienne (2010): Le travail intérimaire luxembourgeois à la lumière de la crise, Les cahiers transfrontaliers d'EURES Luxembourg n°1/2010, Source : IGSS - Calculs : F. Clément
<http://www.eureslux.org/images/biblio/biblio-6-318.pdf>

Valentova Marie, Berzosa Guayarmina (2010): Attitudes toward immigrants in Luxembourg – Do contacts matter?, Ceps/Instead, Working papers N° 2010-20, July 2010
<http://www.ceps.lu/pdf/3/art1547.pdf>

Valentova Marie, Berzosa Guayarmina (2010): Do men and women perceive immigrants differently? Analysis of gender gaps in attitudes toward immigrants among different groups of Luxembourg residents, Les Cahiers du Ceps/Instead, Cahier n°2010-26, November 2010
<http://www.ceps.lu/pdf/3/art1587.pdf>

Valentova Marie, Berzosa Guayarmina (2010): Does age influence attitudes toward immigrants among different groups of Luxembourg residents, Les Cahiers du Ceps/Instead, Cahier n°2010-29, December 2010
<http://www.ceps.lu/pdf/3/art1600.pdf>

Legislation

National Legislation

Law of 5 May 2006 on the right to asylum and complementary forms of protection
<http://www.legilux.public.lu/leg/a/archives/2006/0078/a078.pdf#page=2>

Law of 28 November 2006 on equal treatment
<http://www.legilux.public.lu/leg/a/archives/2006/0207/a207.pdf>

Law of 29 August 2008 on the free movement of persons and immigration
www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=2

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

Law of 16 December 2008 on the reception and integration of foreigners in the Grand-Duchy of Luxembourg
<http://www.legilux.public.lu/leg/a/archives/2008/0209/a209.pdf#page=2>

Law of 19 December 2008 bringing modification
1. to the modified electoral law of 18 February 2003
2. to the law of 4 February 2005 relating to the referendum on a national level
<http://www.legilux.public.lu/leg/a/archives/2008/0210/a210.pdf#page=2>

Law of 19 December 2008 bringing reform to professional training
<http://www.legilux.public.lu/leg/a/archives/2008/0220/2008A3274A.html>

Law of 17 February 2009 regarding the linguistic leave of absence
<http://www.legilux.public.lu/leg/a/archives/2009/0033/index.html>

Law of 12 March 2009 revising article 34 of the Constitution
<http://www.legilux.public.lu/leg/a/archives/2009/0043/2009A0586A.html>

Law of 12 May 2009 creating the 2nd Chance School
http://www.men.public.lu/legislation/lois_rgd_recents/090518_ecole_2e_chance.pdf

Law of 28 May 2009 creating and organizing the Detention Centre
<http://www.legilux.public.lu/leg/a/archives/2009/0119/a119.pdf#page=2>

Law of 18 December 2009 on civil service
<http://www.legilux.public.lu/leg/a/archives/2009/0248/a248.pdf#page=2>

Law of 26 July 2010 on State financial aid for students in higher education
<http://www.legilux.public.lu/leg/a/archives/2010/0118/a118.pdf#page=2>

Law of 17 December 2010 on the budget of revenues and expenditures of the State for the 2011 fiscal year

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

Law of 17 December 2010 introducing fiscal measures relating to the financial and economic downturn

<http://www.legilux.public.lu/leg/a/archives/2010/0247/a247.pdf#page=2>

Grand-ducal regulation of 21 July 2006 which determines the conditions under which applicants for international protection can have access to the training included in article 14 of the law of May 5th 2006 relating to the right to asylum and to complementary forms of protection

<http://www.legilux.public.lu/leg/a/archives/2006/0131/a131.pdf>

Grand-ducal regulation of 5 August 1989 setting the organization and the functioning of communal advisory committees for foreigners

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

Grand-ducal regulation of 27 October 2006 in implementation of article 4 of the modified law of June 18th 1969 on superior education and the homologation of foreign higher education grades and diplomas

<http://www.legilux.public.lu/leg/a/archives/2006/0195/2006A3383A.html>

Grand-ducal regulation of 21 December 2007 modifying the modified grand-ducal regulation of March 28th 1972 relating to the conditions of entry and residence of certain categories of foreigners who are the subject of international conventions

<http://www.legilux.public.lu/leg/a/archives/2007/0245/a245.pdf#page=5>

Grand-ducal regulation of 5 September 2008 relating to the composition of and the functioning of

1. the advisory committee for foreigners;
2. of the consultative commission for employees;
3. of the consultative commission for independent workers

<http://www.legilux.public.lu/leg/a/archives/2008/0138/a138.pdf#page=35>

Grand-ducal regulation of 26 September 2008 establishing the rules of conduct to be applied by the agents in charge of the implementation of a return measure and modifying the grand-ducal regulation of 21 December 2006 which transposes the directive 2003/110/EC of the Council of November 25th 2003 regarding the assistance in transit for a measure of return by air

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

Grand-ducal regulation of 11 January 2010 organizing the validation of acquired experience for granting diplomas, certificates and certification

<http://www.legilux.public.lu/leg/a/archives/2010/0006/a006.pdf>

Grand-ducal regulation of 14 April 2010 creating regional agencies of the Employment Administration in Differdange, Dudelange and Wasserbillig

<http://www.legilux.public.lu/leg/a/archives/2010/0063/a063.pdf#page=2>

Grand-ducal regulation of 12 May 2010 determining the jobs in the State administrations and public establishments which include a direct or indirect participation in the exercise of public power and in the functions whose object is the conservation of the general interests of the State or of other moral persons of public law

<http://www.legilux.public.lu/leg/a/archives/2010/0078/a078.pdf#page=2>

European Union Legislation

Judgment of the Court (fifth chamber) of 8 June 1999 - C.P.M. Meeusen against Hoofddirectie van de Informatie Beheer Groep. – Request for prejudicial decision : Commissie van Beroep Studiefinanciering – Netherlands – Regulation (EEC) n° 1612/68 – free movement of persons – notion of « worker » - freedom of establishment – financing of studies – discrimination based on nationality – conditions for residence – Case C-337/97

http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=fr&numdoc=61997J0337

Regulation (EEC) n° 1612/68 of the Council of October 15th 1968 relating to the free movement of workers within the Community

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31968R1612:fr:HTML>

Regulation (EEC) n° 883/2004 of the European Parliament and of the Council of April 29th 2004 on the coordination of social security systems

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:fr:PDF>

Parliamentary Documents

Council of State, Opinion 48.623 to 48.626 of 23 February 2010 on the projects of grand-ducal regulations regarding jobs with a participation in public power, civil service recruitments, Civil Service – knowledge of languages,...

http://www.conseil-etat.public.lu/fr/avis/2010/02/48_623/index.html

Council of State, opinion 48.985 of 7 December 2010 on the project of the grand-ducal regulation regarding the exercise of public power in communal Administrations

http://www.conseil-etat.public.lu/fr/avis/2010/12/48_985/48985.pdf

Bill of law n° 5858 bringing modification 1.to the modified communal law of 13 December 1988, 2.to the electoral law of 18 February 2003

http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSByteServletI/mpl/?path=/export/exped/sexpdata/Mag/070/967/096696.pdf

Bill of law n° 69128 modifying 1.the modified law of 29 August 2008 on the free movement of persons and on immigration, 2.the modified law of 5 May 2006 relating to the right to asylum and to complementary forms of protection

http://www.chd.lu/wps/PA_1_084AIVIMRA06I4327I10000000/FTSByteServletI/mpl/?path=/export/exped/sexpdata/Mag/036/991/093950.pdf

Bill of law bringing modification to 1. the modified communal law of 13 December 1988
2. to the electoral law of 18 February 2003

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=5858>

Bill of law introduction of fiscal measures relating to the financial and economic crisis

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6166#>

Bill of law n°6148 regarding State financial aid for students in higher education

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=6148#>

Bill of law creating the Agency for the Development of Employment

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6232>

Parliamentary question n° 1228 of Monsieur the Deputy Marc Spautz on the number of persons having acquired Luxembourg nationaly

www.chd.lu

Parliamentary question n°0988 of 5 November 2010 of Monsieur the Deputy Marc Spautz on the use of the Luxembourg language in politics

www.chd.lu

Magazines, articles and others

Fiscal framework surrounding expenditures and charges in relation with hiring from the international market highly qualified and specialized workers, Memorandum of the director of contribution L.I.R. n°95/2 :

[http://www.impotsdirects.public.lu/legislation/legi10/Circulaire_L_I_R_n°952_du_31_dé cembre_2010.pdf](http://www.impotsdirects.public.lu/legislation/legi10/Circulaire_L_I_R_n°952_du_31_d%C3%A9cembre_2010.pdf)

Chamber of Workers Luxembourg (2010): Opinion I/48/2010 of 5 July 2010

<http://www.csl.lu/avis-evacues-en-2011/184-article-avis-evacues-en-2010>

The Government of the Grand-Duchy of Luxembourg (2008); Signature of the Partnership for mobility between the European Union and Cape Verde, Articles d'actualité, Luxembourg: Government Information and Press Service
http://www.gouvernement.lu/salle_presse/actualite/2008/06-juin/05-schmit-jai/index.html

The Government of the Grand-Duchy of Luxembourg (2010), Presentation of the « fit4job » program developed in the financial sector and in the framework of the government's employment policy, Luxembourg; Government Information and Press service
http://www.gouvernement.lu/salle_presse/actualite/2010/02-fevrier/25-schmit/index.html

The Government of the Grand-Duchy of Luxembourg (2010), Nicolas Schmit Prepares an inventory with regard to the reform of the ADEM, Articles d'actualités, Luxembourg: Government Information and Press service
http://www.gouvernement.lu/salle_presse/actualite/2010/07-juillet/06-schmit/index.html

The Government of the Grand-Duchy of Luxembourg (2011), Inventory 2010 with regard to asylum and immigration: Influx of applications for asylum coming from Serbian nationals, Articles d'actualités, Luxembourg: Government Information and Press service
http://www.gouvernement.lu/salle_presse/actualite/2011/02-fevrier/01-schmit/index.html

LFR, Lëtzebuerger Flüchtlingsrot (2010): Comments of the LFR regarding the project of law of November 3rd 2010 bringing modification to the law on immigration of 2008 and to the law relating to the right to asylum of 2006, Luxembourg
http://www.clae.lu/pdf/migrations/legislations/avis_et_projets_loi_2010/avis_lfr_projet_1_oi3nov2010.pdf

Portal of Statistics, Employment and unemployment per month 2000-2011.
http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=1146&IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=91

Ministry of Family and Integration (2010): National report on the situation of youth in Luxembourg, Luxembourg, 2010
http://www.mfi.public.lu/publications/RapportNationalSituationJeunesse/Rapport_short_version.pdf

Ministry of the Economy and Foreign Trade (2010): General propositions of the Minister of the Economy and Foreign Trade for the improvement of national competitiveness, in view of the Committee of tripartite coordination, Version of June 30th 2010, Luxembourg
http://www.eco.public.lu/salle_de_presse/com_presse_et_art_actu/2010/04/Propositions_d'ordre_général_du_Ministre_de_l'Economie_et_du_Commerce_extérieur/index.html

Ministry of National Education and Vocational Training (2010): Activity Report 2010
http://www.men.public.lu/publications/periodiques/rapports_activites/rapport_activite_2010/110302_rapport_activite2010.pdf

OGBL (2009): Frontaliers, Remboursement des indemnités de chômage au pays de résidence, Communiqué de Presse, Luxembourg
http://www.ogb-l.lu/pdf/communiques/28/Chomage_Frontaliers_251109_FIN.pdf

OGBL (2010): Mesures d'austérité. L'OGBL dénonce la dégradation de la situation des frontaliers, Communiqué du 12 mai 2010, Luxembourg
http://www.ogb-l.lu/pdf/communiques/7/Frontaliers_Programme_d_austerite_luxembourgeois_120510.pdf

OGB-I, LCGB (2010): Aides financières pour étudiants et allocations familiales: Une dégradation financière considérable ?, Communiqué commun de l'OGBL et du LCGB, 30 juin 2010, Luxembourg
http://www.ogb-l.lu/pdf/communiques/28/Aides_financieres_etudiants_OGBL_LCGB_300610.pdf

Ombudsman (2010), Activity Report from October 1st 2009 to September 30th 2010
<http://www.ombudsman.lu/index.php>

Articles

La démocratie en marche, in: Journal Är Meenung of December 19th 2010, p 6.

Listes électorales, « refresh democracy ! » : inscrire d'office les étrangers, in: Journal of July 29th 2010, p4.

Ausländische Mitbürger in christlich-soziale Politik einbinden, in: Luxemburger Wort du December 1st 2010, p. 25.

Babel an de Gemengen, in: Luxemburger Wort of December 11th 2010, Babel an de Gemengen? in: Luxemburger Wort of December 18th 2010.

Eis Sprooch, in: Luxemburger Wort of December 18th 2010.

Le DP premier parti à donner suite à la demande d'entrevue de la plateforme Migration et Intégration. Comment renforcer la participation politique ?, in: Journal of July 29th 2010, pa 4.

Ein Streitgespräch zwischen christlich-sozialen Politikern. Eine Frage, zwei Partefreunde, zwei Meinungen, in: Luxemburger Wort of July 31st 2010, p 3.

Roms : le CLAE épingle le Luxembourg, in: Quotidien of September 24th 2010, p. 10.

2010, p. 4.

Wagner David (2010): Roms. Les parias, in : Woxx of November 19th 2010, p. 6.

Un vent nouveau pour l'intégration ?, in : Quotidien of December 21st 2010, p.5.

Vote des étrangers : une année riche en défis, in: Quotidien of December 29th 2012, p 5.

Gemeindewahlen: hohe Beteiligung erwünscht, in: Luxemburger Wort of December 30th 2010, p 4.

Sources électroniques

Chamber of Deputies :

<http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&id=6218>

Europaforum:

<http://www.europaforum.public.lu/fr/actualites/2010/11/cefis-elections/index.html>

<http://www.europaforum.public.lu/fr/actualites/2010/05/qp-secu-sociale/index.html>

European Migration Network - National Contact Point – Luxembourg :

<http://www.emnluxembourg.lu>

National Research Fund, Luxembourg:

www.afr.lu

Government – Press Room:

http://www.gouvernement.lu/salle_presse/conseils_de_gouvernement/2009/03-mars/26-conseil/index.html#8

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

Landesverband:

<http://www.landesverband.lu>

<http://www.lsap.lu/2009/index.php?idnavigation=102&fidlanguage=2>

<http://www.luxembourg.public.lu/fr/actualites/2010/12/28-courslux/index.html>

Ministry of National Education and Vocational Training:

http://www.men.public.lu/actualites/2010/12/101207_cp_pisa2009/index.html

http://www.men.public.lu/priorites/formation_professionnelle/index.html

http://www.men.public.lu/actualites/2010/03/100302_reforme_formation_professionnelle/index.html

http://www.men.public.lu/ministere/programme_gouvernemental/index.html

http://www.men.public.lu/actualites/2010/03/100316_vae/index.htmlhttp://www.men.public.lu/sys_edu/scol_enfants_etrangers/

OGBL :

www.ogbl.lu

Portrait of the Economy, Employment Market:

<http://www.luxembourg.public.lu/fr/economie/portrait/marche-emploi/index.html>



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

Office luxembourgeois de l'accueil
et de l'intégration

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

