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# INTERNATIONAL MIGRATION IN LUXEMBOURG

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## **Foreword**

The opinions and interpretations expressed in this report are those of the author. They do not necessarily reflect the positions of the Luxembourg Ministry of Family, Integration and the Greater Region nor do they represent National Government policy.

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## Executive summary

Migration has always played an important role in Luxembourg's history. In 2014 and 2015, due to the refugee crisis, migration became the focus of the economic, social and political debates, in particular during Luxembourg's Presidency of the Council of the European Union.

As a country that is a founding Member of the European Union and located at the centre of the EU, Luxembourg has a strong attraction for EU citizens and this - in turn - has a direct incidence on the demographic composition of the country and the workforce.

Luxembourg's demographic composition reflects its migratory diversity. Based on the reference period 2005-2014, Luxembourg recorded its highest number of births in 2013, with 2014 showing a slight decrease (from 6.115 in 2013 to 6.070 in 2014). The increase in the number of births is due to Non-Luxembourgish births. Indeed, foreigners contributed the most to the natural increase of the population in 2014.

In 2014, the net migration balance was positive having increased by 6.8% in comparison to 2013. As such, the country's rising population numbers were mainly attributed to the immigration of individuals coming from EU Member States and other European countries. These numbers include European Union (EU), European economic area (EEA) citizens and third-country nationals from non-EU European countries.

The migratory balance amounted to + 11.000 people in 2014, which signifies a surplus of arrivals over departures. The major part of this net migration was based on the settlement of French nationals, followed by the Portuguese, Italians, Belgians, Spanish and Germans. Thus, the migratory surplus came mainly from European countries. The migratory surplus from the French surpassed that of the Portuguese for the first time since 2001. Third-country nationals' numbers also increased, with the main nationalities being Montenegrin, Cape Verdean and Chinese. The highest progression was however registered for Syrian nationals (+244.2%).

Naturalisations also experienced an increase in the studied period where Belgians remain the top nationality to be granted the Luxembourg citizenship, followed by the Portuguese and the French. For third-country nationals, the top three nationalities are Montenegrin, Serbian and US-American.

The country's diversity is equally reflected in its labour market which heavily relies on its foreign workforce. In fact, Luxembourgish citizens represented 31% of the workforce in 2014, while EU citizens reached 65% and third-country nationals only 4%. Cross border workers also represented a very important part of the Luxembourgish workforce with 44.4 %. For the reference period of 2013-2014, the main branches of activity of European Union citizens were work in construction (mainly Portuguese citizens), financial activities and trade, car and motorcycle repairs. On the contrary, non-EU European salaried workers were mainly engaged in the following economic sectors: hotel and catering (HORECA), trade, car and motorcycle repairs, construction and administrative and support services. There was an increase in all the economic sectors for non-EU salaried resident workers.

The entrance of third-country nationals into the country is subject to an authorisation of stay. In 2014, a decrease of 18.5% was experienced for the total issuances of first residence permits. Nevertheless, there was an increase in several categories, mainly those regarding students and intra-corporate

transferees. For the new arrivals, the main reasons for migrating to Luxembourg were family reunification and work as demonstrated by the granting of first residence permits: the most important categories were family member, salaried worker and European Blue Card.

Due to the refugee crisis, the number of international protection applicants increased between 2013 and 2014. As a consequence, the recognition rate of the status increased as well. On the other hand, the number of returns continued to decrease.

In order to respond to the crisis in an adequate manner, additional funds and staff for the Directorate of Immigration and the Luxembourg Reception and Integration Agency were allocated. Furthermore, Luxembourg resettled 28 refugees in April 2014 and 46 in December of the same year.

Given the magnitude of the migration crisis and the pressure on external border Member States, the EU Council took the decision to relocate 160.000 international protection applicants (European relocation scheme) who are currently in Greece and in Italy. In order to implement this decision, Luxembourg agreed to welcome 527 international protection applicants. The first group of 30 relocated individuals from Greece arrived in Luxembourg on 4 November 2015. In addition, already on 8 September 2015, Luxembourg relocated 42 refugees at the request of the German authorities. At the same time the Luxembourg Reception and Integration Agency increased its reception facilities to deal with the increasing inflow of international protection applicants. On 31 October 2015, 1.595 applications were filed, which represents an increase of 78.4% compared to October 2014.

During 2014, Luxembourg implemented several EU directives. Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings was implemented by the Law of 9 April 2014, which reinforced the rights of victims of trafficking in human beings by criminalising begging and the trafficking of children. Extensive work was undertaken to transpose Directives 2012/32/EU and 2012/33/EU of the Common European Asylum System. Two draft bills are currently within the last stages of the legislative procedure and their implementation is set to take place in 2015, after several amendments were brought to the draft bills at the end of September and October 2015.

On the national level, recent legislative changes and reforms answer to several aims, ranging from attracting certain categories of migrants to strengthening the support provided to unaccompanied minors. The creation of a new authorisation of stay for investors and the modification of certain authorisations of stay to adapt them for business managers are currently under discussion by an inter-ministerial working group, which is preparing two draft bills on these issues.

For the first time since the transposition of the Blue Card Directive, Luxembourg published the Government Council decision of 22 May 2015 establishing the bottleneck professions where the lower salary threshold for hiring highly qualified workers applies.

Luxembourg's legislative framework for unaccompanied minors and its application are also being reviewed. Starting from 1 January 2014, the appointment of an ad-hoc administrator has become systematic for unaccompanied minors. The ad-hoc administrator assists the unaccompanied minor in the context of the asylum procedure. Due to the doubts expressed by the Administrative Court in a judgement of July 2012 regarding the reliability of the age assessment method, a reform process on this issue has also been launched.

Due to the ongoing relevance of the topic, special focus is given to the fight against illegal employment in this report. In Luxembourg, the legislative framework was not modified in recent years, as the last reform on illegal employment of foreign workers dates back to 2012 and the last measure of regularisation occurred in 2013. In this area, recent policies specifically target the fight against illegal

employment of posted workers. Luxembourg has set up information campaigns in the construction sector and continues in its international collaboration efforts in cross border control actions. As a new tool to fight illegal employment, the social identification badge was introduced. It aims at making the information more readily accessible to the authorities regulating the posting of workers.

Following the anticipated elections at the end of 2013, a new government was formed, by a coalition between the Democratic Party (DP), the Socialists (LSAP) and the Greens (Déi Gréng). In their Government Programme, several legislative changes were announced and they are being implemented progressively.

In order to carry out these changes in the area of integration, an assessment of operations of the Luxembourgish Reception and Integration Agency (OLAI) was foreseen in the programme. Thus, the Minister of Family, Integration and the Greater Region commissioned an external audit of the OLAI. The resulting evaluation report includes several improvements to optimise the administration's functioning, such as the definition of strategic objectives, the establishment of monitoring mechanisms and a clear organisational structure.

All these modifications notwithstanding, the boldest political project on a national scale that was thoroughly debated in 2014-2015 was the modernisation of the Constitution. In order to involve citizens in the decision-making process, a referendum was held on three key questions. In preparation of Luxembourg's referendum of 7 June 2015, the most debated question concerned the voting rights for resident non-Luxembourgers. The rejection of this option by 78 % of the votes has led the government to refocus its efforts on a possible reform of the law on nationality, proposing different options to ease the conditions to obtain the Luxembourg nationality.

## CHAPTER I - Major policy changes in Migration and Integration

In 2014, there have not been any significant changes in the migration and integration policies of the Luxembourgish government.

The 2009 governmental programme described legal migration as a positive contribution to Luxembourg's society and economy. This programme mentioned that the implementation of the law of 29 August 2008 on free movement of persons and immigration "must be framed inside a proactive and coherent migration policy [...] The objective is to adapt immigration to the needs of the Luxembourgish economy while fully respecting the European and international commitments that Luxembourg has subscribed to."<sup>1</sup>

The governmental programme of 2013-2018 considers immigration a complex domain with many challenges. It states that immigration and integration are intertwined with reciprocity and shared responsibility of both the migrant and the host country at the core of a successful integration process. The government has taken the necessary measures to provide opportunities to new residents to engage in such a shared process.<sup>2</sup> The programme also highlights the economic contributions that legal immigration can provide. Taking into account some of the specific skills and professional experiences of migrants, the Government is in the process of establishing new categories of residence permits, i.e. investors and business managers, at the national level which are not covered by the European harmonization rules. Thus, the government is looking at establishing a "fast track" procedure for certain categories of migrant workers such as highly qualified workers (blue card holders) and transferred workers. It is also envisaging granting priority status to researchers, as well as establishing « privileged partnerships » with businesses so as to allow greater fluidity in the treatment of residence permit applications.

### Migration

#### Implementing new policies

Government policy<sup>3</sup> focuses on a policy of development and of active diversification of the economic structure according to a policy of "multi-specialisation" in order to avoid the dependence on the financial sector. This policy is concentrated in specific sectors in order to gain visibility: industry, eco technologies, logistics, health technologies (biomedicine and bio technologies), information and communication technologies, maritime clusters and research.<sup>4</sup> Furthermore, it is a priority to attract corporate headquarters and start-ups in innovative technologies with highly added value.

In Luxembourg, the amended law of 29 August 2008 on free movement of persons and immigration does not provide a definition for immigrant investors or immigrant business owners. A third-country national investor can either receive a residence permit as a self-employed worker<sup>5</sup> or a residence permit for private reasons, depending on whether s/he wants to actively work in the company s/he invests in or whether s/he wants to be a passive investor.

As the global economic growth is not located in Europe and in the USA anymore but in emerging economies (i.e. BRIC countries), the government is targeting investors and capital also from these countries. An inter-ministerial working group was set up, which prepared two draft bills to create a legal framework for attracting third-country national investors and business managers to Luxembourg.<sup>6</sup> This working group is composed of the Ministry of Finance, the Ministry of Economy (General Directorate of Small and Medium-Sized enterprises) and the Ministry of Foreign and European Affairs (Directorate of Immigration).<sup>7</sup> At the end of 2014, the bills had not been introduced to Parliament yet.

## Legal Migration

### *Equal treatment for non-Luxembourgish workers*

The legal framework resulting from the transposition of EU directives promotes and guarantees the principles of equal treatment and equal opportunities between Luxembourgish and non-Luxembourgish workers.

No cases of discrimination on the basis of race, sex or religion were recorded in 2014.

### *Developments in Legal Migration*

The legal framework on migration was not amended in 2014. Two bills on transposing the recast directives on reception and asylum were drafted in 2014. They have not yet been passed.

### Facilitating admission for European Blue Card holders (highly qualified workers)

Article 45 (2) a) of the Law of 29 August 2008 defines what highly qualified employment means. It is the employment of a worker who exercises a salaried activity for which s/he fulfils the appropriate and specific competences required for the position certified by a higher education diploma or supported by a professional experience of minimum 5 years equivalent to a higher education diploma and that are pertinent for the profession or the economic sector indicated in the work contract.

No changes were brought to this legal framework in 2014.

## International protection

In Luxembourg the international protection procedures comprehend the asylum seekers and the subsidiary protection applicants.<sup>8</sup>

## *Changes at the administrative level*

### Country of Origin Information

In order to ensure the timely update of the existing internal Country of Origin Information (COI) products, the COI unit within the Directorate of Immigration was temporarily reinforced by additional staff. This unit is responsible for the provision of objective, precise and up-to-date information to the officers in charge of interviewing the applicants and of deciding on the applications for international protection.<sup>9</sup>

### Establishing identity

The “quick scan” was installed, a tool which facilitates establishing the origin of an applicant for international protection in case s/he does not submit or does not possess an identity document. It is a method of rapid examination, via a questionnaire, on the geographic origin of the applicant.<sup>10</sup>

### Training activities

In 2014, several agents of the Refugee Department of the Directorate of Immigration have been trained in “evidence assessment” and “Dublin III” modules, which are offered by the European Asylum Support Office (EASO). A national training in interviewing vulnerable persons was held in March 2014. Furthermore, UNHCR organised two thematic trainings for the entire staff of the Refugee Department.<sup>11</sup>

## *Challenges identified by the authorities*

Existing challenges in the field of asylum that were identified by the Directorate of Immigration concern the handling of the backlog of cases as well as the lack of available interpreters for certain languages. In order to enhance the interpreters’ pool, a collaboration with the neighbouring countries has been established.<sup>12</sup>

To ensure available places of accommodation at any time and to improve the quality of the accommodation system, the Luxembourgish Reception and Integration Agency (OLAI<sup>13</sup>) continues raising awareness of the shared responsibility of the host society and the municipalities on the reception of applicants for international protection. According to the OLAI, minimum quality standards should be formalized and an emergency plan for the mobilisation of accommodation places to deal with mass influx situations should be devised in cooperation with the municipalities.<sup>14</sup>

## *Implementation of the common European asylum system*

The transposition of the main directives<sup>15</sup> of the Common European Asylum System and their implementation will probably take place in 2015.



The Dublin III Regulation already entered into force on 1 January 2014.

Bill N°6775 concerning the transposition of the “Reception Conditions” Directive was introduced to the *Conseil d’Etat* on 6 February 2015.<sup>16</sup> Further government amendments have been introduced on 28 September 2015.<sup>17</sup>

Bill N°6679 concerning the transposition of the “Procedures” Directive was introduced to the *Conseil d’Etat* on 19 February 2015.<sup>18</sup> This bill has received until the 31 August 2015 three legal opinions: the first one of the *Collectif Réfugiés Luxembourg* (LFR) on 5 June 2015<sup>19</sup>, the second one of the Council of State of 17 July 2015<sup>20</sup> and the third one by the Consultative Commission of Human Rights of the Grand-Duchy of Luxembourg.<sup>21</sup>

### Bill n° 6775 on the reception of international protection applicants in Luxembourg

On 6 February 2015, the Ministry of Family, Integration and of the Greater Region introduced bill n°6775 on the reception of international protection applicants in Luxembourg.<sup>22</sup> This bill is transposing the Reception Directive (Directive n° 2013/33/EU of 26 June 2013) into national law.

It partially includes dispositions that were already established by the Grand-ducal regulation of 8 June 2012 establishing the modalities for granting social aid to international protection applicants.<sup>23</sup>

The bill regulates the access of international protection applicants to housing<sup>24</sup> and vocational training<sup>25</sup>, monthly allowance<sup>26</sup>, schooling of children<sup>27</sup> and employment<sup>28</sup>; and provides for a dignified standard of living for all applicants.<sup>29</sup>

It specifies that particular attention is to be granted to unaccompanied minors<sup>30</sup> and victims of torture through access to psychological support.<sup>31</sup>

The bill also foresees the possibility for the applicant to receive a compensation for doing certain tasks in the reception centres and its surroundings.<sup>32</sup>

It also establishes the applicant is obliged to submit to a medical examination.<sup>33</sup>

Finally, it regulates the reception in cases of temporary protection.<sup>34</sup>

Following the increasing influx of applicants for international protection in the course of 2015, government amendments to bill n°6775 were introduced upon request of the Minister of Family, Integration and the Greater Region on 28 September 2015 in order to respond to new challenges.<sup>35</sup>

The main amendments on the bill include the possibility for international protection seekers to apply for a permission to work 6 months after having filed their application if no decision has been made on their application.<sup>36</sup> The initial bill fixed this period to 9 months.

The *Conseil d’Etat* gave its opinion on the draft bill on 20 October 2015. Its opinions have been included into the text, which is due to be examined by a parliamentary commission at the end of November. It is foreseen to have the draft bill submitted for discussion and vote to Parliament before the end of the year.

## Bill n° 6779 on international protection and temporary protection<sup>37</sup>

This bill was introduced to Parliament on 19 February 2015 by the Minister in charge of immigration. It follows the intention of the legislator to reform two statuses: the refugee status and the subsidiary protection status.<sup>38</sup> This bill establishes that its objective is to establish the procedures of granting and withdrawing international protection, the conditions that third-country nationals must fulfil in order to benefit from these statuses and a uniform status for the refugees and the beneficiaries of subsidiary protection as regards the content of this protection. This bill mentions that the content of both protections is the same except if the texts indicate otherwise.<sup>39</sup>

The duration of the residence permit is issued for a minimum duration of three years in both cases and it is renewable.<sup>40</sup>

The beneficiaries of subsidiary protection and of the refugee status have the same access to the labour market. They are authorized to engage in employed or self-employed activities subject to the general rules applicable to the economic sector concerned and to the public services (see above).<sup>41</sup>

Both statuses include the right to life-long learning, vocational training, training for improving skills and counselling from the agency for employment under the same conditions as Luxembourgish nationals.<sup>42</sup>

Minors granted any one of both statuses have access to the Luxembourgish education system under the same conditions as Luxembourgish nationals.<sup>43</sup> Adults benefiting from any of both statuses have full access to the education system, professional improvement and professional reconversion.<sup>44</sup>

Both statuses entitle its beneficiaries to have equal treatment as the Luxembourgish nationals in the procedures of recognition of diplomas and certifications or any other type of formal qualification.<sup>45</sup>

There are plans to simplify procedures for the evaluation, validation and accreditation of former training that cannot be proven by documents.<sup>46</sup>

Social assistance<sup>47</sup>, healthcare<sup>48</sup>, treatment of mental problems or other treatments for beneficiaries of international protection who have special needs such as pregnant women, persons with disabilities, victims of torture, rape or other serious form of moral, psychic or sexual violence or minors who have been victims of any kind of abuse, negligence, exploitation, torture, cruel, inhuman and degrading treatments of armed conflicts are granted in the same conditions as Luxembourgish nationals.<sup>49</sup>

Housing is granted to the beneficiaries of international protection under the same conditions as to Luxembourgish nationals.<sup>50</sup>

### *AMIF 2014 - 2020*

The Asylum, Migration and Integration Fund (AMIF) was established with the Regulation n° 516/2014 of the European Parliament and of the Council creating the Asylum, Migration and Integration Fund, amending Council Decision No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC.

It promotes the efficient management of migration flows and the implementation, strengthening and development of a common Union approach to asylum and immigration.

In Luxembourg, the Luxembourg Reception and Integration Agency (OLAI) is the responsible authority for the implementation of the AMIF programme. The Directorate of Immigration of the Ministry of Foreign and European Affairs acts as the delegated authority.<sup>51</sup> A selection committee composed of representatives of concerned ministries, the SYVICOL<sup>52</sup> and the National Council for Foreigners<sup>53</sup>, was tasked with the selection of projects to be funded under this programme.

The 2014-2020 multiannual programme for Luxembourg was submitted to the European Commission for approval<sup>54</sup> and two calls for proposals have been launched. The first projects have been selected and started in 2015.

### *Resettlement programme for 2014 – 2015*

On 13 September 2013, the Government Council agreed on the modalities concerning the reception of 60 Syrian nationals in Luxembourg.<sup>55</sup> In January 2014, a delegation of 3 officers from the Direction of Immigration went to Amman (Jordan) in order to conduct a series of interviews with Syrian refugees already selected by the UNHCR in order for them to be resettled. This delegation was joined by two officers from the OLAI, which provided them with information on their future life in Luxembourg. It was foreseen that 60 Syrian refugees would be resettled to Luxembourg in the first half of 2014. The focus was on resettling vulnerable families, who would automatically be granted refugee status.<sup>56</sup>

On 16 April 2014, four families, with a total of 28 persons (9 adults and 19 children), were resettled to Luxembourg and granted refugee status.<sup>57</sup> In addition, on 8 September 2015 the Luxembourgish government, at the request of the German government, resettled 42 refugees in Weilerbach.<sup>58</sup>

The OLAI is responsible for their accommodation, the granting of financial assistance, administrative assistance and social aid as well as the socio-educational supervision of the children. Children have access to education (primary and secondary school) and adults are offered French language classes.<sup>59</sup>

A second selection mission took place in Istanbul in December 2014 where another 46 refugees were selected for resettlement.

Apart from those 74 refugees, the Government's further resettlements will take place in the coming months. They will be part of an annual resettlement quota of 15 to 20 persons that was introduced in accordance with the Governmental Programme.<sup>60</sup>

At the Justice and Home Affairs Council of 9 October 2014, the Luxembourgish Minister for Foreign and European Affairs defended the idea of a fair distribution of the burden of international protection applicants and also advocated in favour of common rules for all the Member States in order to face the challenges related to the increase of migratory flows.<sup>61</sup>

On 27 May 2015, in light of the increased numbers of refugees arriving from Syria and Eritrea in Italy and Greece, the European Commission requested that Member States welcome over 40.000 asylum seekers through the resettlement framework.<sup>62</sup>

In response to this request, Luxembourg agreed to welcome 368 refugees (221 from Italy and 147 from Greece). They represent 0,92% of the total number of resettled refugees.<sup>63</sup> After the deliberations in the Council, it was decided that Luxembourg resettle 350 people.<sup>64</sup>

Following the rising proportion of migrant arrivals in August and the subsequent difficulties arising in Hungary, the UN High Commissioner for Refugees has called on EU Member states to resettle at least 200.000 people.<sup>65</sup> In response, the European Commission elaborated a new distribution key aiming at the resettlement of 120.000 refugees. The specifications of the new distribution key are currently still

being debated in the EU institutions, but a preliminary proposal presented in the EU Parliament by European Commission President Jean-Claude Juncker in his State of the Union address on 9 September 2015 allocated 440 refugees to be resettled in Luxembourg.<sup>66</sup> Luxembourg has agreed to this new quota of 440 refugees.<sup>67</sup>

On 8 September 2015, 42 international protection applicants were resettled in Luxembourg from Munich. Luxembourg has responded to a call for help from Germany and welcomed the arrival of 21 adults and 21 children in the reception centre Héliar in Weilerbach.<sup>68</sup> The OLAI in collaboration with the Ministry of Education, Childhood and Youth are providing 'reception classes' tailored to the integration needs of children of up to 13 years old. Special reception classes are also planned for secondary education. Language classes will be offered to adults.

A further 20 refugees have made their way to Luxembourg on their own initiative and arrived in the Reception Centre Lily Uden on the evening of 8 September 2015.<sup>69</sup> The reception centre Lily Uden was opened on 13 July 2015 to replace the Don Bosco reception centre as it was deemed unfit to host refugees. Due to the continuous stream of refugees arriving in Luxembourg, the Lily Uden Centre is fast reaching its capacity (120-150 beds). Thus, Luxembourg's reception limits will be reached before the end of the year as the pressure of the migratory flow is expected to continue rising.

The Minister of Family and Integration indicated that "every day 30 refugees arrive in Luxembourg". In order to deal with these continuous waves, the Government Council has decided to mobilize three sites for emergency reception. These sites are intended for the first reception and are temporary solutions:

- the former language therapy centre in Strassen (capacity of 300 people)
- the old maternity ward of the Hospital centre in Luxembourg (100 people)
- the neuro-psychiatric Hospital in Ettelbruck, scheduled to be destroyed in a year (240 people).

These buildings already have the necessary infrastructures (water, electricity etc.) in order to be able to host international protection applicants for a period from six to eight weeks.

Alternatives to emergency housing are being sought and municipalities are called on to report available accommodation and storage facilities. The SYVICOL (*Syndicat des Villes et Communes Luxembourgeoises* - the Union of Luxembourgish cities and communes) supported the political call to the municipalities to intensify their efforts to provide vacant accommodation and other buildings susceptible to be used as accommodation, as well as sites upon which prefabricated accommodation could be built.

In the meantime, discussions are being held with the High Commissioner of the National protection to set up immediate responses for massive arrivals, preliminary projects including setting up container villages.<sup>70</sup> Simultaneously, the OLAI is reinforcing the cooperation with associations dealing with refugees such as the Red Cross and Caritas.

On 11 September 2015, the OLAI in collaboration with the Red Cross, the *Fonds du Logement*, ArcelorMittal and several municipalities, announced their plan to set up container centres in several locations: Dudelange, Steinfort, Diekirch and Mamer.<sup>71</sup>

The container sites are to house up to 1000 refugees (60 in Dudelange and 300 at each of the other sites) and efforts are being made to have them house the first people as from spring 2016".

In addition to those immediate arrangements, the Government is engaged in reflections on setting up a supportive legal framework for private citizens to host refugees in their homes. While this practice is not widespread in Luxembourg yet, issues surrounding the potential financial assistance from the government are being analysed.<sup>72</sup>

### *Removal of families of rejected applicants*

On 31 March 2014, the Government introduced the bill n° 6673<sup>73</sup> in order to adapt the Immigration law to the conclusions of the European Commission after the preliminary evaluation (EU Pilot 5556/13/Home) on the transposition of the Returns Directive (2008/115/CE OF 16 December 2008). The law did not comply with article 3 (6) that defines the notion of entry ban and article 7 (2) which allows the possibility to extend period granted for a voluntary return.<sup>74</sup>

The law of 26 June 2014 amended the article 111 (2) of the Immigration law establishing that the Ministry can grant a deadline superior to 30 days taking into consideration the particular circumstances of each case, such as the duration of stay, the existence of school children and other family or social links.<sup>75</sup>

### *Unaccompanied minors, changes in procedure*

#### Normal Procedure

There have not been significant changes in the legal framework of the international protection application of an unaccompanied minor.

If during the verification of identity and travel itinerary there are any doubts with regards to the age of the unaccompanied minor, the Minister in charge of Immigration can order a medical test in order to determine the age of the child.<sup>76</sup> The method used for assessing the age of unaccompanied minors, which consists of an X-ray of the left wrist, for which the Greulich and Pyle scale is then used to determine the age, has been contested by the Consultative Commission on Human Rights (*Commission consultative des droits de l'homme – CCDH*). Doubts as to the accuracy of this method have been expressed by both the CCDH and the Administrative Court. A reform process is therefore on-going, although at an early stage, with the aim of making the assessment more efficient and reliable.<sup>77</sup>

#### Ad-hoc administrator

When the unaccompanied minor files an application, the authorities will appoint as soon as possible an ad hoc administrator for assisting him/her within the legal proceedings.<sup>78</sup> In practice, besides the ad hoc administrator a tutor is also appointed to represent him/her in everyday life.

Since 1 January 2014, the appointment of an ad-hoc administrator has become systematic. Thus, unaccompanied minors, whether they file an application for international protection or not, will be assigned an ad-hoc administrator immediately. The ad-hoc administrator assists the unaccompanied minor in the context of the asylum procedure. Most of the appointees are the lawyers already chosen by the unaccompanied minor. Additionally, a tutor is also appointed in order to assist the unaccompanied minor in daily affairs. This also allows for a continuation of the asylum procedure in case a minor absconds.<sup>79</sup> The ad-hoc administrator will assist the minor during the entire international protection procedure.

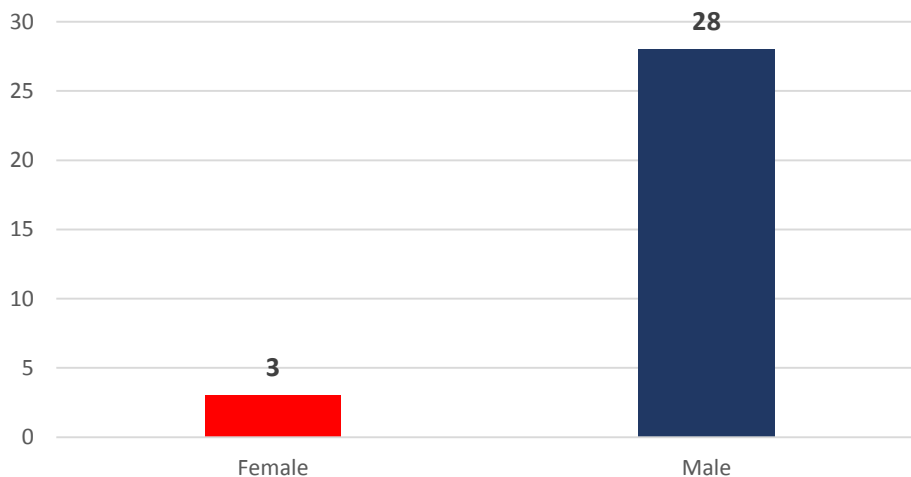
## Accelerated procedure

Until today, no application of unaccompanied minors has been processed under an accelerated procedure based solely on the age assessment test or for having made false statements on his/her age. However, there have been a few cases where a minor's application has been processed under an accelerated procedure because s/he met the requirements of Article 20 (1) of the Asylum Law e.g. an UAM coming to Luxembourg in order to seek work or for economic reasons.<sup>80</sup>

## Statistics

After a significant increase, compared to previous years<sup>81</sup>, of unaccompanied minors applying for international protection in 2013, the number decreased in 2014 and amounted to 31 applications, from which 90,3% were male and only 9,7% female.

**Graph n° 1: Number of Unaccompanied minor applying for international protection by sex (2014)**



Source: Directorate of Immigration, 2015 © University of Luxembourg

## Administrative practices

The administrative practice of the supervision of children centres around 3 options:

- a. child migration in the context of their parents' migration,
- b. children victims of trafficking and
- c. children as international protection seekers.

In its annual report the Ombuds-Committee for the Rights of the Child (*Ombuds-Comité fir d'Rechter vun Kand – ORK*) recommended that further solutions be sought to enable young people to be assisted and to offer them alternatives to their precarious situation.

In its opinion on the recast directives of the Asylum Package, the *Lëtzebuenger Flüchtlingsrot* (LFR) recalled its categorical opposition to child detention, especially unaccompanied minors and invited the legislator to exclude such possibilities.<sup>82</sup>

### *Jurisprudence in international protection*

In 2014, the administrative courts addressed different issues in the field of asylum, such as the unjustified use of fast track procedures<sup>83</sup>, Dublin transfers or International Protection granted for religious prosecution.

#### Dublin transfers and family unity

In a 2014 case, the Ministry in charge of Immigration declared itself incompetent based on Dublin and the applicant was separated from his spouse when and transferred to the competent Member State. The First Instance Administrative Court found this to be unjustified as it interpreted the decision as being a disproportionate interference in the principle of family unity in the sense of Article 8 of the European Convention on Human Rights.<sup>84</sup>

#### Right of Afghans nationals to subsidiary protection

In 2014, the administrative courts decided that subsidiary protection can be granted to Afghani nationals when the applicant has forwarded sufficient evidence that he is at risk of suffering serious harm in case of a return.<sup>85</sup> In another case the Administrative Court overruled the decision of the First Instance Court to grant subsidiary protection to an Afghani national as it was not established that there was a risk of him suffering serious harm.<sup>86</sup>

#### Right of Turkish nationals of Kurdish origin who refused to undergo military service in the Turkish army

The first instance Administrative Courts held in several decisions that subsidiary protection should be granted to Turkish nationals of Kurdish origin who refused to undergo military service on the grounds of them being conscientious objectors.<sup>87</sup> These decisions applied the decision of the European Court of Human Rights of 3 June 2014 (Buldu and other c/ Turkey n° 14017/08).

However, the Administrative Courts have reversed several decisions addressing this issue, when there has been proof that the documents presented were false.<sup>88</sup>

#### International protection granted for religious prosecution

Several decisions of the First Instance Administrative Court granted refugee status to Christian Iraqi nationals on the grounds of a justified fear of being persecuted and the absence of a valid internal flight alternative.<sup>89</sup>

Several persons of Iranian nationality were granted refugee status because there was a risk of persecution in case they were returned to their country of origin.

## Notion of safe country of origin

One case was based on the notion of safe country of origin. The claimant argued that Kosovo could not be considered as a safe country of origin and should be removed from the list of safe countries. The First Instance Administrative Court rejected the argumentation because their application was based on Article 19 of the Law of 5 May 2006, which is the standard procedure, and not on Article 20 of the aforementioned law which concerns the accelerated procedure of an application for international protection and where the safe country of origin is of relevance,<sup>90</sup> which on appeal was confirmed by the Administrative Court.<sup>91</sup>

In the same sense, the Administrative Court considered Bosnia-Herzegovina as a safe country of origin.<sup>92</sup> However, in several cases in which the persecution and aggression are conducted by the police authorities, international protection was granted.<sup>93</sup>

## Detention Centre

In 2014, 392 persons were admitted to the Detention Centre, compared to 284 persons in 2013. Of these, 264 were single men and 17 were single women. There were also 27 families comprising a total of 111 persons. In 2013, 213 were single men, 16 were single women and 14 were families comprising a total of 55 persons. Of the 392 detainees, 123 were transferred to another Member State responsible for the examination of their application for international protection in accordance with the Dublin III Regulation. 149 individuals were returned to their country of origin, eight persons benefitted from the assisted voluntary return programme offered by the IOM, 77 persons were released, three persons were transferred to the Luxembourg Penitentiary (*Centre Pénitentiaire de Luxembourg* - CPL) and two persons escaped from the Detention Centre, respectively from the hospital to which they had been transferred.

On 31 December 2014, 30 persons were staying in the Detention Centre. The most common nationalities for the year 2014 were Montenegro, Algeria, Nigeria, Kosovo, Albania, Tunisia, Serbia, Bosnia and Herzegovina and Morocco. The average duration of stay for 2014 was 27 days and a total of 12 detainees stayed for 120 days or even longer.<sup>94</sup>

Since 2010, the Ombudsman has ensured the monitoring of retention facilities, among which the Detention Centre.<sup>95</sup> In its annual report, the Ombudsman expressed an overall satisfaction with the conditions of detention. However, she also noted a certain number of issues to be addressed, inter alia, the harmonization of immigration and asylum laws during placement in detention and the limits on successive detentions.

The administrative courts are regularly called to analyse the legality of the detention decisions taken by the administrative authorities.<sup>96</sup> In the course of such analyses of detention decisions, the administrative courts recognized alternatives to detention, such as “house arrest” as possible options.<sup>97</sup>



## Returns and Readmission

### *Return policy*

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

The Luxembourgish government promotes voluntary return and only considers forced returns as a last resort.

### *Voluntary return*

Since 2009, a program on assisted voluntary return and reintegration from Luxembourg (AVRRL) has been put into place with the assistance of the International Organisation for Migration (IOM). Following a call for projects launched by the Directorate of Immigration for the period 2011-2013, the agreement between the Ministry of Foreign and European Affairs and IOM was pursued within the framework of the European Return Fund. The program has been co-financed by the new Asylum, Migration and Integration Fund (AMIF) since 2014. The AVRRL program now applies to most countries, with the exceptions of Albania, Bosnia-Herzegovina, Serbia, Montenegro and Macedonia. One should also note that visa requirements no longer apply to nationals from these countries. However, the return bus ticket for nationals of the aforementioned countries is financed by the Directorate of Immigration. In 2014, 301 persons benefited from this specific measure.

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

183 persons have left Luxembourg within the framework of the AVVRL program, compared to 116 persons in 2013, and the majority of returns was to Kosovo (159 persons). Finally, four persons have returned voluntarily on their own expenses.<sup>98</sup>

**Table n° 1: Forced and voluntary returns by nationality (2014)**

Country of origin	Forced returns			Voluntary Returns			among which assisted voluntary returns
	F	M	Total	F	M	Total	Total
Brazil	0	0	0	2	1	3	2
USA	1	0	1	0	1	0	0
Algeria	0	0	0	2	1	3	3
Angola	0	0	0	0	1	1	1

Cape Verde	0	1	1	1	0	1	0
Congo (D)	0	1	1	0	0	0	0
Ghana	0	1	1	0	0	0	0
Guinea Bissau	0	1	1	0	1	1	1
Morocco	0	3	3	0	1	1	1
Nigeria	0	1	1	0	0	0	0
Senegal	0	1	1	0	0	0	0
South Sudan	0	0	0	0	1	1	1
Togo	0	2	2	0	0	0	0
Tunisia	0	1	4	0	2	2	2
Azerbaijan	0	0	1	0	0	0	0
Belarus	0	1	0	2	7	9	9
Georgia	0	1	1	0	0	0	0
Moldova	0	0	1	0	0	0	0
Russia	0	0	0	1	1	2	2
Turkey	0	0	0	0	1	1	1
Ukraine	0	0	0	1	2	3	1
Albania	11	16	27	15	41	56	0
Bosnia Herzegovina	5	11	16	39	45	84	0
Croatia	1	0	1	0	0	0	0
Kosovo	5	8	13	67	91	158	154
FYROM	2	3	5	4	8	12	0
Montenegro	19	25	44	41	48	89	0
Serbia	10	18	28	25	36	61	5
<b>Total</b>	<b>54</b>	<b>99</b>	<b>153</b>	<b>201</b>	<b>287</b>	<b>488</b>	<b>183</b>

Source: Directorate of Immigration, 2015 © University of Luxembourg

### *Forced returns*

In 2014, 153 persons were removed from the Luxembourgish territory in the framework of a forced return, compared to 84 persons in 2013. 134 individuals originated from the Western Balkan countries and the majority were returned on commercial flights. The Directorate of Immigration did also resort

to national secured flights, this also in collaboration with other Member States and FRONTEX. 64 persons were returned to Montenegro, Kosovo and Albania via 3 national chartered flights. 34 persons were returned to Serbia, Macedonia, Bosnia and Herzegovina and the Democratic Republic of Congo via FRONTEX chartered flights. One person was returned to Togo in the framework of a chartered flight organised by Switzerland.<sup>99</sup>

### *Postponement of removal*

A person will not be removed from the territory if s/he establishes by means of medical certificates that his/her state of health is such as to require adequate medical treatment without which s/he would face consequences of an exceptional gravity and if s/he provides evidence that appropriate treatment is not available in the country of origin.<sup>100</sup>

Decisions concerning the postponement of the removal for medical reasons are taken by the Minister responsible for immigration on a motivated opinion by the physician of the Directorate of Health designated for this purpose by the Ministry of Health. The medical certificates provided are sent to the medical officer so s/he can deliver his/her motivated opinion.

Concerning the suspension of a removal order for medical reasons, 155 individuals benefitted from such a decision and another 13 persons benefitted from a postponement in 2014.<sup>101</sup>

### *Readmission agreements and protocols*

On 5 November 2014, five bills were introduced at the Chamber of Deputies concerning the approval of the implementing protocol between the Benelux countries and the relevant third country on the application of the EU readmission agreements with Moldova<sup>102</sup>, Bosnia and Herzegovina<sup>103</sup>, Georgia<sup>104</sup>, FYROM<sup>105</sup> and Serbia.<sup>106</sup>

At the moment, the Benelux is negotiating the implementing protocol of the EU readmission agreement with Cape Verde. Seen the excellent relationship that Luxembourg has with Cape Verde, Luxembourg has been designated as the leading negotiator by the Benelux to negotiate and signed the protocol.<sup>107</sup>

## Measures to prevent Human Trafficking

In 2014, the Luxembourgish Parliament approved the bill n° 6562 to reinforce the rights of the victims of human trafficking victims by the Law of 9 April 2014.<sup>108</sup>

### *Legislative amendments reinforcing the rights of human trafficking victims*

Trafficking in human beings remains a fairly marginal issue in Luxembourg, with only a few cases each year. However, whereas in the past most victims were victims of sexual exploitation, there is currently an increase of victims of labour exploitation.<sup>109</sup>

In 2014, there were 3 presumed victims of trafficking in human beings: two men and one woman. The men were victims of labour exploitation whereas the woman was a victim of sexual exploitation.

The nationalities of the presumed victims were Moldovan and Nigerian.<sup>110</sup>

**Table n° 2: Presumed third-country nationals victims of human trafficking by sex (2014)**

	Sexual exploitation	Labour exploitation	Total
Female	1	0	1
Male	0	2	2
<b>Total</b>	<b>1</b>	<b>2</b>	<b>3</b>

Source: Ministry of Justice, 2015 © University of Luxembourg

Also there were 5 identified victims of trafficking in human beings. Their nationalities were: India (2 victims), Pakistan and Bangladesh for Labour exploitation and Nigeria for Sexual exploitation.<sup>111</sup> The great majority of labour exploitation victims were men and the only individual who was sexually exploited was a woman.

**Table n° 3: Identified third-country nationals victims of human trafficking by sex (2014)**

	Sexual exploitation	Labour exploitation	Total
Female	1	0	1
Male	0	4	4
<b>Total</b>	<b>1</b>	<b>4</b>	<b>5</b>

Source: Ministry of Justice, 2015 © University of Luxembourg

Whereas 6 reflection periods were granted, only 2 residence permits were requested and none was granted during 2014.<sup>112</sup>

*Coordination and cooperation amongst key actors*

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

- Prevention;
- Protection and promotion of the victims’ rights; and
- Prosecution of the perpetrators and co-perpetrators.<sup>113</sup>

The Chamber of Deputies adopted the Law of 9 April 2014 on strengthening the rights of victims of trafficking in human beings<sup>114</sup> and transposing the Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims into the national legislation. Major amendments are the punishment of begging and the inclusion of trafficking of children in

society. Furthermore, the Consultative Commission on Human Rights (CCDH) has been appointed as national rapporteur.

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

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

Furthermore, two grand-ducal regulations have been adopted in 2014. One concerns the governmental agreements for shelters for victims of trafficking in human beings.<sup>115</sup> Article 1 of the Grand-Ducal Regulation of 11 September 2014, in accordance with Article 94 of the amended Law on the Free Movement of Persons and Immigration, establishes that unaccompanied minor victims of trafficking in human beings are entitled to appropriate housing.<sup>116</sup>

The other Grand-Ducal Regulation relates to the structure and the missions of the Monitoring Committee on the fight against trafficking in human beings.<sup>117</sup> The national coordination of anti-trafficking polices is currently done by a Committee to monitor trafficking in human beings. The Committee is composed of representatives from those public bodies responsible for the implementation of the proposal, representatives of assistance services, and representatives of approved organizations. The Committee is currently elaborating a new national action plan focusing on human trafficking. The action plan is taking account of the recommendations made by the Group of Experts on Action against Trafficking in Human Beings (GRETA)<sup>118</sup> and the (Trafficking in Persons) TIP report.<sup>119</sup> A main focus will be put on anti-trafficking trainings, awareness-raising, and the establishment of a national referral mechanism.<sup>120</sup>

Concerning the crime of trafficking, 2 persons have been arrested as traffickers and 7 have been convicted as traffickers in 2014.<sup>121</sup>

Brochures established by the Ministry of Justice and the NGO *Femmes en Détresse* (FED) have been distributed in 2014. The first brochure from the Ministry of Justice is focusing on the phenomenon of trafficking in human beings itself and explains this crime to a more general public whereas the brochure from FED is more focused on the rights of the victims and is distributed amongst the potential victims of trafficking in human beings. It should also be noted that further public campaigns are scheduled for 2015.<sup>122</sup>

The Directorate of Immigration is establishing an information sheet for police officers serving in missions.<sup>123</sup> Furthermore, the Police Academy (*Ecole de Police*) offered courses to police officers in 2009 on trafficking in human beings and at the end of November 2014 courses have been held again for detectives who work in morality and trafficking of human beings areas from all over the country. In 2015, there are 20 – 30 sessions foreseen. During these courses, the case of minor victims of trafficking will also be addressed. These courses should enhance the detection of potentially vulnerable populations by police officers.<sup>124</sup>

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

## Integration

### Institutional developments

#### *Restructuration of the Luxembourgish Reception and Integration Agency (OLAI)*

In 2014, the newly appointed Minister of Family, Integration and the Greater Region commissioned an external audit of the OLAI. Its conclusions were presented to the parliamentary committee on 15 July 2014.<sup>125</sup>

The report called for a fundamental restructuring of the administration in question. It called for the definition of strategic objectives, the establishment of monitoring mechanisms and a clear organizational structure.

The audit also recommended the implementation of standardized management, monitoring and control of financial and collaboration agreements with third parties.

In order to address these issues, a steering board committee tasked with the development of a new strategy<sup>126</sup> was set up, notably on the management of staff, reception of international protection applicants and partner organizations.

The end of the year 2014 saw a change at the head of the OLAI. The Ministry of Family, Integration and the Greater Region named at first a steering board, which was subsequently replaced by a new Director on 27 January 2015 for a period of 7 years from 1 February 2015.<sup>127</sup>

#### *Five-yearly national report*

Article 7 of the law of 16 December 2008<sup>128</sup> establishes that every five years the Minister must submit a national report on the reception and integration of foreigners, fight against discrimination, social aid to foreigners and the monitoring of foreigners to Parliament. The report is based on the five fields of intervention of the OLAI:

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

On December 2014, the Minister of Family, Integration and of the Greater Region presented to Parliament the first “Five year report”, comprehending the period 2009-2013<sup>129</sup>.

The report proposed that the mainstreaming approach (transversality of the integration policy) should be continued and further enhanced. The allocation of responsibilities between the OLAI and different stakeholders including bodies like the National Council of Foreigners, the inter-ministerial committee or the consultative communal commissions on integration which are active in the field of integration

should be further clarified. It also proposed to continue identifying gaps between the legal and regulatory framework in the field of reception and integration.<sup>130</sup>

#### *Opinion of the Economic and Social Council (CES)*

In 2011, the Government charged the Economic and Social Council (CES) with the mission to evaluate the National Action Plan for Integration and the Fight against Discrimination 2010-2014 (NAP). In order to fulfil this mission, the Secretariat of the CES commissioned the University of Luxembourg with the drafting of an evaluation report. The University subsequently developed a questionnaire aimed at ministries and other relevant stakeholders.<sup>131</sup> On 12 February 2014, the evaluation of the National Action Plan was presented by the University of Luxembourg during a conference-debate attended by civil society representatives, the different ministries that form the Inter-ministerial Committee on Integration and representatives from the Union of Luxembourg Cities and Communes (SYVICOL).<sup>132</sup>

Based on this evaluation the CES issued an opinion entitled “The Integration Policy in Luxembourg”.<sup>133</sup> This opinion made a series of recommendations on the integration policy in general, on several integration instruments (such as the National Action Plan and the Welcome and Integration Contract), and certain organisms (Inter-ministerial Committee on Integration, National Council for Foreigners).

#### *Elaboration of the new National Action Plan*

In 2013, the OLAI launched information campaigns on the NAP which were followed by a large-scale consultation of civil society in 2014. This consultation took the forms of workshops, online questionnaires or opinions, each targeted at different stakeholders. Thus, between October 2013 and July 2014, three specific consultations took place. The first one was directed at certified training personnel from the OLAI but also the signatories of the CAI. The second consultation took place in May 2014 and took the shape of three thematic workshops on the integration of immigrant children at school, foreigners as actors and the role of the host society. The third consultation, a questionnaire, was aimed at municipalities and local authorities. In addition, the National Council for Foreigners (CNE)<sup>134</sup> was asked for an official opinion on the future of the integration policies.

All of these elements were aimed at raising awareness and receiving bottom-up input for the elaboration of future NAP.

#### *Communal integration plan of the Union of Luxembourg Cities and Communes (SYVICOL)*

The *Syndicat des villes et communes luxembourgeoises*, or SYVICOL, represents Luxembourgish municipalities and promotes and defends their general interests on the national and international level. The organization aims to foster collaboration and coordination of the municipalities on different topics, including but not limited to integration policies.<sup>135</sup> In recognition of the importance of the local level in integration, the OLAI in collaboration with the SYVICOL, launched a project entitled “Communal Plan on Integration” (PCI) in 2012.

The municipalities play a key part in this area. The SYVICOL, in collaboration with the OLAI, has set up an approach in two phases to present the local level with advice on how to set up a long-term local integration plan. This political framework enables the SYVICOL and the OLAI to guide individual actions in favour of local level integration.<sup>136</sup>

One step in establishing integration strategies and policies at the local level was the elaboration of a practical guide for implementing a PCI. The guide proposes a structure and a methodology to implement a plan, whilst always keeping the flexibility of adapting it to the specificities of each municipality.<sup>137</sup>

In the process of elaboration, several information sessions took place in October 2014. These sessions were addressed to municipal council members, municipal agents and members of the consultative commissions<sup>138</sup> as well as any local professional who deals with the topic of local integration policy and who is susceptible of being implicated in the elaboration of such a plan. The specificity of the project remains the political engagement of decision makers at the local level. The aim is to transfer the responsibility in the area of integration to the political level in order to guarantee sustainability and cohesion in the actions led in favour of integration.

In a second phase, the SYVICOL and the OLAI offer local politicians who wish to embark on a PCI support in their project by means of individualised workshops. This more practical phase aims at enabling the municipalities to appropriate the proposed approach and define their needs and ambitions in order to implement an integration policy at the local level through the PCI.<sup>139</sup>

Municipalities can apply for funds from the OLAI wishing to implement projects in favour of the integration of foreigners. A panel, composed by representatives of the OLAI, the Ministry of the Interior and SYVICOL meet at least twice a year in order to analyse the applications for funding that have been submitted by the municipalities throughout the year.<sup>140</sup>

## Programmes and policies

### *Education*

Since 1998, the Service of Schooling for Foreign Children<sup>141</sup> has coordinated all the measures for the school insertion of pupils speaking a foreign language, whilst providing support for the children, parents and teachers.

The registration of foreign language speaking children in the public and private school system continues to increase (43,8%).<sup>142</sup>

The table below demonstrates that the mother tongue spoken in the household and the nationality confirms the increase of foreign children registered in the Luxembourgish school system.



**Table n° 4: Mother tongue spoken by pupils registered in the Luxembourgish school system (2011 – 2014)**

Mother tongue	2010/2011	2011/2012	2012/2013	2013/2014
Luxembourgish	45,9%	41,5%	39,9%	38,7%
Portuguese	27,5%	28,2%	28,7%	28,9%
French	11,1%	11,5%	11,9%	12,6%
Serb-Croatian	5,2%	5,5%	5,6%	6,4%
German	2,0%	2,0%	2,0%	2,0%
Italian	1,8%	1,9%	1,9%	1,9%
Other	8,3%	9,3%	9,8%	9,5%

Source: Ministry of National Education, 2015 © University of Luxembourg

This data reflects the structure of the Luxembourgish population.<sup>143</sup> After Luxembourgish, the main nationalities are Portuguese and French. The first third-country language is Serbo-Croatian which is consistent with the large population originating from the Western Balkans living in Luxembourg.

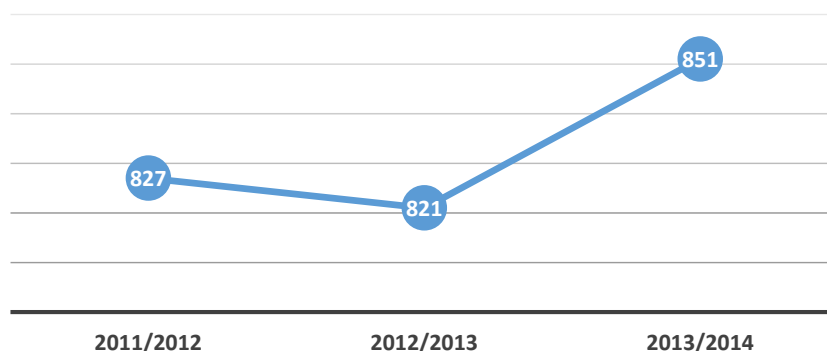
In order to help new arrivals develop their language skills, the Ministry of National Education has developed several pedagogical tools:

- Publications: “Reception and integration. Manual for teachers welcoming a new pupil recently arrived in the country” and “The orientation of pupils recently arrived in the country”.<sup>144</sup>
- Working groups: The national programs commission (CNP) of reception classes of secondary education has been working on the examination test at the national level, but it has also improved the annexe to the school report in order to allow for a better differentiation strategy.<sup>145</sup> The CNP of insertion classes has also developed a set of key skills for the French language and it is testing it on high schools that offer French language insertion courses.<sup>146</sup>
- Teacher training: New training courses have been developed for training teachers confronted with the rising heterogeneity of pupils.<sup>147</sup>
- Interactive website: The *Service de scolarisation des enfants étrangers* (SECAM) has launched its new website ([www.education.lu/secam](http://www.education.lu/secam)) which reinforces the information and communication between teachers in charge of new arrival pupils.

#### Newly arrived foreign pupils

The numbers of newly arrived pupils continues to increase. In 2014, there was an increase of 3,7% in comparison to 2013.

**Graph n° 2: Newly arrived foreign pupils – 2012 – 2014**



Source: Ministry of National Education, 2015 © University of Luxembourg

In the last two years most of the new arrivals have joined secondary studies (ES) or vocational secondary studies (EST). There were 598 in 2013 and 644 in 2014 representing 72,8% and 75,7% of the total number of newly arrived pupils.<sup>148</sup>

Table n°5 shows the percentage of newly arrived pupils by nationality. There is a decrease of Portuguese and Serbian nationals and a significant increase of Italians and Guinea-Bissauans. The highest percentage (47,5% in 2014) of Portuguese-speaking pupils (Portugal, Guinea-Bissau and Cape Verde) generates a high concentration of these students who live in certain communities in which these populations are overrepresented.

**Table n° 5: Percentage of newly enrolled pupils by nationality – 2012-2014<sup>149</sup>**

Nationality	2011/2012	2012/2013	2013/2014
Portugal	41.0%	43.9%	38.9%
Luxembourg	6.3%	7.0%	7.5%
Cape Verde	5.2%	6.1%	5.4%
France	4.2%	5.0%	0.1%
Italy	1.8%	2.9%	4.0%
Guinea-Bissau	1.0%	1.5%	3.2%
Serbia	7.7%	1.3%	1.1%

Source: Ministry of National Education, 2015 © University of Luxembourg

#### Integration of newly arrived pupils

Reception classes accept migrant pupils at any time of the school year. These pupils learn French and are later oriented to an integration section or to a vocational secondary studies (*Enseignement secondaire technique* - EST) section.<sup>150</sup> In the school year 2014 there were 309 pupils and in the first trimester of 2015 there were 287 pupils.

Integration classes for migrants offer a regular school program in three years and intensive learning of French language or of German (if the student already speaks French). In 2014, there were 1.221 pupils and in the first trimester of 2015, there were 1.158.<sup>151</sup>

There are also classes with a specific language regime. These classes are not reserved for newly arrived pupils. They allow pupils that do not master the German language but who fulfil the admission criteria for specific curricula to follow it in the French language. At the beginning of the academic school year 2014-2015, 686 pupils were registered.

### Children of international protection applicants

The SECAM is the liaison between the OLAI and the school authorities. The *Cellule d'accueil scolaire pour élèves nouveaux arrivants* (CASNA) states that only 8,7% of the pupils welcomed in the reception classes were children of international protection applicants and most of them were from the Western Balkans states. At elementary school level there were 14 specialized reception classes established for the children of international protection applicants (one less than in 2013).<sup>152</sup>

### Language courses

In 2014, the National Institute of Languages (INL) organised 641 languages courses. This represents an increase of 4,9% from the previous year.<sup>153</sup> The number of registered students reached 12.400 in 2014, which represents an increase of 7%. However, despite the increase in the number of courses offered, the demand was not entirely satisfied and there remained a waiting list.<sup>154</sup>

Courses are offered in the following languages: French, German, English, Luxembourgish, Spanish, Portuguese, Italian and Chinese. The highest demand (4.727 registered students) was for French (38,1%) and Luxembourgish (3.253 registered students representing 26,1%) courses. Both languages represent almost 2/3 of the registered students (64,2%).<sup>155</sup>

The students of the INL represent more the 140 nationalities. Only 10% of the student population are Luxembourgers.<sup>156</sup>

In September 2014, the INL introduced more flexible course timetables that allow people working in the food industry sector to attend; classes are now also available between 15:00 and 17:00.<sup>157</sup>

### Citizenships exams

The INL is responsible for carrying out the language exams for obtaining citizenship. In 2014, the INL organised 12 examination dates with a total participation of 1.039 candidates.<sup>158</sup> The success rate lay at 63%.

## Language leave

The language leave was introduced by the Law of 17 February 2009<sup>159</sup> and is part of the Government's policy to strengthen vocational training.

It is a special leave of absence enabling employees of all nationalities and persons carrying out independent work to learn Luxemburgish<sup>160</sup> or improve their existing knowledge in order to facilitate their integration into the Luxemburgish society through the labour market, on condition that they have been working for the same employer in Luxembourg for 6 months.<sup>161</sup>

From January 2015 onwards, the compensation allowance will be paid by the employer and the State will reimburse the employer 50% of the amount of the compensation allowance.<sup>162</sup>

Since its introduction in 2009, 2.509 applications for language leave have been approved.<sup>163</sup>

In 2014, 288 applications of employees for "language leave" were introduced.<sup>164</sup>

## Recognition of qualifications and professional experience

### *Recognition of qualifications and diplomas obtained abroad*

The procedures for recognising qualifications and diplomas obtained abroad have not been changed in 2014. The procedures for recognising diplomas and qualifications depend not only on the applicant's nationality but also the country where the qualification was obtained.<sup>165</sup>

In 2014, there was an increase of 29,1% in the number of registrations of foreign diplomas, passing from 3.576 to 4.618. However, the most significant increase was the number of diplomas in Medicine registered as they passed from 127 in 2013 to 276 in 2014. This represents an increase of 105,5%.

**Table n° 6: Number of foreign diplomas registered in 2014**

Category	2013	2014
Architecture	155	143
Engineering	300	317
Economy	1089	1323
Law	206	261
Sciences	538	602
Medicine	127	276
Others	1161	1696
Total	3576	4618

\*Includes diplomas on psychology, pedagogue, translator, diplomas in artistic education and Arts degrees.

Source: Ministry of Higher Education and Research, 2015 © University of Luxembourg

138 requests for registration were refused on the basis that these diplomas did not conform to rules and legislation of Higher education from their country of origin.<sup>166</sup>

#### *Homologation of diplomas*

In Luxembourg, certain professions are regulated, such as law, medicine, dentistry, etc. . Hence, the homologation of diplomas is required.<sup>167</sup> In 2014, 425 diplomas were homologated and 23 requests were refused. 213 of those diplomas were in law (50,1%) followed by 127 Arts diplomas (29,9%). Only 10 diplomas in Medicine were homologated (2,4%).<sup>168</sup>

#### *Validation of skills and experience acquired (VAE)*

VAE was introduced with the reform to vocational training<sup>169</sup>: it validates professional or extraprofessional experience by certifying it. Each person with at least three years of work experience may submit an application to the Ministry for National Education. The VAE procedure exists since spring 2010.<sup>170</sup>

On 23 December 2014 the draft bill amending the amended law of 19 December 2008 was approved by the Government council. In this draft bill the different stages of the procedure for the VAE are clarified. The notion of three years of experience was replaced by a total duration of 5.000 hours. The requests for the VAE can be made in French and German. The decisions taken by the Commission, as well as the support measures that have to be implemented in case the applicant must fulfil additional training to complete the requirements, must be motivated.<sup>171</sup>

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

The “Package on the Future” (*Zukunftspak*)<sup>172</sup>, which was presented by the Government in October 2014, generated considerable public interest.

The package targets the reduction of the public deficit and the consolidation of the public finances while establishing 258 measures. The aim of these measures is meant to render the state services more efficient, to prepare it for new challenges and to create new perspectives.

Except for the linguistic leave and the costs relating to the recognition of diplomas, most of the measures however, do not directly target foreign nationals directly, but are aimed at the entire population.

On 15 October 2014, the Package on the Future was introduced in Parliament as Bill N°6722 on the implementation of the Package on the Future (first part)<sup>173</sup> and was approved by the Law of 19 December 2014.<sup>174</sup>

## Welcome and integration contract

The Welcome and Integration Contract (*Contrat d'accueil et d'intégration* - CAI) was officially launched on 29 September 2011 and is offered to any foreigner of at least 16 years of age who legally resides on the territory of Luxembourg and who wishes to remain on a permanent basis. It is aimed as much at European Union citizens as well as third-country nationals. It targets new arrivals and people who have been living in Luxembourg for many years. The general aim is the integration of the target population in Luxembourgish society.<sup>175</sup>

In 2014, 957 persons of different nationalities signed the CAI. 57% of these persons are European Union citizens and 43% are third-country nationals. The Portuguese represent 21% of the signatories, followed by the French (6%) and the Italians (6%). The Chinese come in 4<sup>th</sup> position (6%). 63% of the signatories have been in Luxembourg for less than five years at the moment of the signature of the contract.

Between May and December 2014<sup>176</sup>, 50% of the registrations for language classes were made for French classes, 46% were made for Luxembourgish classes and only 4% were made for German classes. 47 civic courses were organized. Each was attended by approximately 15 participants. In collaboration with the Chamber of Commerce, 5 orientation days were organised in 2014. These orientations days aim to inform the participants about life in Luxembourg.

Since its inception, 444 persons have successfully completed their contract. 334 contracts have come to an end without having been completed and 2.316 contracts are still ongoing as of 31<sup>st</sup> December 2014.<sup>177</sup>

In order to pursue the management of the CAI in the best possible conditions, the OLAI deemed it necessary to complement and harmonise the services offered in the framework of the CAI and to clarify its objectives. The OLAI proceeded to an external evaluation<sup>178</sup> of the CAI with the aim to identify the

needs and expectations of signatories.<sup>179</sup> On the basis of this evaluation, as well as various other opinions expressed by civil society and public institutions, the OLAI is currently in the process of restructuring this tool so as to best respond to the needs of the target population.

## Non-discrimination

In its 2014 annual report, the Centre for Equal Treatment (CET) reiterates its finding that many discriminatory acts remain unpunished, this above all on social media. Therefore, the CET proposes to enhance the criminal pursuits of discriminations which have occurred on the internet by foreseeing the possibility of the Public Prosecutor's Office to prosecute on its own initiative.<sup>180</sup>

For the period 1 January 2014 – 31 December 2014, the CET received 145 new cases. Additionally, there were two cases from 2011 and 2012 and six cases from 2013 that had not yet been closed.<sup>181</sup> Among the various motives for discrimination were disability with 37 cases (24,2%), sex with 23 cases (15%), the belonging or not belonging, real or supposed, to a race or ethnic group with 20 cases (13%), religion or other convictions with 8 cases (5,2%) and age and sexual orientation each with 5 cases (3,3%).<sup>182</sup>

In its Five Year Report, the OLAI reiterated its mission to fight discriminations and considered to clearly define a national vision in this regard in the future, to adopt an holistic approach which takes into account all the grounds of discrimination and to pursue its commitment in the framework of the Diversity Charter.<sup>183</sup>

On 12 March 2015, the Ministry of Labour, Employment and Social and Solidarity Economy introduced a bill<sup>184</sup> to implement the recommendations made by the European Commission in regard with Directives 2006/54/CE, 2005/56/CE and 2008/94/CE. In this bill it is introduced the non-discrimination for reasons of sex change.

## *Diversity Charter*

The Diversity Charter was launched in September 2012.<sup>185</sup> Any Luxembourgish company or organisation can sign the Charter and thereby express their commitment to promoting diversity through concrete actions that go beyond legal and regulatory obligations of non-discrimination.<sup>186</sup>

The Luxembourgish authorities continue to promote this Charter and on 27 May 2014, the Minister for Family, Integration and the Greater Region, attended the official annual signing session of the Charter.<sup>187</sup> On 27 May 2014, there were a total of 116 signatories of the *Diversity Charter Lëtzebuerg*, which represents 12% of the work force.<sup>188</sup>

A series of training courses were set up in order to complement the practical guide which the Diversity Charter had published in 2013. These workshops, supported by the European Social Fund, enabled diversity officers to gain knowledge in diversity and meet with experts from Luxembourg as well as abroad.<sup>189</sup>

## “Promotion of Diversity in Luxembourg” project

With the support of the EU Progress Programme and the Ministry of Family, Integration and the Greater Region, a national project entitled “*Promotion of Diversity in Luxembourg*” was launched in August 2014. The project, for the first time, brings together several partners which are experts on diversity in Luxembourg in order for them to exchange good practices. The initiative focuses essentially on diversity in the labour market and intends to fulfil three objectives:

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

## Relations with third countries

### *Cooperation agreements*

The international cooperation policy of Luxembourg is based on the principle of geographical concentration on nine partner countries: Cape Verde, Mali, Senegal, Burkina Faso, Niger, Laos, Vietnam, Nicaragua and El Salvador.<sup>190</sup> However, there are no specific bilateral labour migration agreements signed with these countries.<sup>191</sup>

At the EU level, a cooperation agreement with Cape Verde exists. It was implemented between May 2011 and January 2015.

At the moment Luxembourg is engaged in reflections on establishing a bilateral agreement with Cape Verde with the purpose of establishing a circular migration policy.<sup>192</sup>

### *Labour migration agreements*

Even though Luxembourg has a cooperation policy focussing on specific third countries as well as an economic policy targeting specific countries for attracting investors, it does not have any policy on labour migration agreements.

### *Social Security Agreements*

On 1 September 2014, the bilateral agreement on social security signed with Uruguay entered into force. In addition, on 1 November 2014, the bilateral agreement as well as the administrative agreement signed with Serbia entered into force. Finally, on 1 December 2014, the bilateral agreement on social security signed with Argentina entered into force.<sup>193</sup>

On 2 March 2015, the Ministry of Foreign and European Affairs introduced a bill for the ratification of the bilateral agreement on social security with Japan signed on 10 October 2014.<sup>194</sup>



On 15 April 2015, the Ministry of Foreign and European Affairs introduced a bill for the ratification of the bilateral agreement on social security with Albania signed in Luxembourg on 27 October 2014.<sup>195</sup>

### Naturalisation policy

In 2014, there were no major changes in the naturalisation policy. However, during the discussion on the referendum for granting voting rights in legislative elections to foreigners, a Member of Parliament introduced a bill to amend the law on Luxembourgish nationality.<sup>196</sup> This bill proposes to simplify the naturalisation procedures reducing the residence requirement to 5 years<sup>197</sup> and reduce the language requirement (speaking examination in Luxembourgish) from B.1 to A.2.<sup>198</sup>

### Other aspects

#### *Foreign fighters*

In the context of the development of terrorist organisations such as the Islamic State (IS), the departure of six young Luxembourgish residents to Syria in order to fight alongside the IS led to media and political debates regarding this specific phenomenon. Thus, several debates on the terrorist threat posed by IS as well as future measures to be taken in the context of internal security took place in Parliament.

On 25 November 2014, the Minister for Foreign and European Affairs announced that a bill, based on the Security Council Resolution of the United Nations, which aims at preventing foreign fighters from joining radical terrorist movements in combat zones, especially Syria and Iraq, would be prepared.<sup>199</sup> The bill was introduced to the Chamber of Deputies on 7 January 2015 by the Minister of Justice.<sup>200</sup>

## CHAPTER II – Public debates and upcoming developments

### Referendum on foreigners' voting rights in legislative elections

The referendum took place on 7 June 2015. It has been the object of extensive debate throughout 2014 and 2015. The idea of the referendum to consult citizens on key constitutional questions instead of a block vote on the whole project of the Constitutional Reform dates back to 2012.

The referendum was held on 3 questions: foreigners' voting rights in legislative elections, limiting the accumulation of mandates and reducing the voting age to 16.<sup>201</sup>

The law of 27 February 2015<sup>202</sup> fixed the wording of the three questions of the referendum. The law set the referendum questions as follows:

1. Do you approve that Luxembourgers aged between 16 and 18 years receive the right to enrol in a facultative manner on electoral lists in order to participate as voters to parliamentary, European and municipal elections as well as to referendums?
2. Do you approve that non-Luxembourgish residents receive the right to enrol in a facultative manner on electoral lists to participate as voters to parliamentary elections, under the double condition to have resided in Luxembourg for at least 10 years and to have already participated in European or municipal elections in Luxembourg?
3. Do you approve of limiting the maximum duration of continuous political office to 10 years?

The questions on voting rights for non-Luxembourgish residents and the question on reducing the voting age to 16 only dealt with active voting rights, not with passive voting rights. However, it makes the registration on the electoral list of non-Luxembourgish residents and of Luxembourgers aged between 16 and 18 years old optional and not mandatory.<sup>203</sup>

The question on voting rights for foreign residents (hereafter referred to as Question n°2) attracted much attention and various campaigns were organised by stakeholders.

### Campaigns and arguments

With only a small number of press articles debating the advantages and disadvantages of granting voting rights to foreign residents in 2014, media picked up the topic as from early 2015. The campaign entitled '*Jo zum Awunnerwahlrecht*' (Yes to Voting Rights for residents) opened the debate. This campaign was organised by the Migration & Integration Platform (*Plate-forme Migrations & Intégration* –Minté). This platform disseminated information allowing civil society to express their support to the campaign. This initiative was widely supported by NGOs, the Chamber of Commerce and two trade unions. In the context of the Minté Platform several debates and conferences were organized. They were highly mediatized.

A second, opposing campaign slowly took shape in the form of a social media page bearing the name *Nee2015* (No2015) at the end of March 2015. Following its success on the social network platform, the No campaign multiplied media appearances and live debates under the slogan *Nee zum Ausländerwahlrecht* (No to foreigners' voting rights).

The political parties started campaigning on 11 May 2015 for the duration of one month, as required by the agreement signed by the six Political Parties sitting in Parliament on 3 March 2015.<sup>204</sup> All three parties in the government coalition (DP, LSAP, *Déi Gréng*) plus *Déi Lénk* campaigned in favour of voting rights for non-Luxembourgish residents. The major opposition party, the Christian Social Party (*Chrëschtlech Sozial Vollekspartei/ CSV*) and the Alternative Democratic Reform Party (ADR) lobbied against voting rights to foreign residents,<sup>205</sup> while the communists (KPL) called for a white ballot<sup>206</sup>.

The campaigns were highly mediatized and the debate surrounding this topic demonstrated the different views held as to what successful integration entails.

### [The results of the referendum](#)

Voters rejected all three propositions to modify the Constitution. Question n°1 on reducing the voting age to 16 received the biggest rejection with 'no' votes amounting to 80,87%, Question n°2 on voting rights for foreign residents was rejected by 78,02% and Question n°3 on limiting the accumulation of political mandates by 69,93%.<sup>207</sup>

209.393 votes were cast on Question n°2, with 1.618 white ballots.<sup>208</sup>

Many commentators have advanced different explanations for these sobering results. A relatively important influence on the intensity of the rejection was attributed, inter alia, to political reasons, populism, and the fact that the referendum is a tool that has hardly been used in Luxembourg.<sup>209</sup>

The outcome of the referendum reverberates in the reform of the law on nationality, a bill<sup>210</sup> that has been put on hold since it was sent to the Parliamentary Judicial Commission on 12 December 2013.<sup>211</sup>

### [Reform of the law on nationality](#)

The last reform of the law on nationality came into force on the 23 October 2008. A parliamentary debate dating from 2012 led to the deposition of bill n°6561 introduced on 14 April 2014. The project upholds the Luxembourgish language requirement, including the level of comprehension (B1) but requires a lower level in oral expression (A.2).<sup>212</sup> It does however include the possibility to balance out requirements between exams. Two exceptions were introduced for this requirement: a) non-Luxembourgish resident students if s/he has attended seven years of school in Luxembourg<sup>213</sup> and b) being a resident for at least 20 years.<sup>214</sup> Another significant amendment was the reduction of the residence condition to 5 years<sup>215</sup> (3 years for spouses of Luxembourg nationals<sup>216</sup>) and the limited acceptance of *jus soli*.<sup>217</sup>

In February 2015, a Member of Parliament introduced a bill in order to soften the conditions for naturalisation.<sup>218</sup>

The proposal was declared admissible on 11 March 2015 and it will follow the normal parliamentary procedure.<sup>219</sup> This proposal focuses on five points: five years of residence instead of seven,<sup>220</sup> the exception of the residence clause for the spouse of a Luxembourgish national<sup>221</sup>, a lower level of Luxembourgish knowledge (A2 instead of B1)<sup>222</sup> and no language requirement for non-Luxembourgish resident pupils who have attended public school in Luxembourg for at least seven years<sup>223</sup> and for residents having lived in Luxembourg for at least 20 years.<sup>224225</sup> This proposal does not differ from the content of bill n° 6561.

After the referendum, the Minister of Justice announced the elaboration of a new proposal to reform the law on nationality to be presented by autumn 2015<sup>226</sup>.

Another legislative amendment to the law on Luxembourgish nationality was introduced by proposition of law n° 6822 introduced on 20 May 2015. This proposition aims to simplify the access to Luxembourg nationality for EU volunteers serving in the Luxembourgish Army.<sup>227</sup> The proposition was declared admissible on the 9 June 2015 and sent to the Parliamentary Judicial Commission.<sup>228</sup> The simplified access entails reducing the residence requirement to four years including one of service in the Luxembourgish army<sup>229</sup> and the application can be introduced directly to the Chief of Staff of the Army.<sup>230</sup>

## [The effect of diversity in children's education](#)

### [Bilingual nurseries](#)

On 10 February 2015 the Minister for Education, Children and Youth<sup>231</sup> presented amendments to the bill n° 6410<sup>232</sup> amending the Youth Act<sup>233</sup>. The amendment considers that nurseries do not only serve as a means for parents to balance work and family life but have an educational mission.<sup>234</sup> This bill establishes multi-language instruction at an early age as a priority.<sup>235</sup>

The amended project of law n°6410 puts in place an integrated system of support for children, where nurseries and public schools are coordinated and complete each other.<sup>236</sup> Bilingual nurseries aim at fostering multilingualism and curbing educational failure.<sup>237</sup> Multilingualism is believed to be at the source of the school failure for immigrant children as they find it difficult to adapt to a language system that it is not in their mother tongue. In these nurseries, all children would be overseen by two adults, one speaking Luxembourgish and the other speaking French.<sup>238</sup> These nurseries will be free for children up to 3 years of age, in order to *'give the same chances to all children whether their parents work or not'*.<sup>239</sup>

## International school in Differdange

The fostering of Luxembourg's trademark multilingualism is also evidenced by the choice of creating an International School in Differdange. The bill n°6818<sup>240</sup> on creating a Public International School in Differdange was presented on the 7 April 2015.<sup>241</sup>

The innovation of this project lies not only in the fact that it is the first international school in the South of the country, a region with many non-Luxembourgish residents, but also that it offers the European Program, resulting in an internationally certified European Baccalaureate.<sup>242</sup>

The school will have curricula that respect the requirements of the European Schools whilst at the same time respecting Luxembourgish education legislation.<sup>243</sup> Thus, the new International School will be open to all students, and the financing and management will be provided by the Ministry of National Education, Children and Youth.

The school will open in 2016 and will offer a European elementary school, a European secondary school and a preparatory track (*voie préparatoire*) the European school.<sup>244</sup> The preparatory track is based on the preparatory track of the Luxembourgish vocational secondary studies (EST), but will have its own characteristics.<sup>245</sup> The school will offer two separate linguistic tracks: one in French and one in English.<sup>246</sup> In elementary schools, children will be able to choose a second language between French, English, German and Portuguese. According to the bill, this provision wants to enable as many children as possible to use their mother tongue in school.<sup>247</sup> In secondary school they will choose a third language out of the same options given in elementary school. However, the project also establishes Luxembourgish as the integration language and makes its learning mandatory for elementary school and the first level classes of the secondary school.<sup>248</sup>

## Refugee policy

Debate on refugee policy has become important in Luxembourg.

The first wave of public debate in December 2014 was sparked by the mandatory return of several families as their request for international protection was denied. There was some public outrage at police interventions at schools, where children not granted international protection were escorted from school to the detention centre.

Discussions as to whether semi-open detention centres might be an option to allow children to continue their education whilst being prepared for departure were held. It was argued that children should be allowed to finish the school year or, as the case may be, finish their traineeships until they have gained their qualifications.

The transposition of the recast directive on asylum was an additional discussion point relating to international protection. Although this point was not as largely covered by the media as the expulsion of families, the *Collectif Réfugiés Luxembourg* (LFR) published a legal opinion on the bill n°6779 on international protection and temporary protection on 5 June 2015<sup>249</sup> and the Council of State rendered its legal opinion on 20 July 2015.<sup>250</sup>

In addition to the political debate at the national and European level on the migration, public engagement on this issue grew. Thus, several civil society initiatives, such as welcoming refugees at their arrival and raising funds and commodities for the newly arrived refugees were established at the initiative of individuals.

During the summer months, civic engagement to help incoming refugees was such that the OLAI is currently looking at establishing a database for matching volunteers with the needs of the refugees.

## Resettlement

The international debate on voluntary quotas on resettlement at the EU level was felt in Luxembourg as well.

In 2014, Luxembourg took part in the EU's resettlement plan by accepting 28 Syrian refugees. In 2015, in the framework of the EU discussions of the resettlement of 20.000 migrants, Luxembourg offered to resettle 440 refugees voluntarily. However, this number rapidly became obsolete as the migration crisis aggravated and Luxembourg is taken measures to handle the inflow of migrants (30 per day).

In addition, and as an emergency response to the migrant crisis in Hungary, Luxembourg offered to resettle 50 Syrian refugees within 2 days' notice.

The discussions are still on-going, Luxembourg has started preparations for a mass influx of refugees / applicants for international protection, whilst attempting to find a solution with all EU Member states to the growing crisis, this in its role as EU Presidency.

# CHAPTER III - Migration Movements

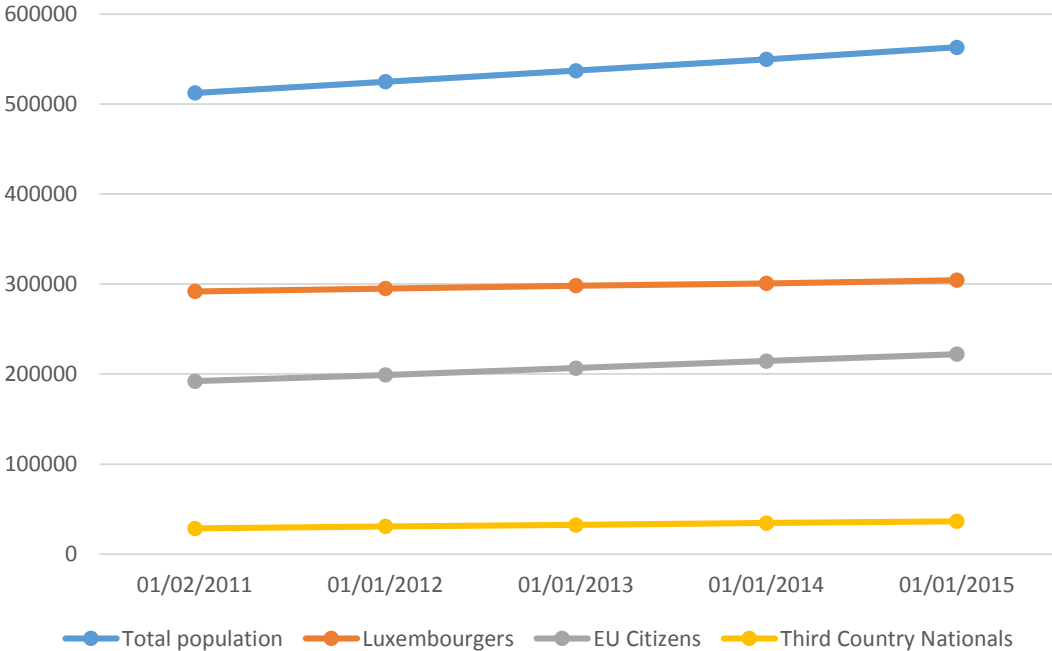
## Demography

### General Population characteristics

In 2014, the total population went from 549.680 to 562.958, an increase of 2,4%<sup>251</sup>. From 2014 to 2015, the increase in the native population was 1,2%. In 2015, the Luxembourgish nationals represent 54,1% of the total population whereas the foreign nationals make up 45,9%. Of these 45,9%, EU citizens make up 85,9 % of the foreign population and 39,5% of the total population<sup>252</sup>.

In the past five years, the population has seen a constant rise of about 13.000 persons per year. The progression rate has slightly increased, coming closer to the rise in population of 2011-2012. As table 1 shows, the increase in population is mostly due to the immigration of EU citizens, the Luxembourgish population remaining constant over time and third country nationals only slightly contributing to the increase.

**Graph n° 1 : Evolution of Luxembourgish population (2011 – 2015)**

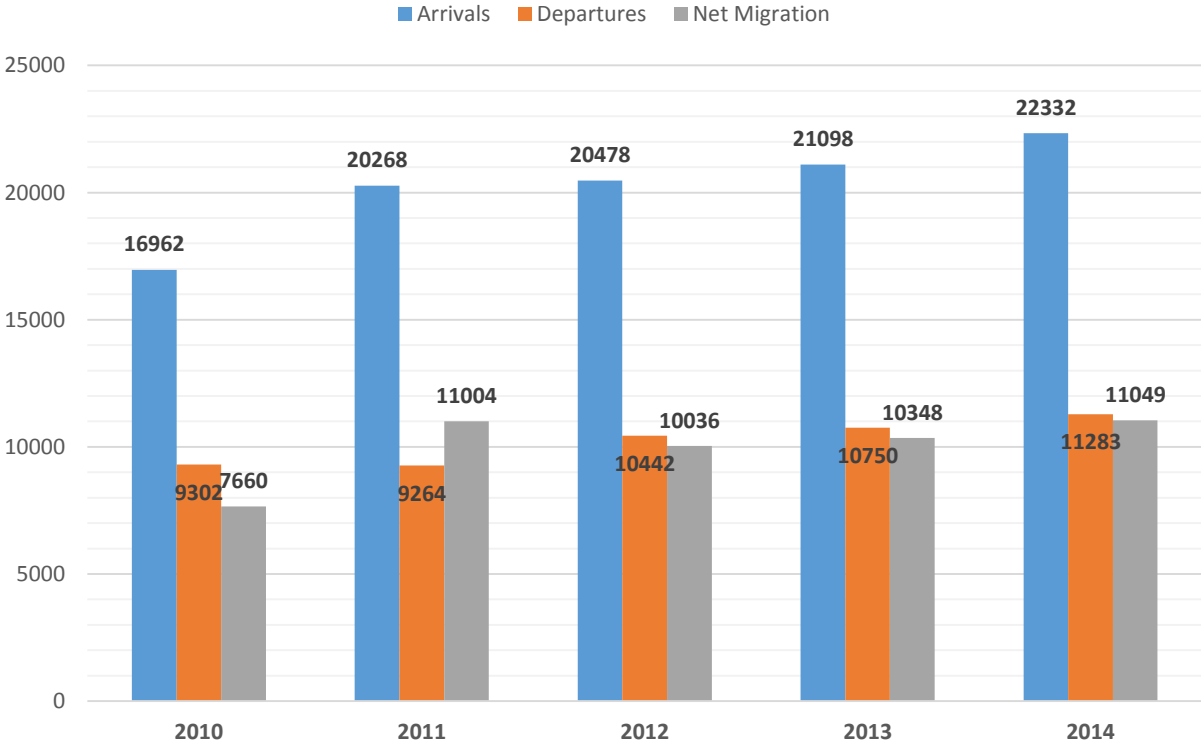


Source: STATEC 2015 © LU EMN NCP

However, for a true understanding of the evolution of the population, the data has to be put into perspective by including the analysis of births. The birth numbers have seen a slight decrease of 0,74% in 2014 (6.070) in comparison to 2013 (6.115).<sup>253</sup> It is important to note that, according to the annual data available (2005 – 2014), Luxembourg recorded its highest number of births in 2013. The aforementioned decrease notwithstanding, 2014 places second in births in that ten-year period of reference, continuing the long-term general trend of overall population increase in the studied period. The growing number of births is due to Non-Luxembourgish births.<sup>254</sup> Indeed, foreigners still contributed the most to the natural increase of the population in 2014.

Migration Balance

**Graph n° 2: Migration balance (2010 – 2014)**



Source: STATEC, 2015 © University of Luxembourg

It is no surprise then, that foreigners’ net migration balance is positive (6,8% in comparison to 2013). It is important to mention that the trend has been on the rise over the last five years, reaching in 2014 (11.049) the highest recorded number since 2010 (7.660).

After a slight descent in 2012, net migration has picked up in the course of 2013. Arrivals have pursued their upward evolution over the five-year period of reference, while departure numbers have been gradually rising in 2014.



These numbers are further explained when taking 2010 as a base year in the period of reference. Indeed, as highlighted by table 3, the migration balance has not yet reached the level obtained in 2011.

**Graph n° 3: Migration balance (2010 – 2014)**



Note: Base year 2010

Source: STATEC, 2015 © University of Luxembourg

This increase in net migration can be attributed mainly to individuals coming from EU Member States and other European countries<sup>255</sup> (62,7%). These numbers include EU and EEA citizens and third-country nationals.

In terms of nationality groups, the most important net migration came from France which represents 19,5%, followed by the Portuguese (16,9%), Italians (10,6%), Belgians (8,4%), Spaniards (3,4%) and Germans (3%). The rest of the net migration coming from the other European countries (EU and non-EU) represents 20,7%. The net migration coming from non-European countries<sup>256</sup> (EU and non-EU) represents only 16,7%. It is thus evident that Luxembourg’s net migration comes from European countries.<sup>257</sup>

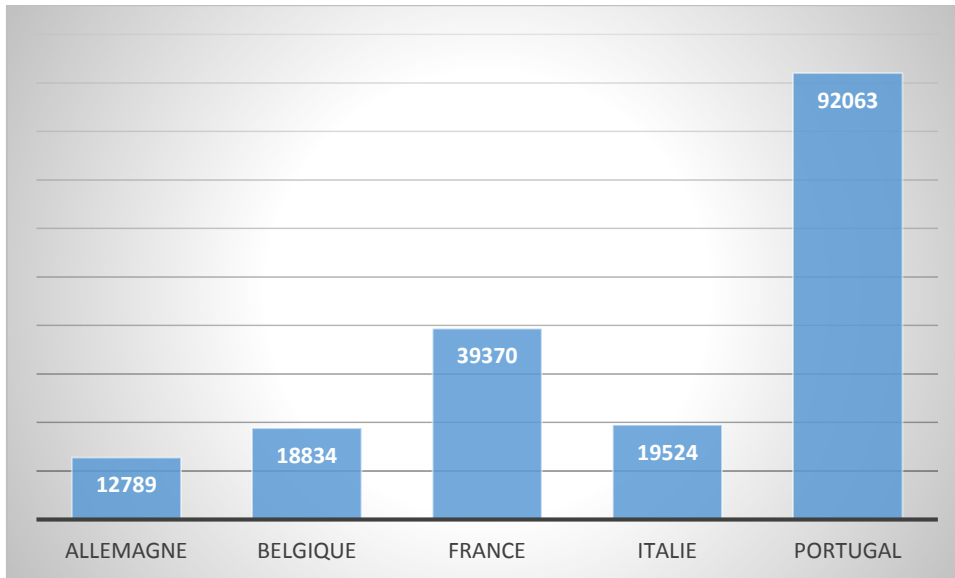
The French inflow of migrants recorded between 2013 and 2014 was the highest (17%), whereas the Portuguese net migration balance was negative with -31,1% following a decrease trend since 2011. This is the first time since the year 2000 that the French net migration balance is higher than the Portuguese.<sup>258</sup>

According to the Central Service for Statistics and Economic Studies (STATEC<sup>259</sup>), this development is due to a rising number of French employees residing in Luxembourg (+5,1% in 2014), a rise that is higher than for other residents and also higher than the flux of cross-border workers.<sup>260</sup>

## Main nationalities

Of the foreign population living in Luxembourg in 2015, the 5 most numerous EU-nationalities are Portuguese, French, Italian, Belgian and German<sup>261</sup>.

**Graph n° 4: Top 5 EU-nationalities**



Source: STATEC and CEFIS, 2015 © University of Luxembourg

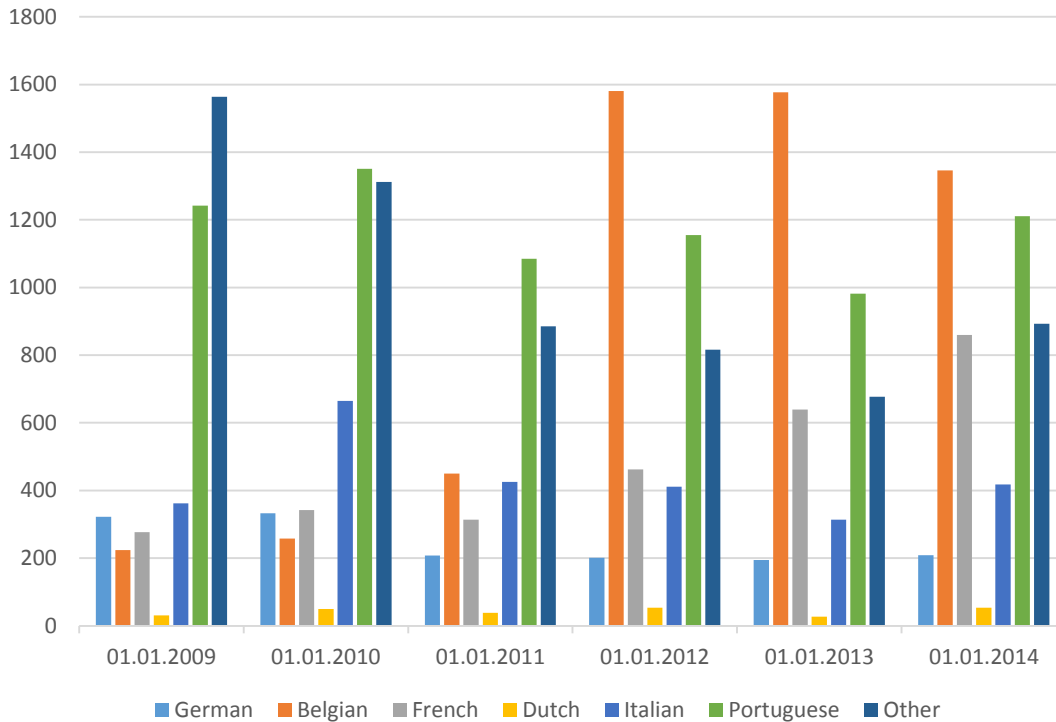
Out of those nationalities, the French have seen the biggest progression (6%), followed by the Italians (4%). Even though the Portuguese remain the largest foreign population (16,4% of the total population), their increase was only of 1,4%. The number of French workers living in Luxembourg has increased in 2014 because of commuting problems.<sup>262</sup>

In 2015, the TCN population only represents 6,5% of the total population (36.500 individuals). The main nationalities are Montenegro, Cape Verde, China, Serbia and Bosnia-Herzegovina<sup>263</sup>. In this group, China shows the highest increase with 12,2%<sup>264</sup>, followed by Cape Verde (5%), Bosnia-Herzegovina (1,8%) and Montenegro (0,5%). Serbia records a negative progression of -1,6%.

The highest proportional increase in the TCN population was of Syrian nationals (244,2%), going from 43 in January 2014 to 148 in January 2015, followed by Singapore (56,6%), from 30 to 47 people in the past year, and South Korea (32,5%), from 163 to 216.

The increase in Syrian population can be attributed to the resettlement of 28 Syrians in 2014 but also to the rise in Syrian asylum seekers in general. As the conflict in Syria rages on and quotas for resettling refugees are being discussed, it is to be expected that this increase will continue in the future.

**Graph n° 5: Evolution of Naturalizations (2009 – 2014)**



Source: STATEC and Ministry of Justice, 2015 © University of Luxembourg

After a slight decrease in 2013, the trend in naturalizations has resumed its upward evolution, registering in 2014 a total of 4.991 naturalizations granted.

To be noted that the remarkable rise in naturalizations of Belgian citizens as of 2011 is due to article 29 of the 2008 Law on nationality, which foresees the possibility of ‘recovery of citizenship’. Article 29 allows that any direct descendant, be it from the paternal or maternal line whether born in Luxembourg or abroad, has the possibility to recover the nationality if it can be proven that a Luxembourgish ascendant existed after 1 January 1900 and that the nationality was lost due to pre-existing laws. However, article 29 has a statute of limitation because this possibility is only open until 31 December 2018.

According to the official data from the Ministry of Justice, out of the 1.346 Luxembourg nationalities granted to Belgians in 2014, 1.143<sup>266</sup> were based on article 29 (84, 9%). To a lesser extent, article 29 has also contributed to the rise of French nationals being granted the Luxembourgish nationality in 2014, as 579 out of the total of 860 granted requests were issued under the scope of article 29 (67,3%).

This special provision has allowed the upward trend of the naturalization of Belgian citizens to emerge, replacing the Portuguese as the main nationality being granted Luxembourgish nationality. From 2012 to 2014, the Portuguese are the second largest group to be granted the citizenship (1 211<sup>267</sup>).

None of the naturalizations granted to Portuguese citizens was based on article 29<sup>268</sup>. Therefore, it is to be expected that this trend will be relatively short-lived and is unlikely to continue beyond the limitations of article 29. In fact, this trend has already started to shift, as, following its sharp rise in 2011 – 2012, going from 450 to 1.581 naturalizations of Belgians, the requests have stabilized and levelled in 2012 – 2013 (from 1.581 to 1.577), before starting a decrease in the last year reaching 1 346. The Portuguese upward trend is independent from article 29 and likely to continue in the foreseeable future - due to the births of Portuguese citizens in Luxembourg.

With regard to TCN, naturalization numbers are much lower, with mostly Balkan states concerned. Montenegro has the highest number of naturalizations with a total of 144 Luxembourg nationalities acquired. They are followed by Serbia (100), USA (84), Bosnia (68) and Kosovo (50)<sup>269</sup>.

## Luxembourg Labour Market

For almost 150 years, Luxembourg has depended on both qualified and non-qualified migration in order to deal with the workforce needs of its economy.<sup>270</sup> Compared to other EU Member States, Luxembourg is the country with the largest proportion of foreigners; however, this foreign population is mainly composed of EU citizens.<sup>271</sup>

Due to its size and geographic position, Luxembourg was also able to have access to a very particular form of economic migration: cross-border workers. The number of actives (salaried and non-salaried) on 31 March 2014 shows that Luxembourgish nationals represented only 31%, EU citizens 65% and third-country nationals only 4% of the workforce. Cross-border workers from Belgium, France and Germany<sup>272</sup> represented 42% of the workforce and the resident migrant population (EU citizens and third-country nationals) 28%.<sup>273</sup> Cross-border workers, which consist of skilled and highly skilled labour<sup>274</sup> are substantially attracted by two reasons: 1) more competitive salaries on the Luxembourgish labour market<sup>275</sup>; and 2) a geographical location which allows the commuting of cross-border workers.<sup>276</sup>

The Luxembourgish labour market is not a national labour market but rather a labour market of the Greater Region with a trend to become an international labour market. This situation can be explained in the context of the free movement of services and the posted workers coming to Luxembourg from other Member States. According to a memo of the European Commission entitled “Posting of Workers: EU safeguards against social dumping”, of 13 May 2014<sup>277</sup>, Luxembourg was in the 12<sup>th</sup> position of the posting by destination country in 2011, having issued 27.730 A1 portable documents (PD A1) in 2010 and 24.295 in 2011.<sup>278</sup>

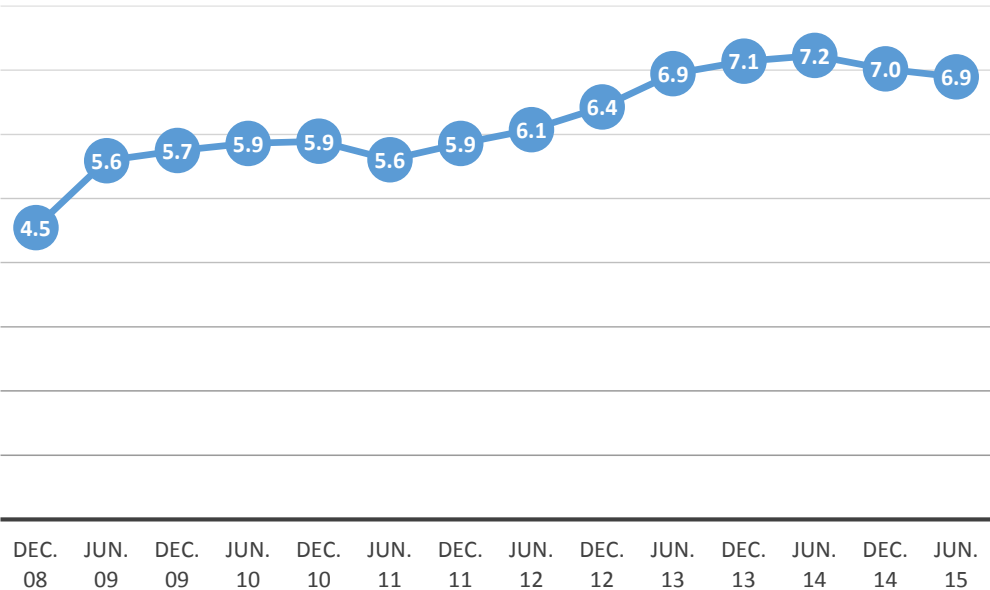
## Balance on the creation of employment

### *Economic environment*

The Luxembourgish economy is a very healthy economy. However, since the beginning of the financial crisis the labour market has been affected.

After a slight increase from 2008 to 2014, the unemployment rate has been in slight decline since July 2014.

**Graph n° 6: Unemployment rate (December 2008 – June 2015)**



Source: STATEC, 2015 © University of Luxembourg

Nevertheless, the projections of the STATEC are that this improvement in the labour market is not durable. It projects that for 2016 the unemployment rate is going to increase again due to the moderate deceleration of the labour market which is going to affect job creation at around 2%.<sup>279</sup>

On 30 June 2015, the balance sheet position of the Luxembourgish financial institutions was of 998 billion euros. This represents a reduction of 1,8% in comparison with June 2014.<sup>280</sup>

*Creation of employment*

At the end of 2014, there were 375.888 salaried workers as opposed to 366.656 at the end of 2013. The net balance on job creation is positive amounting to 9.232 new jobs (2,5%).<sup>281</sup> 98,7% of the positive net balance are permanent employments (.108).

The inflow of permanent recruitments was positive most of the year with the exceptions of the months of July, August and December in which the number of contract terminations were higher.<sup>282</sup>

Temporary employment represented almost 20% of the movements in the labour market in 2014. Out of the total number of 121.849 new recruitments, 23.518 were temporary employments.<sup>283</sup>

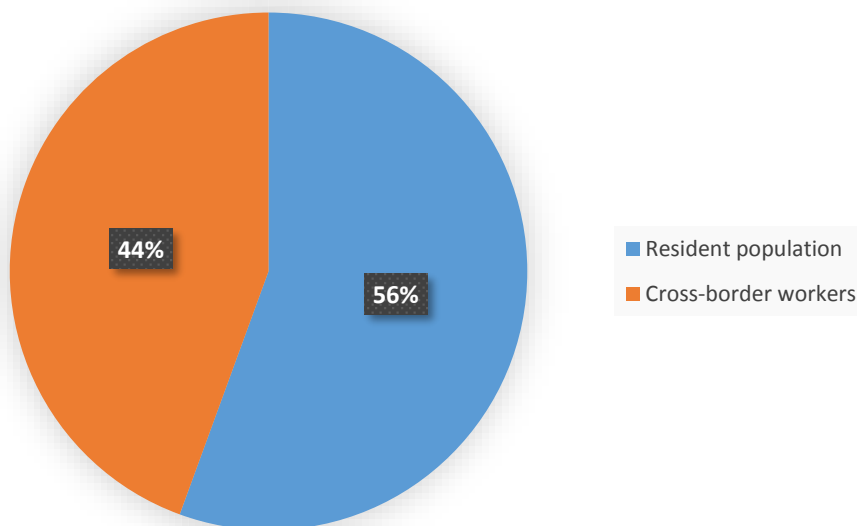
It is important to note that even though the sectors of Trade and automobile and motorcycle repairs created the most permanent employments (12.503) in 2014, the highest positive net balance goes to the Health and social action sector (1.442 posts).<sup>284</sup> In 2014, not all economic sectors have had an increase in job creation. The manufacturing sector (-1,5%) and the transport and warehousing sector had a negative balance with -1,5% and -0,5% respectively.<sup>285</sup>

### *Labour market by nationality and residence*

Different from other European Union member states the Luxemburgish labour market depends on migration and the free movement of persons. On 31 March 2014 Luxemburgish nationals represented 31% of the working population, EU citizens 65% and third-country nationals 4%.<sup>286</sup>

The structure of the labour market is the following: The working population amounts to 376.055 individuals, from which 208.346 are residents (55,6%) and 166.531 are cross-border workers (44,4%).<sup>287</sup>

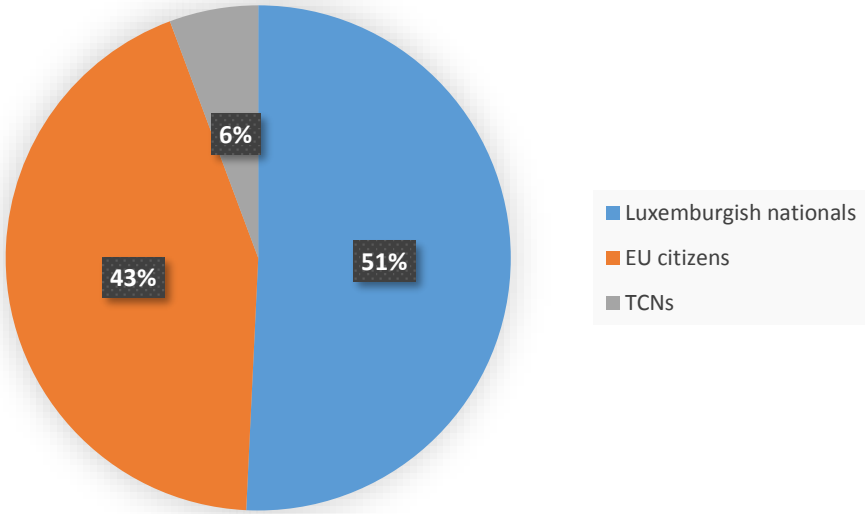
**Graph n° 7: Structure of the labour market by country of residence (2014)**



Source: STATEC, 2015 © University of Luxembourg

The resident working population at the end of 2014 was composed as follows: 105.751 Luxemburgish nationals, 90.749 EU citizens and 11.845 third-country nationals. The resident working population increased by 2,2% in general. The largest increase was of EU citizens (3,1%).

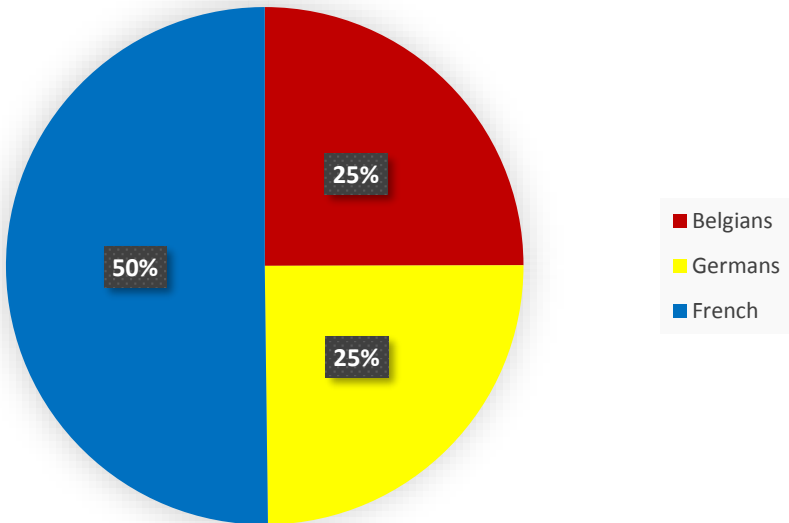
**Graph n° 8: Structure of the resident working population by nationality (2014)**



Source: STATEC, 2015 © University of Luxembourg

Even though the cross-border population has increased by 3,1%, the distribution remains stable: 50% French, 25% Belgians and 25% Germans.

**Graph n° 9: Structure of the cross-border working population by country of residence**



The movements in the labour market during 2014 were the following: Luxembourg residents encompass 20,2% of the total recruitments. 39.731 were non-Luxembourgish residents (40,4%) and 34.654 (39,4%) were cross-border workers.

Taking into account the net job creation, Luxembourg residents are in a peculiar situation, registering only 282 of net job creation, as opposed to non-Luxembourgish residents (4.716) and cross-border workers (4.110).<sup>288</sup> A possible partial explanation for this phenomenon is the high number of Luxembourgish nationals that went into retirement in 2014.<sup>289</sup>

The branches that recruit most Luxembourgish residents are Public administration and Health and Social Action sectors. Those 2 branches together recruited 45% of Luxembourg residents in 2014.

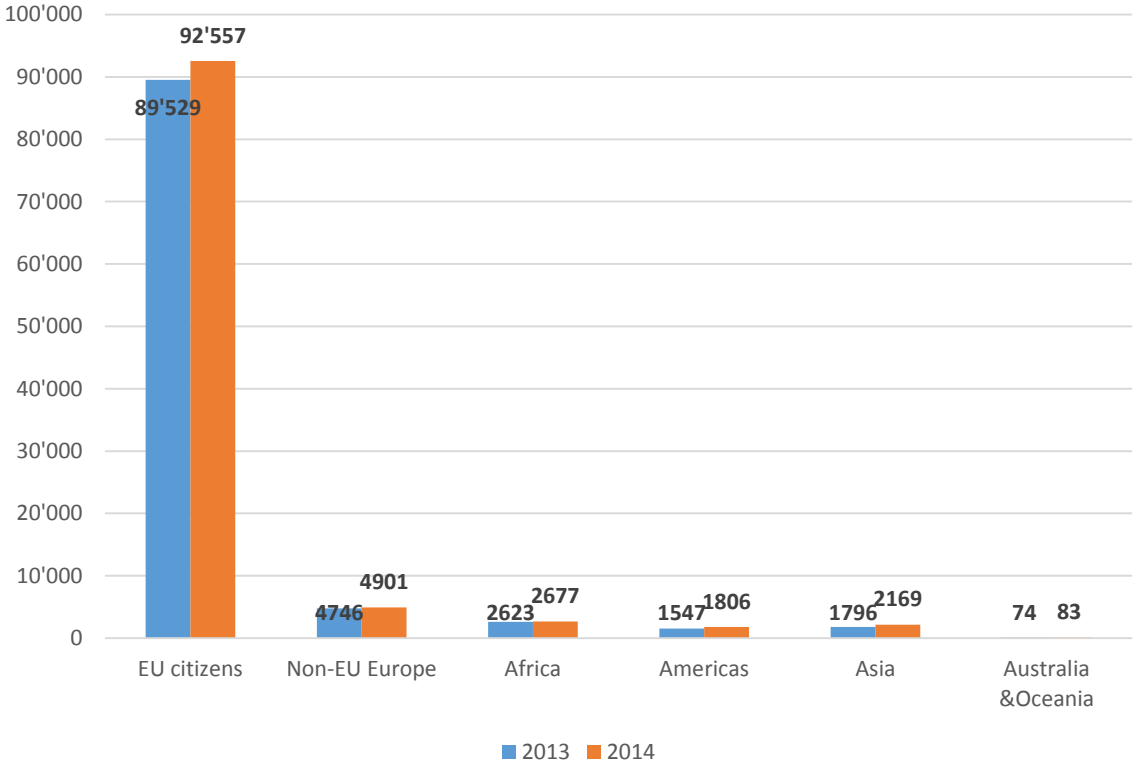
Cross-border workers were mostly recruited into commerce (15,7%), construction (12,8%), specialized, scientific and technical activities (12,2%) and finance and insurance activities (10,9%).

The main recruiter sectors for non-Luxembourgish residents during 2014 were the food industry sector (15,1%), commerce (10%) and Construction (9%).

*Non-Luxembourgish residents and branches of activity<sup>290</sup>*

EU citizens (excluding Luxembourgish) make up a very large part of foreign migrant salaried workers. There was a net increase from 89.529 in 2013 to 92.557 in 2014. Far behind, in second place for origin nationalities are non-EU Europeans with 4.746 individuals in 2013 and 4.901 in 2014. Of TCNs, the African continent accounted for 2.623 people in 2013 and 2.677 in 2014.<sup>291</sup> Nevertheless, in all the different groups there has been a clear increase between 2013 and 2014.

**Graph n° 10: Resident non-Luxembourgish salaried workers by region of origin (2013-2014)**

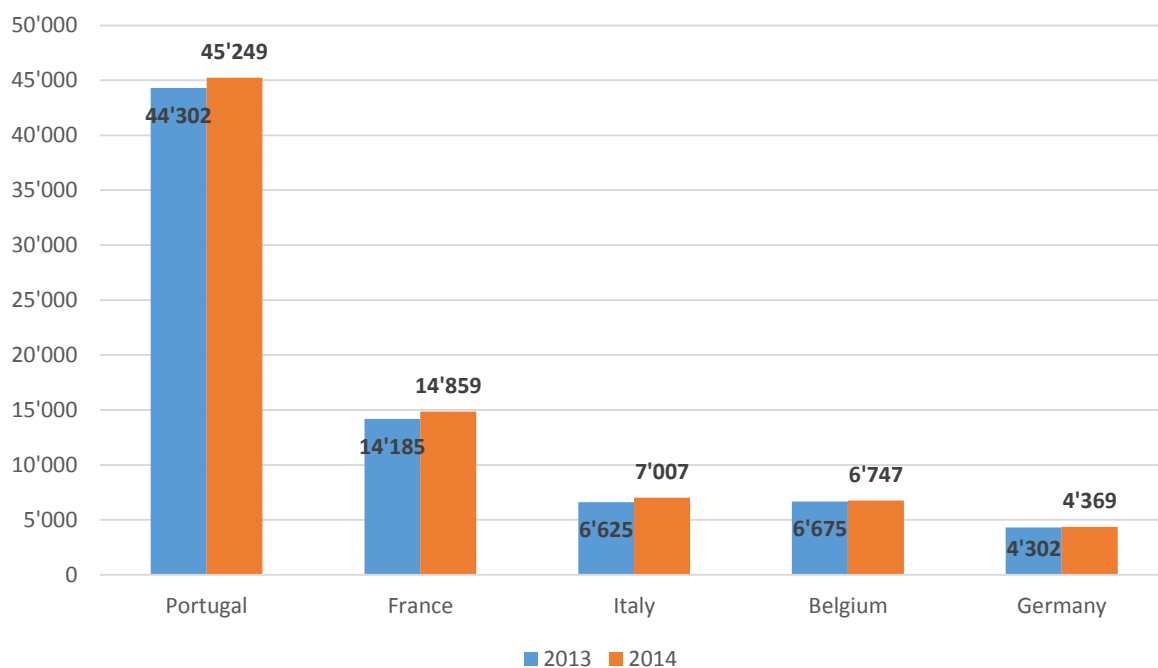


Source: CEFIS, 2015 © University of Luxembourg

Due to their weight in worker migration, only EU and non-EU Europeans' participation and their employment in different branches of activity have been studied.



**Graph n° 11: Top 5 EU nationalities for resident salaried workers (2013-2014)**

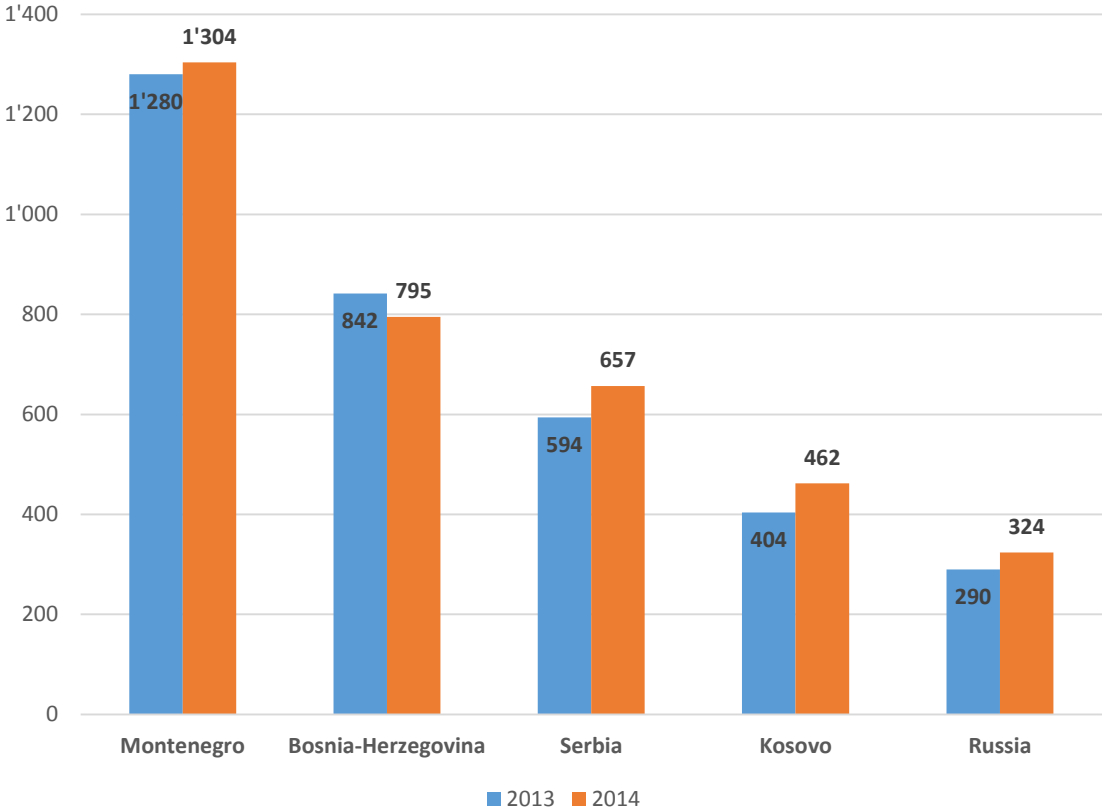


Source: CEFIS, 2015 © University of Luxembourg

From 2013 to 2014, the ranking of the top 5 EU-nationalities has not changed much. The only change has been that the Italians surpassed the Belgians. Indeed, the Portuguese are still by far the most predominant group (45.249), the French (14.859) coming in second. Nevertheless, the progression rate is different in both groups: the Portuguese population increased by 2,2% while the French population increased by 4,8%.

These are then followed by Italians (7.007), Belgians (6.747) and Germans (4.369). The data shows the tendency for the top 3 nationalities to continue their increase, with Belgium and Germany remaining relatively constant. In fact, Italy's overtaking of Belgium can be explained by Italy's faster increase rate (5,8%), while Belgium registered one of the lowest of the nationalities represented on this table (1,1%).

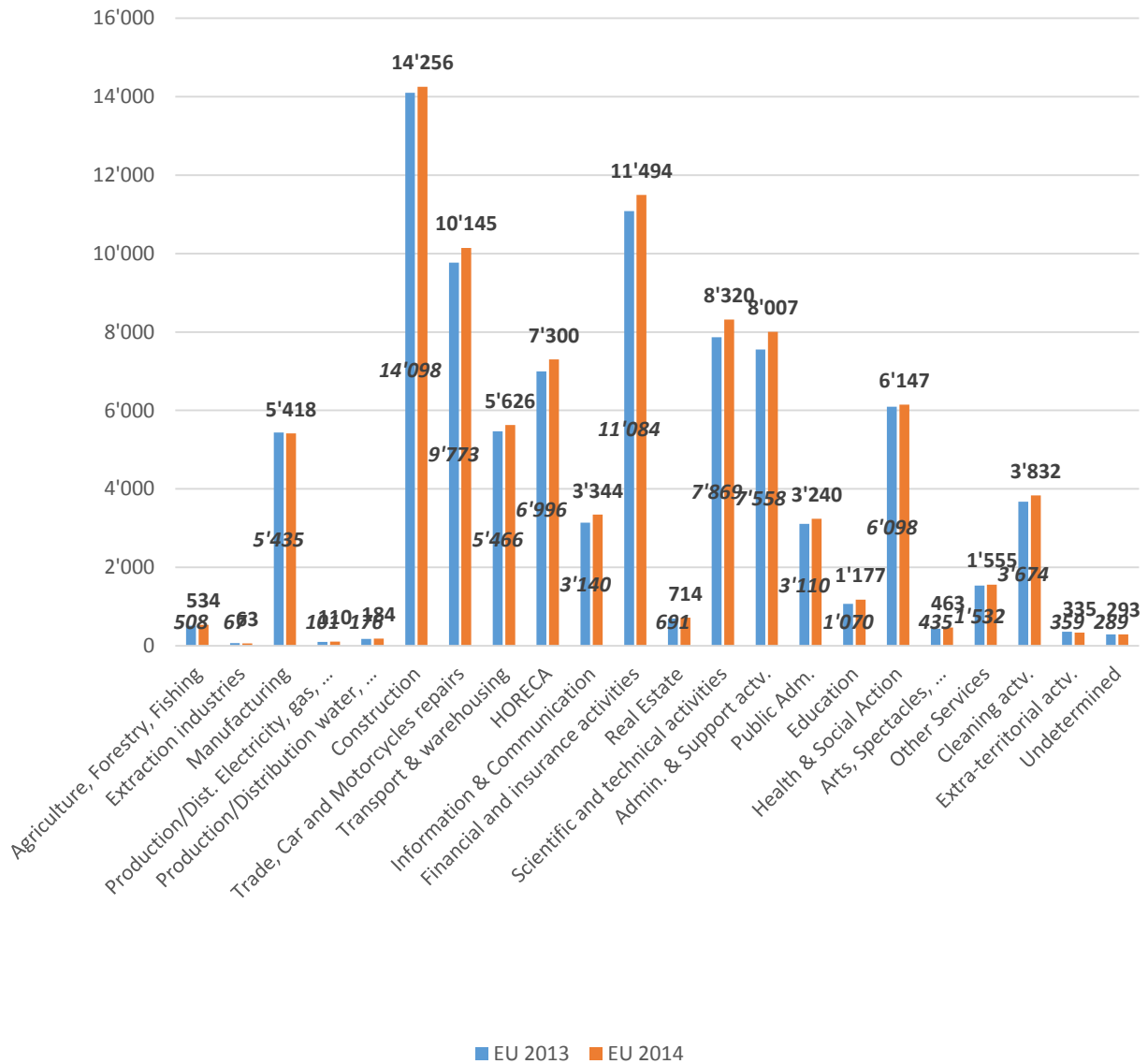
**Graph n° 12: Top 5 non-EU European nationalities for resident salaried workers (2013-2014)**



Source: CEFIS, 2015 © University of Luxembourg

In this category the ranking remained identical within the one-year period of reference. Almost all of the top 5 nationalities have experienced an increase in numbers, except for Bosnia-Herzegovina (-5,6%). The most prevalent groups were Montenegro, Bosnia-Herzegovina, Serbia, Kosovo and Russia. The fastest progression was recorded by Kosovo with 14,4%, followed by Russia (11,7%) and Serbia (10,6%).

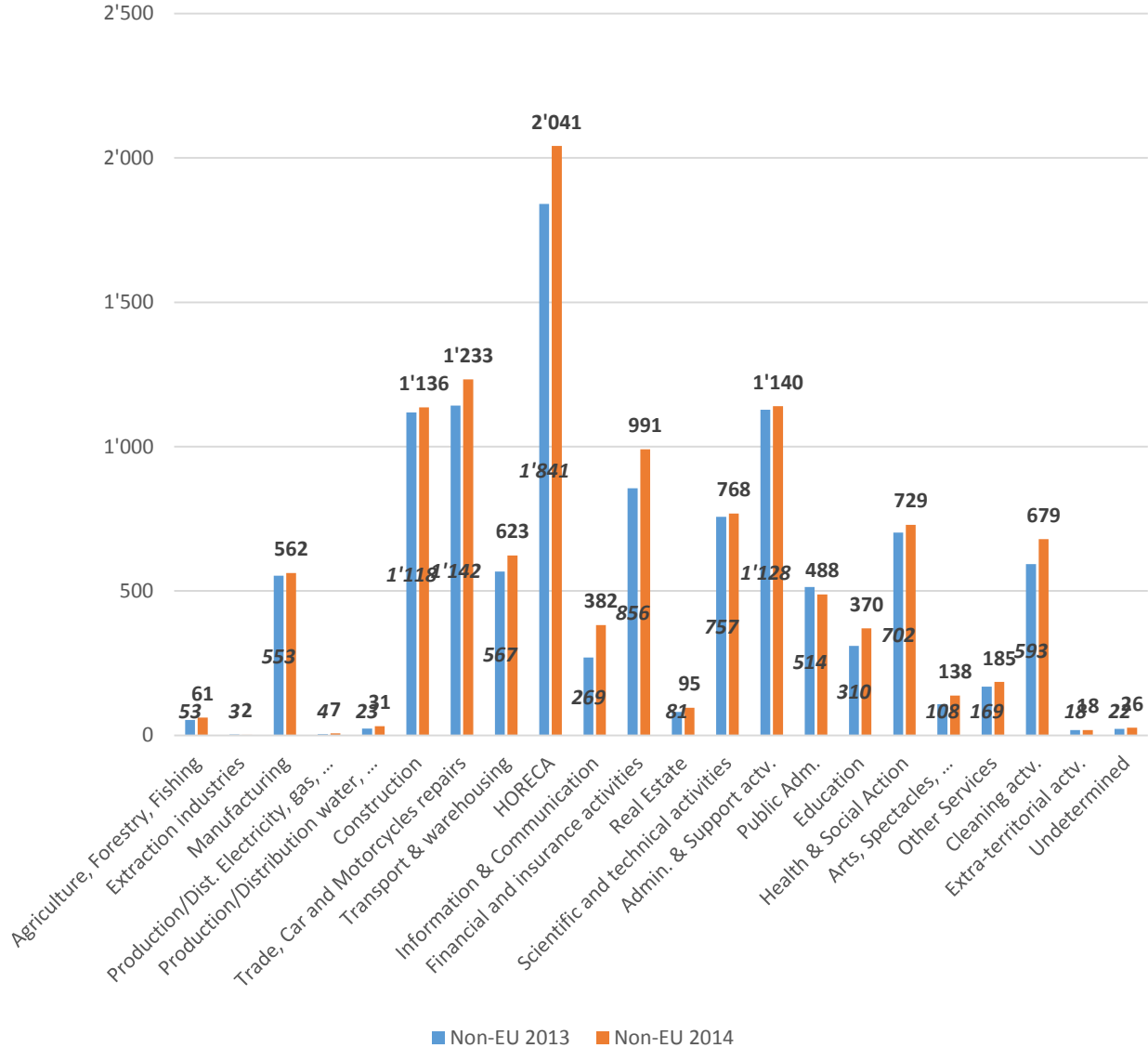
**Graph n° 13: Resident salaried workers: EU Citizens main branches of activity 2014**



Source: CEFIS, 2015 © University of Luxembourg

Analysing the branch of activity of the European Union citizens we find that the large majority work in construction (mainly Portuguese citizens), followed by the financial activities and the trade, car and motorcycle repairs. The tendency between 2013 and 2014 continues to be the same as it can be seen in Graph n° 13. In the only sector there was a light contraction was in the manufacturing sector in which there was a decrease of 0,3%.

**Graph n° 14: Resident salaried workers: Non-EU citizens main branches of activity 2014**



Source: CEFIS, 2015 © University of Luxembourg

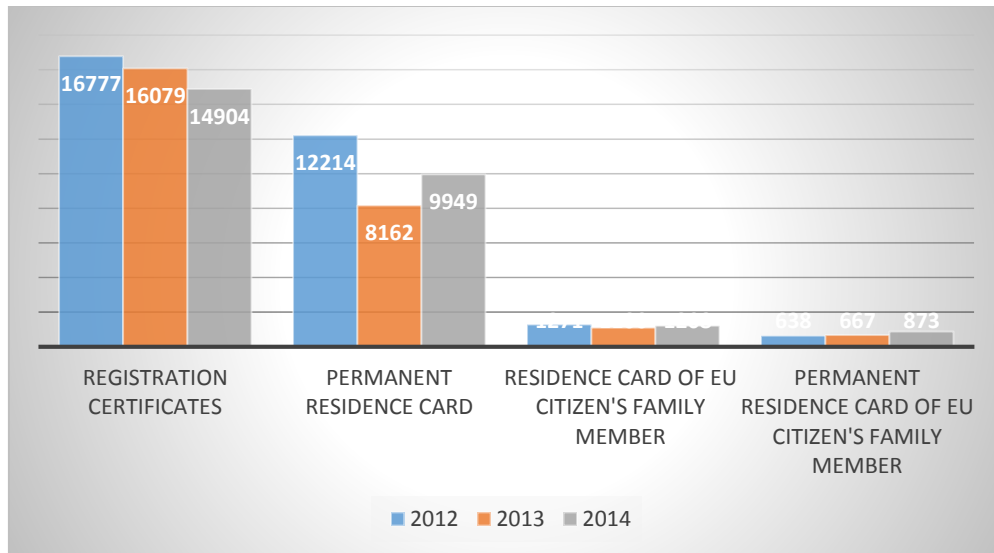
On the contrary, the non-EU Europeans salaried workers work mainly in the following economic sectors: hotel and catering (HORECA), trade, car and motorcycle repairs and construction and administrative and support services. There was an increase in all the economic sectors for the non-EU salaried resident workers.

The manufacturing industry suffered a negative net job creation over the course of 2014 for EU and non-EU Europeans salaried workers. Nevertheless, this has not affected the EU resident salaried workers to the same extent. Indeed, none of the main European migrant employment branches recorded a negative progression for EU citizens. Concerning the positive progression of the studied categories, 2 out of the 3 highest progressions of the main branches of employment affected Non-EU Europeans the most (financial activities and insurance, transport and storage), thereby emphasizing how much this category of migrant workers is subjected to the fluctuations of the labour market.

## Visa and residence permits

### European citizens and family members

**Graph n° 15: Registration certificates and residences permit granted to EU citizens (2014)**



Source: Directorate of Immigration, 2015 © University of Luxembourg

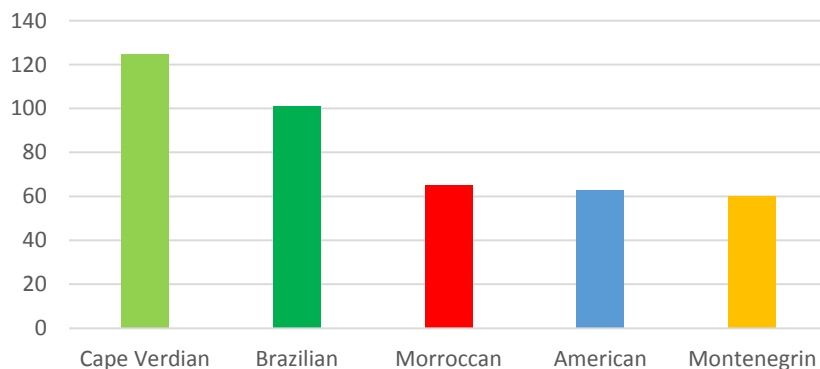
Among the most prevalent nationalities for 2014 registration certificates are the Portuguese (4.071), the French (3.482), the Italians (1.461), the Belgians (1.350) and the Germans (890). These five nationalities represent 75,5% of the total number of registration certificates issued.

Registration certificates remain the largest in number of all residence permits issued.

There is a noticeable decrease (-7,3%) in registration certificates from 2013 to 2014. The inverse happens with the permanent residence permits. This category has seen an increase of 21,9%.

Residence permits for EU citizen's family members have risen in both categories.

**Graph n° 16: Top 5 nationalities of residence permits issued to EU citizen's family members**



Source: Directorate of Immigration, 2015 © University of Luxembourg.

## Third country nationals and visas

The Passport, visa and legalisation office records a 4,8% decrease in visa requests for the year 2014, going from 10.740 to 10.250.<sup>292</sup>

In total 12.675 visas were issued in 2014. This includes Schengen visas, also known as short stay visas (A and C visas) but also national visas, also referred to as D Visas. The short stay visas by far outnumber the national visas.<sup>293</sup>

In 2014, an increasing number of visa-granting decisions were taken by Luxembourg diplomatic missions or Belgian Missions representing Luxembourg abroad rather than the Passport, visa and legalisation office of the Foreign Ministry in the capital. In fact, 2014 has seen a rise of 24% of diplomatic mission decision-making.

The Luxembourg missions that have seen the most requests were Moscow (5.516), New Delhi (1.282) and Ankara (1.214)<sup>294</sup>. Moscow, Shanghai and Beijing were top 3 in 2013.

Moscow maintains its leading position, even though the numbers of requests have slightly decreased going from 6.105 to 5.516. The decision of the European Union of 17 March 2014 to impose travel bans and asset freezes on Russian in response to Russia's annexation of the Crimea<sup>295</sup> can partly account for that decrease of -9,6%.

Shanghai's decrease of 763, or 41,4%, is important to point out, not only because of the significant volume of the decrease but also considering Luxembourg's consistent efforts to improve bilateral relations and attract Chinese financial investments.

The most remarkable fluctuation is New Delhi's leap from 255 to 1.282 visa requests (+402,7%). Luxembourg's excellent economic relations with India, as exemplified through the cooperation in the steel industry, have likely influenced this increase. Ankara has experienced an increase of 202, from 1.012 in 2013 to 1.214 in 2014, or an increase of 19,9%.

## Third country nationals and residence permits

There were 3.131 first residence permits delivered in 2014, 5.909 permits were renewed and 766 long term resident authorisations granted. Table 7 below shows the details of first and renewed residence permits for the period of 2012 – 2014.

**Table n° 7: TCN Residence permits (new issuances and renewals) by category (2012 -2014)<sup>296</sup>**

<b>Category</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Athlete	34	54	79
Au pair		5	25
Community service provider worker	1		1
European blue card	183	306	481
TCN's family member	3443	3041	3170
Highly qualified worker	45	2	
International protection	246	247	414
Long term resident	1770	1693	1422
Posted worker	36	24	36
Private reasons – 78 (1) a sufficient resources	173	134	107
Private reasons - 78 (1) b autonomous title	21	7	8
Private reasons - 78 (1) c personal or family ties	221	244	348
Private reasons - 78(1) d humanitarian reasons	8	5	1
Private reasons - other	816	751	657
Private reasons – (no distribution)	15	14	
Pupil	239	241	233
Researcher	58	73	68
Salaried worker	1590	1879	1993
Self-employed person	106	83	71
Student	346	343	377
Trainee	16	11	16
Transferred worker	325	272	298
Volunteer	10	2	1
<b>Total</b>	<b>9706</b>	<b>9431</b>	<b>9806</b>

Source: Directorate of Immigration, 2015 © University of Luxembourg.

In 2014, 105 work permits were granted and 28 temporary occupations authorisations (AOT) were issued to international protection applicants.

**Table n° 8: First issuance of residence permit by category (2013 – 2014)**

<b>Category</b>	<b>2013</b>	<b>2014</b>
Athlete	32	53
Au pair	5	25
Community service provider worker	0	1
European blue card	306	262
TCN's family member	912	1079
International protection	162	235
Long term resident	1637	766
Posted worker	15	29
Private reasons – 78 (1) a sufficient resources	12	32
Private reasons - 78 (1) b autonomous title		1
Private reasons - 78 (1) c personal or family ties	158	227
Private reasons - 78(1) d humanitarian reasons	2	0
Private reasons - other	154	106
Pupil	240	233
Researcher	46	40
Salaried worker	798	409
Self-employed person	31	19
Student	153	209
Trainee	9	15
Transferred worker	107	155
Volunteer	2	1
<b>Total</b>	<b>4781</b>	<b>3897</b>

Source: Directorate of Immigration, 2015 © University of Luxembourg

In comparison with 2013 there was a decrease of 18,5% of first issuance residence permits. There was a reduction in most of the categories. The principal categories that were affected were European Blue Cards (-14,4%), salaried workers (-48,8%), self-employed persons (-38,7%), researchers (-15%) and

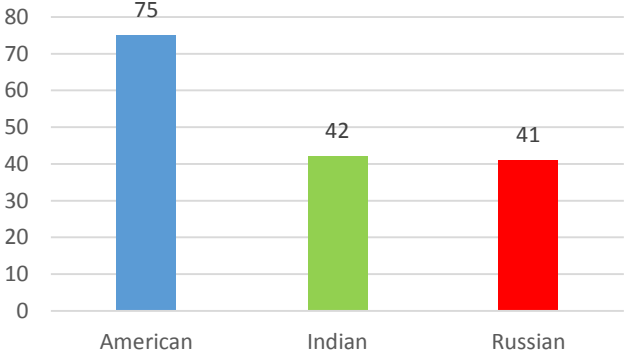


long-term residents (-53,2%). Other categories saw an increase. They were: International protection (45,1%), students (36,6%) and transferred workers (44,9%).

For first residence permits, the most important categories (excluding long-term residence permits and international protection) were family member (1.079), salaried worker (409) and European Blue Card (262)<sup>297</sup>.

The top-3 nationalities for the European Blue Card were American followed by Indian and Russian nationals.

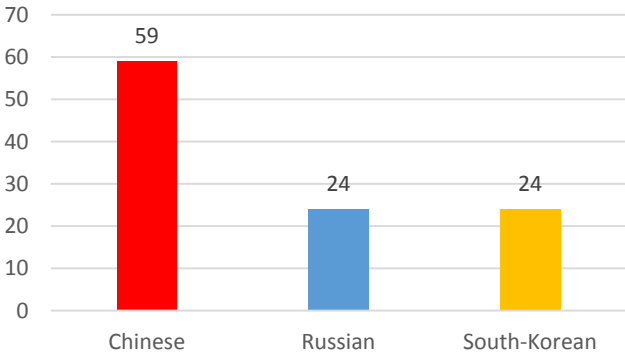
**Graph n° 17: Top-3 nationalities to which the European Blue Card was granted (2014)**



Source: Directorate of Immigration, 2015 © University of Luxembourg

In contrast, the top-3 nationalities granted salaried workers’ residence permits were China, Russia and South-Korea.

**Graph n° 18: Top-3 nationalities to which salaried worker residence permits were granted (2014)**



Source: Directorate of Immigration, 2015 © University of Luxembourg

For first residence permits (excluding long-term residence permits), the most prevalent nationalities are the United States of America, China and India<sup>298</sup>. These nationalities lead the top 3 of several categories, such as European blue card, transferred worker, self-employed persons, pupil and athlete for the Americans, and salaried worker, posted worker, researcher, student and family member for the Chinese. Indian nationals can be found at the top 3 of European blue card, transferred worker, posted worker, student, trainee and family member<sup>299</sup>. Indeed, only the categories of au pair, private reasons and volunteer seem to not include these 3 nationalities in their top 3 ranking of first permits<sup>300</sup>.

The most important categories in number in 2014, taking into account first permits and renewals, were family member, salaried worker, long-term resident and private reasons. Out of these categories, only

the salaried workers permit has experienced a constant increase over the last 2 years. On the other hand, the category of family member has slightly increased when compared to 2013, but has not yet reached the levels obtained in 2012. However, the remaining 2 categories with the most permits granted, private reasons and long term resident, continue in their downward evolution, long term resident decreasing faster, but still superior to private reasons in numbers.

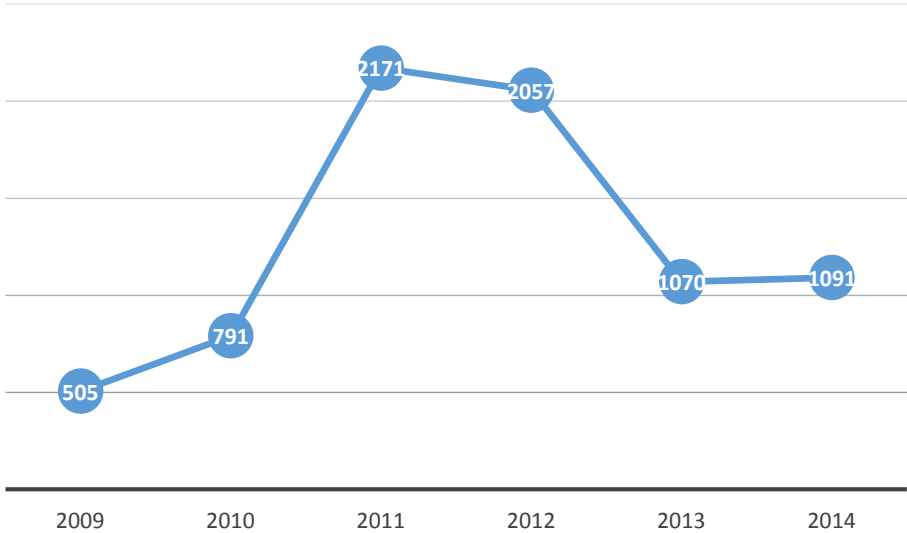
When looking at the different legal bases for private reasons, only the residence authorisations relative to personal or family ties have risen. Excluding the miscellaneous 'private reasons – other', it is the basis which has granted the most authorisations in 2012, 2013 and 2014. The legal basis of sufficient resources is also important in the number of authorisations granted. While the difference between these 2 categories was relatively narrow in 2012, the divide has widened during 2013 and 2014, thereby tripling the difference between residence permits under private reasons for personal or family ties and for sufficient resources.

The rise in permits linked to the European blue card is notable too. It has become the 5<sup>th</sup> largest category after the ones studied above.

International Protection<sup>301</sup>

In 2014, the Directorate of Immigration registered 1.091 applications for international protection, a number which remained stable when compared to 2013, where 1.070 persons applied for international protection. There was a slight increase of 2%.

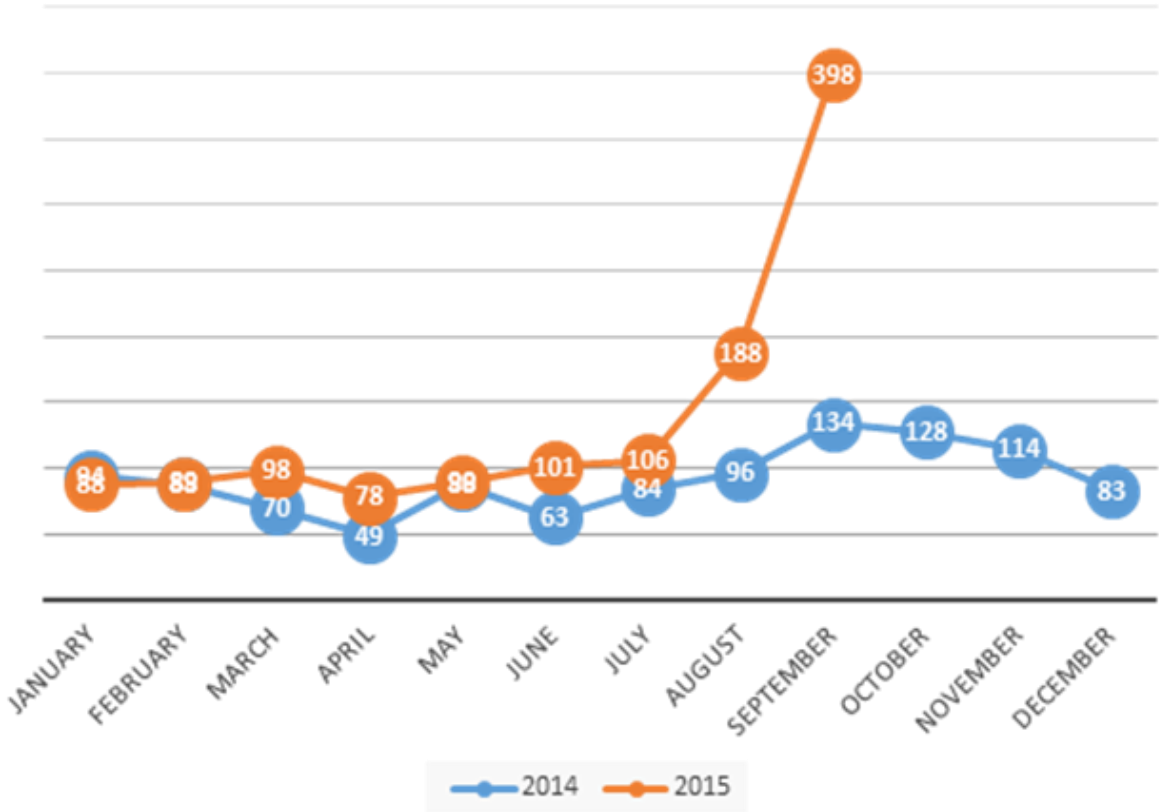
**Graph n° 19: Number of applicants for international protection 2009 - 2014**



Source: Directorate of Immigration, 2015 © University of Luxembourg

In 2015, numbers have increased due to the Mediterranean crisis. At the end of June 2015, the total of international protection applications reached 544 whereas at the end of the same period in 2013 it stood at 452. This represents an increase of 20,4%. Considering the ongoing refugee crisis, the number of applications are expected to continue rising in the course of 2015. Only between the 1<sup>st</sup> and 22 September 2015 398 refugees have entered in Luxembourg<sup>302</sup> amounting to 30 refugees per day.<sup>303</sup>

**Graph n°20: Number of International Protection Applicants 2014 – September 2015**



Note: For the month of September 2015 the numbers used came from the information provided by the Ministry of Family, Integration and Greater Region during her visit with the Parliamentary Commission of Family and Integration on 22 September 2015.

Source: Directorate of Immigration, July 2015 © University of Luxembourg

In 2014, more than half (51%) of the new applicants came from the Western Balkan countries. Syrian applicants occupied 5<sup>th</sup> place with 8,5% of the applicants for international protection. Even though at this point in time the data for September does not reflect the whole month, we notice a very sharp increase (111, 7%) compared to the August numbers. This increase is also noteworthy for the arrivals from July to August, which marked a progression of 77,4%. This is likely due to the increased awareness of the refugee crisis in the political arena during the summer months and the subsequent discussions on resettlement quotas on EU level.<sup>304</sup>

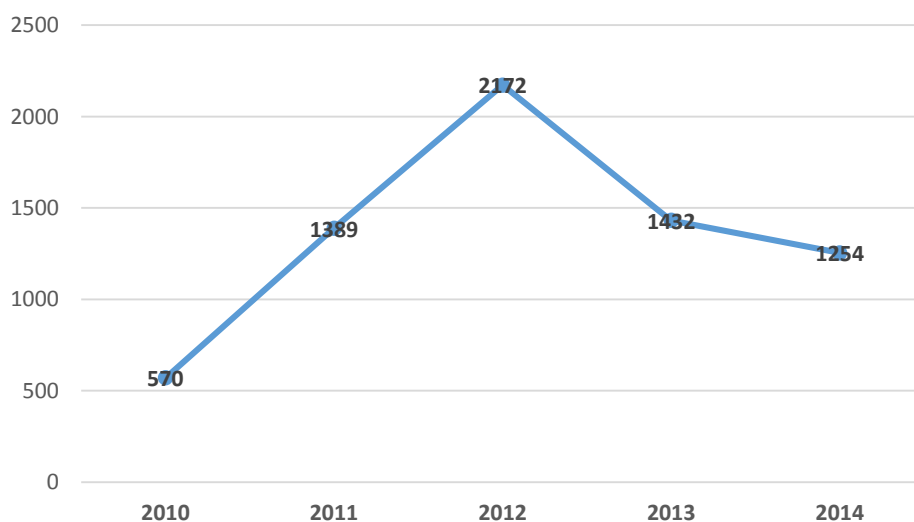
**Table n° 9: Number of applicants by country of origin (2014)**

Ranking	Country of Origin	No. of applicants	% of total applications
1	Bosnia-Herzegovina	163	14.9%
2	Kosovo	140	12.8%
3	Montenegro	137	12.6%
4	Albania	117	10.7%
5	Syria	93	8.5%
6	Serbia	62	5.7%
7	Algeria	42	3.8%
8	Eritrea	38	3.5%
9	Tunisia	38	3.5%
10	Nigeria	31	2.8%
	Other	230	21.1%
	Total	1091	100.0%

Source: Directorate of Immigration, 2015 © University of Luxembourg

In total, 1.254 decisions on applications for international protection were taken in 2014 compared to a total of 1.432 decisions in 2013. This represents a decrease of 12,4% in the number of decision taken between 2013 and 2014.

**Graph n° 21: Decisions taken on applications for international protection 2010-2014**



Source: Directorate of Immigration, 2015 © University of Luxembourg

In 2014, the number of individuals who were granted refugee status increased by 12,4% passing from 129 refugee statuses granted in 2013 to 145 in 2014.

These numbers represents only 11,6% of the total number of decisions taken by the Directorate of Immigration. <sup>305</sup>

**Table n° 10: Number of persons who were granted refugee status (2014)**

<b>Country of origin</b>	<b>Number of status granted</b>	<b>% of total status granted</b>
Syria	38	26.2%
Iraq	15	10.3%
Eritrea	14	9.7%
Iran	13	9.0%
Kosovo	9	6.2%
Democratic Republic of Congo	8	5.5%
Ethiopia	7	4.8%
Somalia	6	4.1%
Bosnia and Herzegovina	4	2.8%
Cameroon	4	2.8%
Egypt	4	2.8%
Montenegro	4	2.8%
FYROM	3	2.1%
Belarus	2	1.4%
Sri Lanka	2	1.4%
Bhutan	1	0.7%
China	1	0.7%
Ivory Coast	1	0.7%
Gambia	1	0.7%
Guinea (Conakry)	1	0.7%
Undetermined (Palestine)	1	0.7%
Nigeria	1	0.7%

Serbia	1	0.7%
Tanzania	1	0.7%
Togo	1	0.7%
Tunisia	1	0.7%
Turkey	1	0.7%
<b>Total</b>	<b>145</b>	<b>100.0%</b>

Source: Directorate of Immigration, 2015 © University of Luxembourg

Syrian refugees (excluding those resettled) represented 26,2% of the refugee statuses granted followed by Iraq (10,3%).

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

**Table n° 11: Number of persons who were granted subsidiary protection status (2014)**

Country of origin	Number of status granted	% of total status granted
Iraq	11	33.3%
Albania	4	12.1%
Syria	4	12.1%
Montenegro	3	9.1%
Serbia	3	9.1%
Somalia	3	9.1%
Turkey	2	6.1%
Mali	1	3.0%
Central African Republic	1	3.0%
Democratic Republic of Congo	1	3.0%
<b>Total</b>	<b>33</b>	<b>100.0%</b>

Source: Directorate of Immigration, 2015 © University of Luxembourg

Iraqis represent the largest nationality group with 33,3% of the statuses granted followed by Albania and Syria (12,1%).

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

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

The Directorate of Immigration also issued 28 authorisations for a temporary occupation to applicants for international protection whose procedure is either still on-going or who benefit from a suspension of removal for medical reasons or a postponement of removal.<sup>306</sup>

**Table n° 12: Overview (2012 – 2015)<sup>307</sup>**

	2012	2013	2014	2015 (31 August)
International protection applicants	2057	1070	1091	838
Refugee Status Obtained	50	129	145	115
Subsidiary Protection Status Obtained	7	33	33	27
Total of Decisions	2172	1432	1254	866
Refusals (Normal Procedure)	823	499	259	n.i.a. <sup>308</sup>
Refusals (Fast-track Procedure)	1052	387	453	n.i.a.
Total of refusals	1875	886	712	385
Incompetence	188	196	236	165
Implicitly Withdrawn	16	160	48	110
Inadmissible	28	28	79	63
Waiver of request	954	196	105	53
Dublin Transfer to another Member State	169	179	161	92
Dublin Transfer to Luxembourg	53	47	58	35

Source: Directorate of Immigration, 2015 © University of Luxembourg

In 2014, international protection requests have remained relatively constant, only slightly rising in numbers but nowhere near the peak that was experienced in 2012. Preliminary numbers for 2015, shown in table 12, seem to indicate the continuation of the trend until the end of June. During the summer, Luxembourg has experienced an increase in international protection applications that has surpassed the levels of the last two years. However, even with that increase, at the end of August 2015 the numbers still have not surpassed the peak experienced in 2012, with international protection applications numbers only reaching 838.<sup>309</sup>

While 2014 saw the highest annual recognition rate from 2012 to 2014 with 14,2%, the data available for 2015 seems to indicate that the recognition rate is increasing in 2015. The rise from 2,6% in 2012 to 11,3% in 2013 up to 14,2% in 2014, is most likely to continue, as 16,4% of the decisions taken within the first semester resulted in the refugee status or the subsidiary protection being granted<sup>310</sup>. The Subsidiary Protection Status remained at the same level in 2014 (33). The trend has changed with the migration crisis. The Directorate of Immigration had granted 104 subsidiary protections to Iraqi

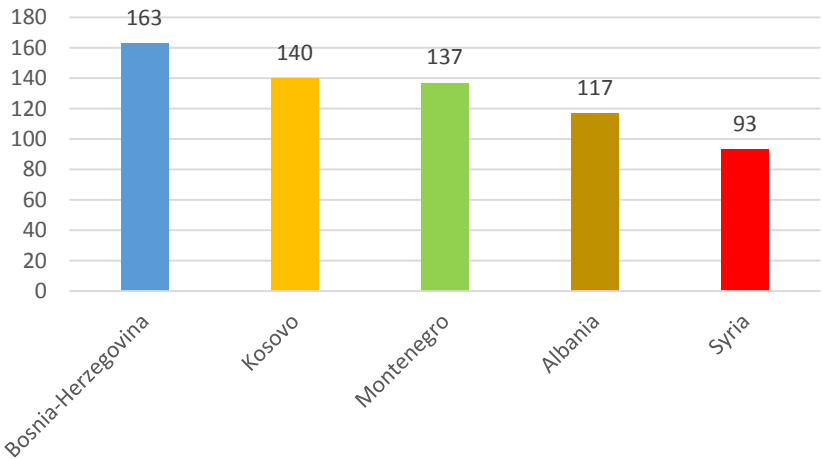
nationals.<sup>311</sup> So the trend with this group is exponential (11 granted in 2014 – this represents an increase of 845,5% in only 8 months).

The granting of the refugee status in Luxembourg is not undergoing a similar evolution. After a peak of grants in 2014, which is also reflected in the total recognition rate for that year, 2015 seems to indicate a continuation with 155 decisions granting the refugee status until 31 August.

Top Nationalities

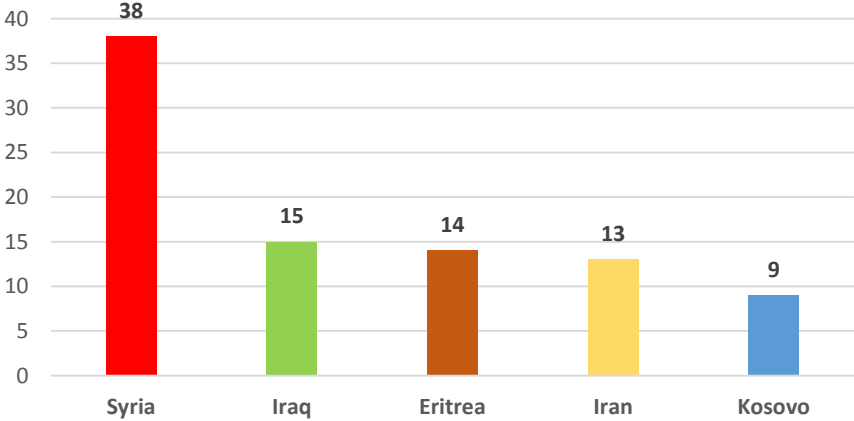
The top 5 nationalities of international protection applicants for 2014 remain consistent with previous years. The recent Syrian exodus has added this nationality to the top 5. Serbian asylum seekers remain important in 2014, coming in 6<sup>th</sup> place just after Syria. They were among the top 5 in countries of origin for asylum seekers in Luxembourg in 2013 and leading the statistics in 2012. They are also present amongst the top 5 recipients of subsidiary protection.

**Graph n° 22: Top 5 countries of origin of International protection applicants (2014)**



Source: Directorate of Immigration, 2015 © University of Luxembourg

**Graph n° 23: Top-5 countries of origin of beneficiaries of refugee status (2014)**

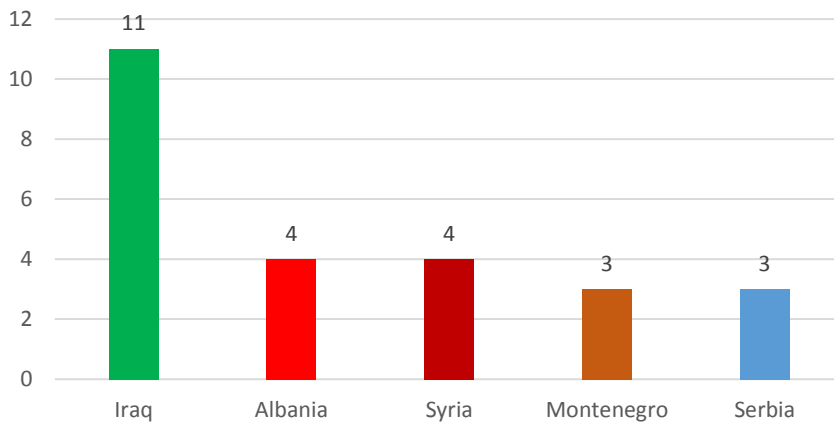


Source: Directorate of Immigration, 2015 © University of Luxembourg



The rate of positive decisions to requests for refugee status is coherent with the overall granting rate of the European Union for the same countries.

**Graph n° 24: Top-5 countries of origin of beneficiaries of subsidiary protection (2014)**



Source: Directorate of Immigration, 2015 © University of Luxembourg

Of all the beneficiaries of subsidiary protection, 33,3% came from Iraq and 42,4% from the Western Balkans.

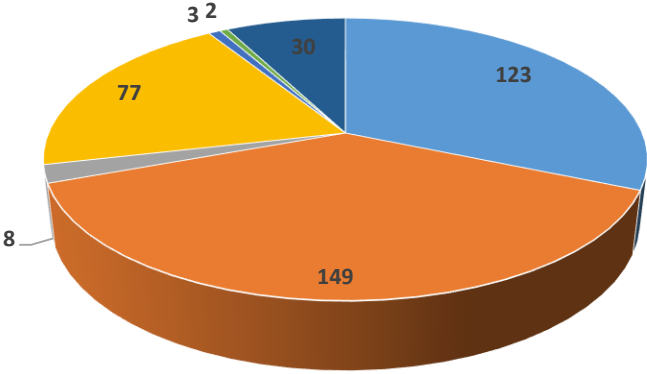
## Irregular Migration

### Retention<sup>312</sup>

In 2014, the retention centre saw an increase in detainees of 38 %, from 284 to 392. Single men remained the centre's main population group (67%). The 27 families in the retention centre amounted to 111 people in 2014, as opposed to 55 individuals for 14 families in 2013, while single female detainees were the smallest group with 17<sup>313</sup>(16 in 2013).

Most of the 2014 detainees were either transferred to another country responsible for their request under Dublin III regulations (123) or repatriated to their country of origin (140)<sup>314</sup>. The table below indicates the detailed outcome of the 2014 detainees, with 77 of them released and 30 still in the centre at the end of the year.

**Graph n° 25: Detainees in the detention centre (2014)**



- Dublin III Transfer
- IOM Voluntary return
- Luxembourg Penitentiary Centre Transfer
- Remaining at end of year
- Removal to Country of origin
- Released
- Escape

Source: Directorate of Immigration, 2015 © University of Luxembourg

2014 has welcomed TCNs of 59 different nationalities, most notably Montenegrin, Algerian, Nigerian and Kosovar. These were also amongst the 57 accounted for nationalities in 2013<sup>315</sup>.

The average duration of stay slightly decreased in 2014, going from 30 to 27 days. However, for 12 out of the 392 detainees, the duration of their stay was equal or superior to 120 days.

The administrative courts passed 134 decisions regarding detention and its alternatives, such as restricted residence. However, no data on this was available at the time of drafting.

Returns

The evolution of returns in 2014 and 2015 does not show any major changes compared to the previous year. Indeed, 2014 seems to normalize the trend started in 2013 of a continued decrease in returns, though on a much smaller scale. This tendency is put forward not only by the total numbers of returns, but also by the descent of voluntary returns, which constitute the major part of returns, and of returns to Balkan states, which is the largest category of countries of origin.

While 2012 had a total of 1.705<sup>316</sup> returns, 2013 initiated the decrease with only 679<sup>317</sup>, so half of the 2012 figure. 2014 prolonged that decrease as a total of 641<sup>318</sup> returns were reported for that year. These numbers seem to indicate a continued unwillingness for migrants to return home.

Voluntary returns continue to outnumber by far forced returns, with 488 voluntary returns and only 153 for forced returns in 2014. One exception exists when analysing decisions regarding people originating from African countries. These were subject to a higher number of forced returns (10 voluntary and 15 forced)<sup>319</sup>. Preliminary data for 2015 corroborates the huge prevalence of voluntary (319) over forced returns (44)<sup>320</sup>.

Table n° 13 shows the details of the prevalence of both voluntary returns and Balkan States in returns of 2014.

**Table n°13: Returns by region of origin of the returnees (2014)**

Region	Voluntary	Assisted <sup>321</sup>	Forced <sup>322</sup>	Total
Africa	10	9	15	25
America	3	2	1	4
Balkans	460	159	134	594
Remaining Europe	15	13	3	18
Total	488	183	153	641

Source: Directorate of Immigration, 2015 © University of Luxembourg.

A huge majority of returns concerned people from the Balkans (594 out of a total of 641). Again this is in line with previous trends with the Balkan countries constituting the majority of returns for 2012 and 2013.

The possibility of assisted return exists since 2009, when the Immigration Directorate set up a support program in collaboration with the International Migration Organisation (IOM) by financially assisting migrants wishing to go back home. The low percentage of voluntary returns being assisted through this program can be explained by the fact that migrants from Western Balkan States with no visa obligation are not eligible for an IOM-assisted return. To compensate for this disparity, the Immigration Directorate put in place a specific provision enabling the organising and financing of the bus drive back home. In 2014, 301 migrants benefitted from this provision.<sup>323</sup>

Leading the charge in returns (overall and voluntary) is Kosovo with 171 people returning home in 2014. This amounts to a significant change as Kosovo only came in 3<sup>rd</sup> in 2013, with numbers as low as 105 and 5<sup>th</sup> in 2012, with only 79 migrants leaving. Bosnia-Herzegovina and Serbia, 1<sup>st</sup> and 2<sup>nd</sup> in 2013 only had 100 and 89 citizens respectively heading home in 2014.

So far in 2015, Bosnia-Herzegovina is leading with 100 returns, followed by Montenegro (69) and Kosovo (52)<sup>324</sup>

## International Students

### General student population<sup>325</sup>

In Luxembourg there is only one higher education institution, the University of Luxembourg.<sup>326</sup>

At the end of 2014, the University of Luxembourg had a total of 6.287 students. Out of these, 3.231 were enrolled in Bachelor programmes, 1.283 were Master students, 569 PHD Students and 1.204 were professionals taking vocational and lifelong learning courses<sup>327</sup>. Compared to 2013, the Student population has grown by 1%, with its most relevant increase in Master Students (+8%). Guest students have decreased to 181 (-5,7%), while Greater Region exchange students stayed stable with 16<sup>328</sup>.

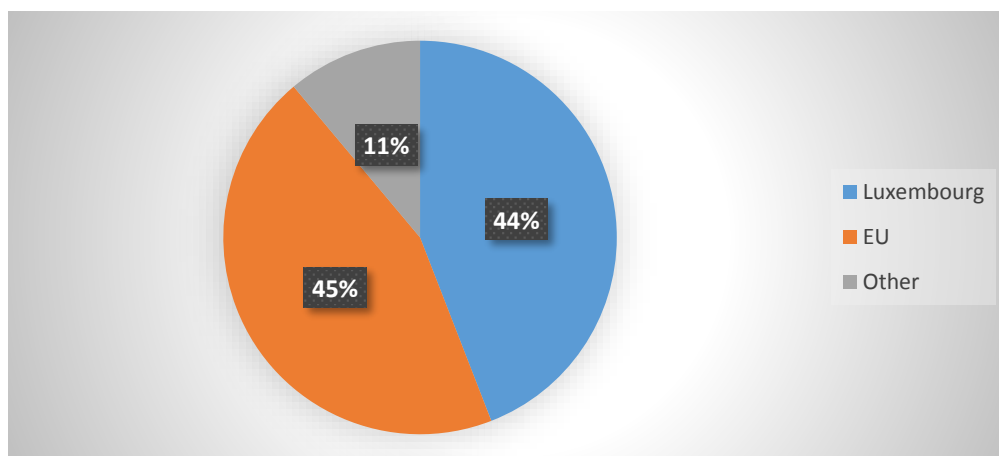
Previously enrolled students are of course a large majority, reaching 4.084, while students enrolling to the University of Luxembourg for the first time amounted to 2.203<sup>329</sup>.

Most registrations for Bachelors were in Social sciences, business and law (48,4%), the same category saw the most registrations for Masters (46,7%) and for Vocational programmes and lifelong learning (65%), while Science, mathematics and computing was the top category for PHDs (41,3%)<sup>330</sup>.

A little less than half of the student population is mobile (3 088 mobile, 3199 domestic), having increased by 5,9% over the year 2014<sup>331</sup>. Student mobility is actively promoted by the University of Luxembourg, by means of agreements with other universities and with the obligation of studying a semester abroad for Bachelor students.<sup>332</sup>

### Students by Nationality

**Graph n° 26: Composition of the student population (2014)**

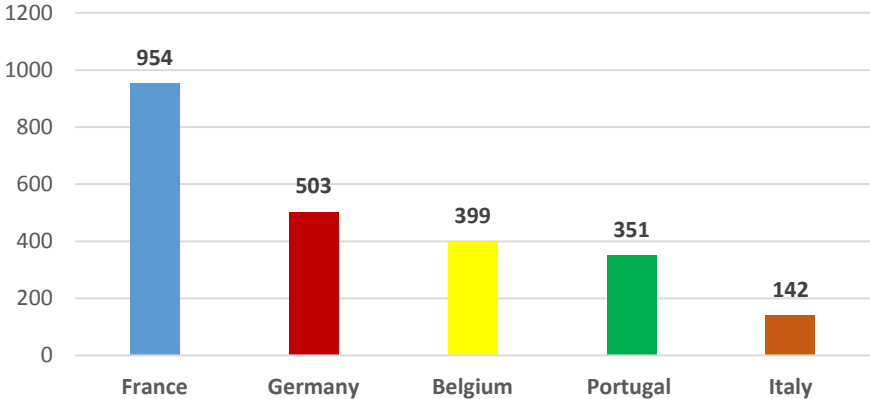


Source: University of Luxembourg, 2015 © University of Luxembourg

Luxembourgish and EU students constituted in an almost equal measure the composition of the total student population. Luxembourgish students accounted for 44,1% and EU Students 44,8%<sup>333</sup>, leaving only 11,1% for other nationalities.

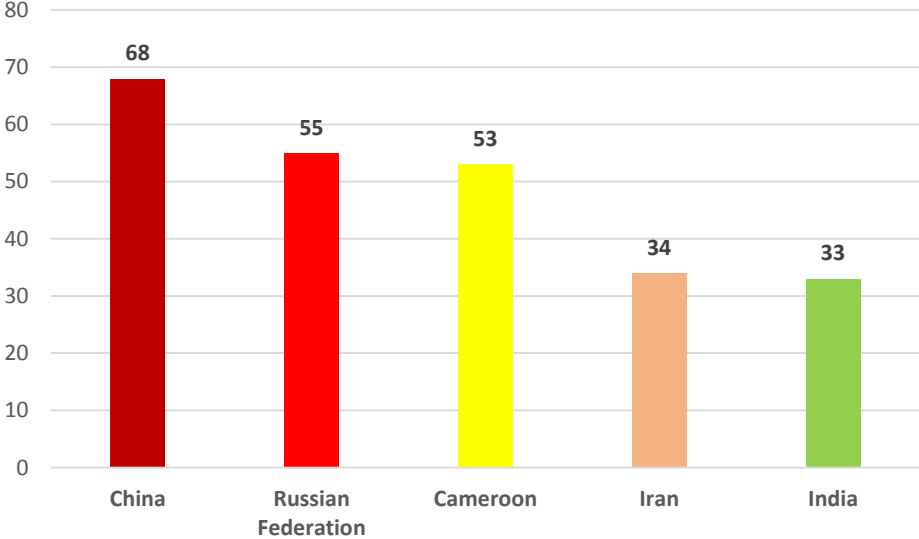
The main EU nationalities include Luxembourg’s neighbour states France (15,2%), Germany (8%) and Belgium (6,3%). Amongst the top 5 are also Portugal (5,6%) and Italy. Given the predominance of these nationalities in demography statistics, this ranking is hardly surprising.

**Graph n° 27: Top 5 EU nationalities of the University of Luxembourg (2014)**



Source: University of Luxembourg, 2015 © University of Luxembourg

**Graph n° 28: Top 5 TCN nationalities of the University of Luxembourg (2014)**



Source: University of Luxembourg, 2015 © University of Luxembourg

TCN student population has been constantly increasing over the last 4 years, going from 581 in the 2011-2012 academic year to 696 for 2014-2015<sup>334</sup>. The Chinese are the most prevalent TCN nationality, representing 1,1% of the total student population in 2014. They’re followed by Russians (0,9%), Cameroonians (0,8%), Iranians (0,5%) and Indians (0,5%)<sup>335</sup>.

## New students

The new TCN students have experienced the most significant increase with 12,9%, EU citizens registering a rise of only 17%<sup>336</sup>.

Belgium (37,9%) and France (33,7%) dominate the growth rate for 2014, registering an evolution that is superior to the EU average. On the other hand, Germany is the only neighbouring State experiencing a decrease (-11,7%) in 2014, as well as Luxembourg (-5,2%).

For Bachelor students, the highest growth was noted for Belgium (22%), followed by Portugal (8%) and Germany (7%)<sup>337</sup>. The Master students give a different picture, with the prevailing progression to be attributed to France (41%), TCNs (30%) and on a smaller scale Belgium (4%)<sup>338</sup>. New PHD Students have decreased in all categories, Luxembourg and EU Students on an equal measure (-33%) and TCN at a slower rate (-15%)<sup>339</sup>.

New students in vocational programmes and lifelong learning have picked up, after a decrease between the year 12/13 to 13/14, rising by 39,3%, from 285 to 397. Most notable fluctuations included an increase of 92% for new French students, 69,4% for Belgian students and 60% for Portuguese students. The only decrease affects Germany with 31,6% less students in vocational programmes and lifelong learning<sup>340</sup>.

The Directorate of Immigration has issued 209 first student visas for TCN in 2014 (377 including renewals)<sup>341</sup>. The data for first student visas confirms the most predominant nationalities of the University of Luxembourg student population. Indeed, topping the statistics in first student visas are Chinese with 27, Russians with 21 and Indians with 13 visas issued<sup>342</sup>.

## Exchange Students

Between the academic year 2012-2013 to 2013-2014, incoming exchange students have increased by 17,6%. The highest increase came from Bachelor students (48%), who are obliged to study abroad for the duration of one semester<sup>343</sup>. Incoming Master exchange students have decreased to 91, thereby recording a descent of 8,1%.

The outgoing exchange students trends parallel the above, as Bachelors embarking on a semester abroad went from 569 to 589 (+3,5%), while Master students' interest in studying a semester abroad evolved from 14 to 9 within the year (-35,7%).

So far, the winter semester of the year 2014-2015 has recorded 131 incoming exchange students and 359 outgoing. As in the previous years, there are far more outgoing exchanges than incoming.

## CHAPTER IV - Illegal employment of foreign workers

The illegal employment of foreign workers is characterized by the difficulty to confront it. Awareness of its existence is prevalent, yet, with the large majority being irregular migrants, the fear of being exposed forces many into clandestine livelihoods. According to a report published in 2007, it was estimated that clandestine work ranged between 6,3% and 17,7% of the total number of declared salaried workers.<sup>344</sup> Due to the lack of reliable data, it is difficult to ascertain how the clandestine labour market is faring.

### The Law of 21 December 2012

On 18 December 2012, the Chamber of Deputies passed the bill n° 6404 transposing the 'Sanctions' Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegal resident third-country nationals. The Law of 21 December 2012<sup>345</sup> provides in particular for an extension of the financial, administrative and criminal penalties for employers, as well as increased monitoring. It abolishes the possibility for the regularization of third-country nationals who have resided in the country illegally for at least 8 years and have worked regularly.<sup>346</sup>

### Employment of third-country national irregularly residing in the territory

The Law of 21 December 2012 introduced significant modifications in the Labour code, the Law on free movement of persons and immigration (Immigration Law), the law on the profession of lawyer and the Criminal code.

According to a new article<sup>347</sup>, the employer of a third country national is compelled to verify that the worker has an authorisation of stay or a residence permit, keep a copy of it in file and to notify the Ministry of Immigration when the employee starts in its post.<sup>348</sup>

An employer may be liable to an administrative fine of 2.500 € per irregular TCN.<sup>349</sup> The Ministry in charge of Labour imposes a fine based on a report made by the Director of the Inspectorate of Labour and Mines (ITM).

In case the employer hires irregular-staying migrants under one of the aggravated circumstances<sup>350</sup> foreseen by the law<sup>351</sup>, he may be liable to an imprisonment from 8 days up to 1 year and a fine from 2.501 to 20.000 € per irregular TCN or to one of these sanctions.

As it was already foreseen by the Immigration law, he/she can also be liable to the following accessory penal sanctions:

- prohibition for a maximum period of three years to practice his/her professional activity<sup>352</sup> or
- the temporary closing for a maximum period of five years or the definitive closing of the enterprise.<sup>353</sup>

In addition, he/she must pay the worker his salary<sup>354</sup>, all unpaid allowances, wage arrears, unpaid taxes and social security contributions, as well as the cost of the illegally employed third-country national returning home.<sup>355</sup>

Moreover, the entrepreneur who is sub-contracting with an employer of an irregular-staying third country national can be jointly or solely liable for any of the financial sanctions and of all unpaid social security contributions and/or taxes.<sup>356</sup>

The Labour code integrates the obligation of information by the competent authority, before the execution of a return decision of the irregular-staying third country national who has been illegally employed on their rights and possibility of access to free legal aid.<sup>357</sup>

### Other amendments

The legislator has kept the possibility of a permanent regularization of third country nationals who prove that they have accomplished at least 6 years of schooling in Luxembourg. It also established the possibility of a regularization based on exceptional motives.

The new Article 98bis is a further amendment to the law of 29 August 2008 on the free movement of persons and immigration. It transposes Article 13 § 4 of Directive 2009/52/EC, which requires that Member States define the conditions under which they may issue temporary residence permits (limited in time) in terms comparable to those that apply to victims of human trafficking. Article 98bis only covers third-country nationals staying illegally who have been employed particularly in abusive conditions or who are minors.

### Inspection du Travail et des Mines (Inspectorate of Labour and Mines)<sup>358</sup>

The law establishes that the Inspectorate of Labour and Mines or *Inspection du travail et des mines* (ITM)<sup>359</sup> is the authority in charge of carrying out inspections in order to control whether irregular third-country nationals are working in any economic activity. In coordination with the agents of the Customs and Excise Administration (*Administration des douanes et accises*), the Inspectorate of Labour and Mines conducted 257 controls on clandestine labour during 2014. 31 cases were deemed infractions. The inspectors drafted 30 administrative reports on clandestine labour for the Minister to apply sanctions.<sup>360</sup> Luxembourg's fight against illegal employment strongly focuses on posted workers.

### Posted workers

In 2014, 84 specific controls in 159 foreign companies were conducted by its inspectors in relation to posted workers.<sup>361</sup>



In practice, the controls on illegal labour are conducted by the *Posted and illegal work division* (PDTI) of the ITM.<sup>362</sup> This division operates at the national and the international level.<sup>363</sup> The PDTI assumes an organisational function in the “inter-administrative unit against illegal labour” (CIALTI).<sup>364</sup> This unit coordinates agents from different ministries and administrations, such as the *Agence pour le développement de l’emploi* (ADEM), the Joint Centre for Social Security, the Department of Occupational Health of the Ministry of Health and the Anti-fraud Department of the Luxembourg Registry, in order to launch targeted actions on companies.<sup>365</sup>

In 2014, five major operations were conducted with the participation of European labour/social inspectors as observers.<sup>366</sup>

The difficult application of the current rules in practice have led to Directive 2014/67/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’).<sup>367</sup> The European Commission’s Press Release on the Council adoption of the Posting of Workers Enforcement Directive mentions a particular focus in improving the application of the 1996 Posted Workers directive:

*‘The new enforcement directive will help to ensure that these rules are better applied in practice, especially in some sectors such as construction and road haulage, where for example so-called ‘letter box’ companies (without any real economic activity in their ‘home’ country) have been using false ‘posting’ to circumvent national rules on social security and labour conditions. It will also improve the protection of posted workers’ rights by preventing fraud, especially in subcontracting chains where posted workers’ rights are sometimes not respected.’<sup>368</sup>*

The deadline for the transposition of Directive 2014/67/EU is 18 June 2019 and the Luxembourg Government is currently working on the national bill.

### *Social Identification Badge*

The transposition of directive 2014/67/EU is not the only news item regarding fighting social dumping related to posted workers. At the end of 2013, the social identification badge was introduced in order to fight abuses in the construction sector. After an initial test phase in selected businesses, this new tool was launched officially at the beginning of 2014. The social identification badge is fitted with a bar code; the scanning of which allows the ITM to access all the relevant information of the posting procedure. The posting procedure has also been simplified with the introduction of the possibility to transfer all the required documents through an online platform. This platform, referred to as *e-Détachement*, allows foreign businesses to submit the declaration of posting of workers through a person of reference of their choice. *The e-Détachement* platform is accessible 24/7. The posting business or its reference person have to keep the information updated.

### *Information Campaigns in the Construction Sector*

Luxembourg’s construction sector relies heavily on posted workers. Controls by the ITM have put in evidence several violations of the Labour Code such as non-compliance with paying the minimum wage, non-payment of overtime or accommodation of workers in sub-standard housing.<sup>369</sup> During 2014, the ITM conducted random inspections on construction sites to verify the compliance with the

law in the evenings or during weekends and have regularly find violations concerning subcontractors or non-declared posted.<sup>370</sup> In order to comply with the decision from the European Court, the ITM included information campaigns aimed at construction site managers. These campaigns target working conditions, health and security at the workplace and social dumping. The aim is to raise awareness amid real-estate project developers that non-compliance with the existing legislation can have far-reaching economic consequences which will likely interfere with the progress of the construction site. This information campaign has been carried out in collaboration with the Ministry of the Interior and the municipalities. Furthermore, health and security coordinators were put in place, acting as mediators between construction site managers and businesses. The coordinators were trained by the ITM. Several legal actions are also open to the ITM to strengthen the information campaign, amongst which the obligation to declare the opening of a construction site before the start of construction, the obligation to continuously update the list of businesses involved in the construction site and the possibility to send a posted worker away if s/he is working in a position entailing specific risks and does not possess a certificate of competence for that specific position.

The campaign's action was twofold: on the one hand it aimed at raising awareness of the municipalities' central function of consistent information dissemination on the consequences of non-compliance with the Labour Code; on the other hand it detailed the economic cost that ensues from non-compliance in an information leaflet. This campaign started in 2013 and was intensely applied all throughout 2014 and into 2015. In 2014, the campaign focussed on large scale sites in Luxembourg city. The campaign has been somewhat scaled back in 2015 (only 2-3 sites so far), due to lack of personnel but it is still on-going until further notice. The ITM also provides the information on demand.<sup>371</sup>

Subsequent controls by the ITM seem to indicate the relative success of the campaign for medium to large construction sites.

### *International cooperation*

The ITM acts as Luxembourg's liaison office on posted workers (*Bureau luxembourgeois de liaison détachement* - BLLD)<sup>372</sup> and cooperates with its European counterparts to control posted workers and to verify the legality of the posting. This cooperation builds on the exchange of information and good practices between the competent authorities of neighbouring countries.<sup>373</sup> In the course of 2014, the BLLD treated 13 official requests of information from other Liaison offices dealing with the posting of workers.

The *EURO-Phénix* operation was set up in 2008 through bilateral agreements on administrative cooperation between institutions of labour inspection in Luxembourg, Belgium, Poland, France and Portugal. The BLLD is in charge of the operation and competent for the legal missions set up in directive 96/71/CE.<sup>374</sup>

In the Greater Region (France, Luxembourg, Belgium, Germany), 4 coordinated monitoring actions of posted workers took place. The *EURO-Phénix* includes a coordinating body to fight illegal employment, the CIALTI (*Cellule inter-administrative de lutte contre le travail*). It focuses on illegal cross-border employment and the risks related to social dumping.<sup>375</sup>

This project was extended in 2014-2015 as Euro-detachment III, adding Member States as well as an additional control sector to the operation, namely agriculture.<sup>376</sup> This operational cooperation between several training institutes of inspectors has led to reinforced exchanges of information and good practices, as well as an expansion of transnational training opportunities.<sup>377</sup>

### Administrative procedures

In 2014, no changes were made to the administrative procedures. Thus, the ITM remains responsible for monitoring companies and work sites for illegal workers, and the rules and regulations, and the sanctions remain in place.

The risk analysis is based on the experience gained over the years. It is known that the sectors with low-skilled, low-paid and labour-intensive jobs, such as construction, agriculture, cleaning, accommodation and food services are the most at risk, as these sectors occupy the highest percentage of people coming from third countries.

The control of the employment of irregular migrants is automatically included in the daily control routine of the labour inspectors; if the inspector notices an irregular situation during his regular control, he automatically registers the details for further investigations and sanctions regarding the employment of illegally staying third-country nationals (ISTCN).

### The regularization of illegal workers

In 2014, no regularization measures took place.

In the past, most of the regularization measures were labour related.<sup>378</sup> With the transposition of the sanctions directive by law of 21 December 2012, it amended article 89 of the amended law of 29 August 2008 on free movement of persons and immigration abrogating the possibility of making labour related regularisation<sup>379</sup>.

Parallel to the transposition of the “Sanctions” Directive into national law, the Minister in charge of Immigration announced a regularization<sup>380</sup> measure that was implemented from 2 January to 28 February 2013. The intention was to allow third-country nationals residing without a legal authorisation in Luxembourg to apply for a residence permit under certain conditions, as salaried workers, thereby regularising their administrative status. Since the regularization measure was intended for individual persons, no application for family reunification was accepted.<sup>381</sup> In March 2013 however, the Directorate of Immigration published a Memorandum, which allowed family reunification in specific circumstances.

This regularization measure offered the opportunity, not only to individuals involved in illegal work, but also to employers who hire individuals illegally.<sup>382</sup>

A total of 664 applications were submitted in relation to the single regularization process and 543 applications received a favourable reply.<sup>383</sup> By economic sector, 50% of applicants worked in the food industry. Chinese, Brazilians, Montenegrins and Cape Verdeans were the most numerous in their applications, with men taking the lead by 50% on women.<sup>384</sup>

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- <sup>48</sup> Article 62 (1) of the bill n° 6779.
- <sup>49</sup> Articles 62 (2) of the bill n° 6779.
- <sup>50</sup> Article 64 of the bill n° 6779.
- <sup>51</sup> See Asylum, Migration and Integration Fund (AMIF) 2014-2020. <http://www.olai.public.lu/en/fonds-programmes/amif/index.html>, last accessed 1st October 2015.
- <sup>52</sup> The *Syndicat des villes et communes luxembourgeoises*, or SYVICOL, represents Luxembourgish municipalities and promotes and defends their general interests on the national and international level. The organization aims to foster collaboration and coordination of the municipalities on different topics, including but not limited to integration policies.
- <sup>53</sup> The National Council for Foreigners (CNE) is an advisory body in charge of studying issues relating to foreigners and their integration. It submits to the Government an annual report on the integration of foreigners in Luxembourg.
- <sup>54</sup> [http://www.olai.public.lu/en/publications/programmes-planactions-campagnes/programme\\_amf/programme-national-luxembourg.pdf](http://www.olai.public.lu/en/publications/programmes-planactions-campagnes/programme_amf/programme-national-luxembourg.pdf), last accessed 1st October 2015.
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- <sup>57</sup> It should be noted that these persons are not recorded in the number of applications and decisions provided in the section of “International protection procedures”.
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<sup>64</sup> Rtl.lu, [Le Luxembourg accueillera 350 réfugiés et pas 515](#), 21 July 2015, last accessed 1st October 2015.

<sup>65</sup> Luxemburger Wort, [Les réfugiés arriveront mercredi au Luxembourg](#), 6 September 2015, last accessed 1st October 2015.

<sup>66</sup> Tageblatt, [So will Brüssel die Flüchtlingskrise meistern](#), 9 September 2015, last accessed 1st October 2015.

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<sup>74</sup> Parliamentary document n° 6673/00 of 31 March 2014, p. 2.

<sup>75</sup> Article 1 of the Law of 26 June 2014.

<sup>76</sup> Article 12 (3) of the Asylum Law.

<sup>77</sup> Information provided by the Directorate of Immigration.

<sup>78</sup> Article 12 (1) of the Asylum Law.

<sup>79</sup> LU EMN NCP, "Policies, practices and data on unaccompanied minors in 2014", 04.12.2014, p.16, <https://www.emnluxembourg.lu/type-documentation/policies-practices-and-data-unaccompanied-minors-2014>, last accessed 1st October 2015.

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<sup>83</sup> First instance Administrative Court, 1st Chamber, n° 34417 of 6 June 2014, 2nd Chamber, n° 34524 of 7 July 2014 and n° 35220 of 24 November 2014.

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

<sup>84</sup> First Instance Administrative Court, Vacation Chamber, n° 34996 of 20 August 2014. The court said: *Il y a « une ingérence injustifiée ou disproportionnée au sens de l'article 8 CEDH, et ce d'autant plus que le ministre aurait pu afin de se conformer à l'article 8 CEDH, faire usage de la clause discrétionnaire inscrite de l'article 17, paragraphe 12 (CE) du règlement n° 604/2013 du Conseil du 26 juin 2013 précité, selon lequel chaque Etat membre peut examiner une demande d'asile qui lui est présentée, même si cet examen ne lui incombe pas en vertu des critères fixés par ce règlement...».*

<sup>85</sup> First Instance Administrative Court, 2<sup>nd</sup> Chamber, 2<sup>ème</sup> chambre, n° 33583 of 6 August 2014. The court said: *« Le demandeur « a établi l'existence ... de motifs sérieux et avérés permettant de conclure à un risque réel de subir des atteintes graves ...en cas de retour dans son pays d'origine, pour y être exposé à la peine de mort, étant donné que le demandeur a versé à l'appui de son recours une sentence d'exécution prononcée par le Conseil des savants ..... ».*

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<sup>86</sup> Administrative Court, n° 34827C of 4 July 2014. The Administrative Court mentioned that « La Cour ne saurait cependant plus être d'accord avec Monsieur ... et avec le tribunal en tant que ceux-ci déduisent de cette situation un droit général de tout ressortissant afghan de prétendre à la protection subsidiaire. En constatant l'existence d'un conflit armé interne au sens de l'article 37, *sub c*) de la loi du 5 mai 2006 et en retenant que Monsieur ... "risque du seul fait de sa présence sur le territoire afghan des menaces graves et individuelles contre sa vie", le tribunal a omis de se livrer à l'examen de la situation individuelle du demandeur à la protection subsidiaire. »

<sup>87</sup> First Instance Administrative Court, 1st Chamber, n°34256 of 17 September 2014. The court said: « *en ce qui concerne l'application concrète de la législation relative au service militaire, force est de constater que la Cour européenne des droits de l'Homme a, dans un arrêt récent du 3 juin 2014 dans une affaire ... et autres contre la Turquie, rappelé que les poursuites et les peines d'emprisonnement que subissent les objecteurs de conscience en Turquie sont à qualifier de situations incompatibles avec l'article 3 de la CEDH interdisant les traitements et sanctions inhumains et dégradants ... et qu'il n'est pas établi, qu'à l'heure actuelle, les autorités turques aient changé la législation relative au service militaire respectivement son application concrète pour se conformer aux arrêts ... de la Cour européenne des droits de l'Homme, force est de retenir que le demandeur court un risque non négligeable de devoir également subir un traitement similaire .* » See also First Instance Administrative Court, 3rd Chamber n° 34226 of 13 August 2014.

<sup>88</sup> Administrative Court, n° 37555C of 7 July 2015 and n° 35649C of 26 March 2015.

<sup>89</sup> First Instance Administrative Court, 2<sup>nd</sup> Chamber, n° 33621 of 26 May 2014. The court argues: « *Concernant plus précisément la situation des chrétiens d'Iraq, et plus particulièrement à ....., ledit rapport la résume comme suit : ... In 2011 and early 2012, Christians reportedly continued to be subjected to threats, kidnappings, attacks on their homes and assassination. Christians have also been kidnapped against ransom; however, even in criminal cases, consideration should be given to the victims' presumed vulnerability as a member of a religious minority or his/her (perceived) social status. In 2011, churches were repeatedly subject to (attempted) bombings, often coordinated, including Baghdad, Mosul and Kirkuk. Extremist groups have also targeted Christians for being associated with the sale of alcohol* » [rapport UNCHR 2012, pages 27 et 28]. .... Ainsi, le même rapport précise que cette possibilité de fuite interne n'est pas réaliste ....

*Ainsi, il résulte des développements qui précèdent qu'en l'état actuel du dossier et au vu des moyens échangés de part et d'autre, le demandeur prétend à juste titre à la reconnaissance du statut de réfugié dans son chef. La décision critiquée du 14 octobre 2013 encourt partant la réformation en ce sens.* » In the same sense see First instance Administrative Court, 3rd Chamber n° 33341 of 15 July 2014, 2<sup>nd</sup> Chamber n° 33303 of 22 May 2014, 1st Chamber n° 32897 of 28 April 2014 and 3rd Chamber n° 32895 of 14 May 2014.

<sup>90</sup> First Instance Administrative Court, 2nd Chamber, n° 33599 of 13 March 2014.

<sup>91</sup> Administrative Court, n° 34344 of 10 July 2014.

<sup>92</sup> Administrative Court, n° 33864 of 3 July 2014.

<sup>93</sup> Administrative Court, n° 33833 of 20 August 2014. The Court said: *La Cour est cependant amenée à relever que le défaut par l'appelante de dénoncer son viol à la police trouve une explication plausible dans le fait qu'elle était encore sous l'impression des menaces reçues par téléphone de l'un de ses agresseurs quelques minutes après son appel y relatif à la police et que la certitude ensuite acquise que l'un de ses agresseurs était membre de la police bosnienne était de nature à faire hésiter les appelants pour faire systématiquement appel à la police, d'autant plus que ledit policier avait un intérêt évident pour saboter toute démarche concrète des autorités publiques afin d'empêcher la révélation de ses agissements graves en dehors de ses fonctions et qu'il était l'un des auteurs des pressions et menaces continues auxquelles l'appelante et, depuis son union avec l'appelant, également ce dernier se trouvaient exposés. Les suites somme toute lacunaires données par les policiers appelés sur place par les appelants à différentes occasions n'étaient pas non plus de nature à faire conclure que les appelants auraient dû faire plus systématiquement appel à leur assistance. En outre, au vu de l'entourage essentiellement serbe et des circonstances particulières ayant accompagné les actes dont les appelants font état, un recours à d'autres instances judiciaires ne peut pas être considéré comme un remède auquel les appelants auraient nécessairement dû avoir recours. Par voie de conséquence, les éléments particuliers de la situation personnelle des appelants amènent la Cour à conclure que les appelants avaient entamé des démarches suffisantes afin d'obtenir la protection des autorités bosniennes et qu'ils avaient des raisons valables pour ne pas entamer d'autres démarches supplémentaires. Concernant la question de la possibilité ou la volonté des autorités bosniennes d'accorder aux appelants une protection adéquate, la Cour ne se départit pas de son analyse qu'en général, l'Etat bosnien est en mesure*

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*d'accorder à ses habitants une protection adéquate, mais considère que les circonstances particulières de l'espèce rendent cette protection, suffisante en général, inadaptée en l'espèce au vu de l'entourage hostile et des actes de persécution particulièrement graves dont surtout l'appelante a été victime. Il y a partant lieu de conclure qu'il existe un risque concret et caractérisé que les persécutions se reproduiront suite à un éventuel retour des appelants en Bosnie. »*

<sup>94</sup> Directorate of Immigration, Press Conference, "Figures for the year 2014", 30.01.2015, p.21, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

<sup>95</sup> For more information, please see : Ombudsman, Service du contrôle externe des lieux privés de liberté, [http://www.celpl.lu/index.php?1=1&page=accueil\\_site&action=&ok=&inscrit=&lang=en](http://www.celpl.lu/index.php?1=1&page=accueil_site&action=&ok=&inscrit=&lang=en) , last accessed 1st October 2015.

<sup>96</sup> In the LU EMN NCP case law database on international protection and asylum there are 134 decisions registered addressing this issue during 2014. See <http://www.emn.lu/>

<sup>97</sup> Administrative Court, n°35628C of 30 December 2014. The court said: « *Sous cet aspect, l'article 10 de la loi du 5 mai 2006 doit être considéré comme non conforme à l'article 28 du règlement UE 604/2013 dans la mesure où une personne placée en rétention sur base de l'article 10 de la loi du 5 mai 2006 en vue de son transfert vers un autre Etat membre compétent ne saurait, sur base des dispositions de droit luxembourgeois, se prévaloir de la possibilité de se voir imposer une mesure moins coercitive qu'une rétention, dont notamment une assignation à résidence, et où le ministre n'est pas obligé à se livrer à l'examen y relatif avant d'ordonner une mesure de rétention.* »

<sup>98</sup> Directorate of Immigration, Press Conference: "Figures for the year 2014", 30.01.2015, p.18, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

<sup>99</sup> Directorate of Immigration, Press Conference, "Figures for the year 2014", 30.01.2015, p.18, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

<sup>100</sup> Article 130 of the Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N°113 of 3 July 2013, <http://www.legilux.public.lu/leg/a/archives/2013/0113/a113.pdf>, last accessed 1st October 2015.

<sup>101</sup> Directorate of Immigration, Press Conference, "Figures for the year 2014", 30.01.2015, p.19, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

<sup>102</sup> Parliamentary document n° 6740/00 of 5 November 2014 [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/345/137404.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/345/137404.pdf) , last accessed 1st October 2015.

<sup>103</sup> Bill N°6741 for Bosnia and Herzegovina. Parliamentary document n° 6741/00 of 5 November 2014 [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/349/137408.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/349/137408.pdf), last accessed 1st October 2015.

<sup>104</sup> Parliamentary document n° 6742/00 of 5 November 2014. [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/348/137407.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/348/137407.pdf) ; last accessed 1st October 2015.

<sup>105</sup> Parliamentary document n° 6743/00 of 5 November 2014. [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/347/137406.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/347/137406.pdf) ; last accessed 1st October 2015.

<sup>106</sup> Parliamentary document n° 6744/00 of 5 November 2014. [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/346/137405.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/346/137405.pdf), last accessed 1st October 2015.

<sup>107</sup> Directorate of Immigration, Press Conference, "Figures for the year 2014", 30.01.2015, p.19, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>

<sup>108</sup> Law of 9th April 2014 strengthening the rights of victims of trafficking in human beings, Memorial A N°63 of 14 April 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0063/a063.pdf>, last accessed 1st October 2015.

<sup>109</sup> Information provided by the Ministry of Justice. See also the answer to Parliamentary Question N°715, [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/182/364/138613.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/182/364/138613.pdf), last accessed 1st October 2015.

<sup>110</sup> Information provided by the Ministry of Justice.

<sup>111</sup> Information provided by the Ministry of Justice.

<sup>112</sup> LU EMN NCP, Annual Policy Report on Migration and Asylum, Luxembourg, 2015, p. 76.

<sup>113</sup> Information provided by the Ministry of Justice.

<sup>114</sup> Law of 9th April 2014 strengthening the rights of victims of trafficking in human beings, Memorial A N°63

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of 14 April 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0063/a063.pdf> , last accessed 1st October 2015.

<sup>115</sup> Grand-Ducal Regulation of 11 September 2014, Memorial A N°168 of 7 October 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0186/a186.pdf> , last accessed 1st October 2015.

<sup>116</sup> For further information, please see: LU EMN NCP, “Policies, practices and data on unaccompanied minors in 2014”, 04.12.2014, p.23, <https://www.emnluxembourg.lu/type-documentation/policies-practices-and-data-unaccompanied-minors-2014> , last accessed 1st October 2015.

<sup>117</sup> Grand-Ducal Regulation of 10 March 2014 on the composition, organisation and functioning of the Monitoring Committee on the fight against trafficking in human beings, Memorial A N°37 of 18 March 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0037/a037.pdf>, last accessed 1st October 2015.

<sup>118</sup> GRETA, “Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg”, 15.04.2014, [http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA\\_2013\\_18\\_FGR\\_LUX\\_w\\_comments\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_18_FGR_LUX_w_comments_en.pdf), last accessed 1st October 2015.

<sup>119</sup> U.S. Department of State, “Trafficking in Persons Report 2014”, June 2014, <http://www.state.gov/documents/organization/226847.pdf>, last accessed 1st October 2015.

<sup>120</sup> Information provided by the Ministry of Justice. See also the answer to Parliamentary Question N°715, [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/182/364/138613.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/182/364/138613.pdf), last accessed 1st October 2015.

<sup>121</sup> LU EMN NCP, Annual Policy Report on Migration and Asylum, Luxembourg, 2015, p. 78.

<sup>122</sup> Information provided by the Ministry of Justice. Please also see the answer to Parliamentary question N°715, [http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/182/364/138613.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/182/364/138613.pdf), last accessed 1st October 2015.

<sup>123</sup> Information provided by the Directorate of Immigration.

<sup>124</sup> LU EMN NCP, “Policies, practices and data on unaccompanied minors in 2014”, 04.12.2014, p.13-14, <https://www.emnluxembourg.lu/type-documentation/policies-practices-and-data-unaccompanied-minors-2014>, last accessed 1st October 2015.

<sup>125</sup> Chambre des Députés, *L’OLAI a besoin d’une «réforme en profondeur*, 15 July 2014.

<sup>126</sup> See Answer of Corinne Cahen, Minister of Family and Integration, of 2 October 2014, to Parliamentary Question n°521 of Members of Parliament Diane Adehm and Gilles Roth. See also Paperjam.lu, *Un départ à la tête de l’Olai*, 25 November 2014, last accessed 1st October 2015.

<sup>127</sup> Ministry of Family, Integration and the Greater region, *Assermentation au ministère de la Famille, de l’Intégration et à la Grande Région*, 27 January 2015, [http://www.mfi.public.lu/actualites/2015/01/27\\_assermentation/index.html](http://www.mfi.public.lu/actualites/2015/01/27_assermentation/index.html), last accessed 1st October 2015.

<sup>128</sup> *Amended law of 16 December 2008 on the reception and integration of foreigners in the Grand-Duchy of Luxembourg*, last accessed 1st October 2015.

<sup>129</sup> OLAI, « *Rapport quinquennal* », December 2014, [http://www.olai.public.lu/fr/publications/rapports/rapports\\_5ennal/rapport-quinquennal-2014.pdf](http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf), last accessed 1st October 2015.

<sup>130</sup> OLAI, « *Rapport quinquennal* », December 2014, [http://www.olai.public.lu/fr/publications/rapports/rapports\\_5ennal/rapport-quinquennal-2014.pdf](http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf)

<sup>131</sup> Economic and Social Council, *La Politique d’intégration au Luxembourg*, Opinion of 6 June 2014, p. 4, last accessed 1st October 2015.

<sup>132</sup> Economic and Social Council, *La Politique d’intégration au Luxembourg*, Opinion of 6 June 2014, p. 1, last accessed 1st October 2015.

<sup>133</sup> Economic and Social Council, *La Politique d’intégration au Luxembourg*, Opinion of 6 June 2014, <http://www.ces.public.lu/fr/avis/educ-forma/2014-integration.pdf>

<sup>134</sup> Articles 17 to 22 of the amended law of 16 December 2008.

<sup>135</sup> SYVICOL, *Nos missions*, last accessed 1st October 2015.

<sup>136</sup> OLAI, *Plan communal intégration : deuxième phase*, last accessed 1st October 2015.

<sup>137</sup> SYVICOL, « *Plan Communal Intégration, Guide pratique à l’intention des responsables et acteurs locaux Première version* », 24.10.2014, [http://www.syvicol.lu/wp-content/uploads/Guide-pratique-PCI\\_premi%C3%A8re-version\\_2014.pdf](http://www.syvicol.lu/wp-content/uploads/Guide-pratique-PCI_premi%C3%A8re-version_2014.pdf), last accessed 1st October 2015.



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- <sup>138</sup> Consultative communal commissions on integration, or *commissions consultatives communales d'intégration (CCCI)*, are obligatory commissions at the municipal level which deal with any aspects of community living and represent the interests of residents of a foreign nationality in the municipality. Article 23 of the Law of 16 December 2008 on the reception and integration of foreigners in the Grand-Duchy of Luxembourg, Memorial A N°209 of 24 December 2008, and the Grand-ducal Regulation of 15 November 2011 on the organization and the functioning of the Consultative communal commissions on integration, published in the memorial A-237 of 22 November 2011.
- <sup>139</sup> OLAI, Press Release, « *Plan communal intégration : deuxième phase* », 19.11.2014, <http://www.olai.public.lu/fr/actualites/2014/11/plan-communes/index.html> , last accessed 1st October 2015.
- <sup>140</sup> The funds are allocated according an established criteria defined by a circular of the Ministry of Interior. The co-financing has a threshold of 50% of the forecasted cost of the project
- <sup>141</sup> Service de la scolarisation des enfants étrangers (SECAM)
- <sup>142</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 78.
- <sup>143</sup> See Chapter IV.
- <sup>144</sup> The original titles are : *Accueillir et intégrer. Guide pour enseignants accueillant un enfant nouvellement arrivé au pays and L'orientation des élèves récemment arrivés au pays*. Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 78.
- <sup>145</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 78.
- <sup>146</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 78.
- <sup>147</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 78-79.
- <sup>148</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 79.
- <sup>149</sup> This Luxembourgish students are students who have been living outside of Luxembourg and have not attended the Luxembourgish school system.
- <sup>150</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 80.
- <sup>151</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 80.
- <sup>152</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 80.
- <sup>153</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 62.
- <sup>154</sup> Ibidem.
- <sup>155</sup> Ibidem.
- <sup>156</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 62.
- <sup>157</sup> Ibidem.
- <sup>158</sup> Ibidem.
- <sup>159</sup> Law of 17 February 2009 on: 1.introduction of language leave; 2.amendment of the Labour Code; 3. amendment of the Law of 19 August 2008 on grants for research training. <http://www.legilux.public.lu/leg/a/archives/2009/0033/a033.pdf> , last accessed 1st October 2015.
- <sup>160</sup> Article 1 paragraph 1 of the Law of 17 February 2009.
- <sup>161</sup> Article 1 paragraph 2 of the Law of 17 February 2009.
- <sup>162</sup> Law of 19 December 2014 concerning the implementation of the “Future package”, Memorial A N°257 of 24 December 2014, [http://www.impotsdirects.public.lu/legislation/legi14/Memorial-A---N\\_-257-du-24-decembre-2014.pdf](http://www.impotsdirects.public.lu/legislation/legi14/Memorial-A---N_-257-du-24-decembre-2014.pdf), last accessed 1st October 2015.
- <sup>163</sup> Information provided by the Ministry of Labour, Employment and Social and Solidarity Economy, 16.01.2015.
- <sup>164</sup> Information provided by the Ministry of Labour, Employment and Social and Solidarity Economy, 16.01.2015.
- <sup>165</sup> LU EMN NCP, Policy Report on Migration and Asylum 2012, Luxembourg, 2013, p. 29.
- <sup>166</sup> Ministry of Higher Education and Research, Activity Report 2014, Luxembourg, Mars 2015, p. 6.
- <sup>167</sup> Ministry of Higher Education and Research, Activity Report 2014, Luxembourg, Mars 2015, p. 6.
- <sup>168</sup> Ministry of Higher Education and Research, Activity Report 2014, Luxembourg, Mars 2015, p. 6.
- <sup>169</sup> Law of 19 December 2008 reforming vocational training, Memorial A No 220 of 30.12.2008.
- <sup>170</sup> EMN NCP LU, 2011 policy report on migration and asylum, [www.emnluxembourg.lu](http://www.emnluxembourg.lu) , last accessed 1st October 2015.
- <sup>171</sup> Ministry of National Education, Childhood and Youth, Activity Report 2014, Luxembourg, 2015, p. 58.
- <sup>172</sup> For more information, please see : Budget.public.lu, « *Zukunftspak* », <http://www.budget.public.lu/#!/zukunftspak> ; Guichet.lu, « *Orientations politiques du budget pour 2015 : impact pour les citoyens* », 14.10.2014,

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<http://www.guichet.public.lu/citoyens/fr/actualites/2014/10/14-budget-2015/index.html> , last accessed 1st October 2015.

<sup>173</sup> Bill N°6722 on the implementation of the Package on the Future (first part),

[http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/189/337/138386.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/189/337/138386.pdf) , last accessed 1st October 2015.

<sup>174</sup> Law of 19 December 2014 on the implementation of the Package on the Future (first part), Memorial A N°257 of 24 December 2014, <http://www.legilux.public.lu/leg/a/archives/2014/0257/a257.pdf#page=2> , last accessed 1st October 2015.

<sup>175</sup> OLAI, « *Contrat d'accueil et d'intégration* »,

<http://www.olai.public.lu/fr/accueil-integration/mesures/contrat-accueil/index.html> , last accessed 1st October 2015.

<sup>176</sup> There are only statistics available for this time period because the Ministry of National Education, Childhood and Youth introduced a new management system for the reduced price courses.

<sup>177</sup> OLAI, Activity Report 2014, p.169,

[http://www.olai.public.lu/fr/publications/rapports/rapports\\_activite\\_olai/rapport-activite-olai-14.pdf](http://www.olai.public.lu/fr/publications/rapports/rapports_activite_olai/rapport-activite-olai-14.pdf) , last accessed 1st October 2015.

<sup>178</sup> An evaluation of the needs of third-country national signatories has been undertaken in 2014 by the University of Luxembourg. First results are foreseen for 2015.

<sup>179</sup> OLAI, « *Rapport quinquennal* », December 2014, p.44,

[http://www.olai.public.lu/fr/publications/rapports/rapports\\_5ennal/rapport-quinquennal-2014.pdf](http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf)

<sup>180</sup> CET, Annual Report 2014, p.41, <http://cet.lu/wp-content/uploads/2015/03/CET-rapport-annuel-2014.pdf> , last accessed 1st October 2015.

<sup>181</sup> Ibidem, p.35.

<sup>182</sup> Ibidem, p.38.

<sup>183</sup> OLAI, « *Rapport quinquennal* », December 2014, p.83,

[http://www.olai.public.lu/fr/publications/rapports/rapports\\_5ennal/rapport-quinquennal-2014.pdf](http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/rapport-quinquennal-2014.pdf), last accessed 1st October 2015.

<sup>184</sup> [Parliamentary document n° 6792/00](#) of 12 March 2015, last accessed 1st October 2015.

<sup>185</sup> For more information, please see : <http://www.chartediversite.lu/en>, last accessed 1st October 2015.

<sup>186</sup> <http://www.chartediversite.lu/en/diversity-charter-letzebuerg>, last accessed 1st October 2015.

<sup>187</sup> Gouvernement.lu, « *Corinne Cahen à la séance officielle de signature de la « Charte de la diversité Lëtzebuerg* » », 28.05.2014, <http://www.gouvernement.lu/3751596/27-cahen-charte-diversite> , last accessed 1st October 2015.

<sup>188</sup> LU EMN NCP, Policy Report on Migration and Asylum 2014, Luxembourg, 2015, p. 52.

<sup>189</sup> Information provided by the OLAI.

<sup>190</sup> Ministry of Foreign and European Affairs, Activity Report 2014, Luxembourg, 2015, p. 68. Kosovo has a particular status.

<sup>191</sup> Ministry of Foreign and European Affairs, Activity Report 2014, Luxembourg, 2015, p.p. 68-70.

<sup>192</sup> LU EMN NCP, Policy Report on Migration and Asylum, 2014, p. 86.

<sup>193</sup> Ministry of Social Security, *Droit de la Sécurité Sociale*, Luxembourg, 2015, p.p. 544-545.

<sup>194</sup> [Parliamentary document n° 6786/00](#) of 2 March 2015.

<sup>195</sup> [Parliamentary document n° 6802/00](#) of 15 April 2015.

<sup>196</sup> [Parliamentary document n° 6781/00](#) of 24 February 2015.

<sup>197</sup> Article 7 (2) of the bill n° 6781.

<sup>198</sup> Article 8 (1) of the bill n° 6781.

<sup>199</sup> Gouvernement.lu, “*D’Krisen iwwerschloen sech. D’Welt steet op der Kopp*”, 25.11.2014,

<http://www.gouvernement.lu/4214621/25-asselborn-declaration-chd> , last accessed 1st October 2015.

<sup>200</sup> Bill N°6761, introduced to the Chamber of Deputies on 07.01.2015,

[http://www.chd.lu/wps/PA\\_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/195/370/139649.pdf](http://www.chd.lu/wps/PA_RoleEtenduEuro/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/195/370/139649.pdf) , last accessed 1st October 2015.

<sup>201</sup> Ibidem, p.6

<sup>202</sup> Article 1 of the [Law of 27 February 2015 on organising a national referendum on different questions in connection with the drafting of a new Constitution](#), last accessed 1st October 2015.

<sup>203</sup> Luxemburger Wort, [Le référendum aura lieu le 7 juin 2015](#), 23 octobre 2014 and Article 1 of the Law of 27 February 2015, last accessed 1st October 2015.

<sup>204</sup> Chambre des députés, [Référendum: la campagne s'étalera sur un mois](#), 3 March 2015, last accessed 1st October 2015.

- <sup>205</sup> Le Jeudi, [Le CSV dira trois fois « non » le 7 juin](#) and L'essentiel, [Pour l'ADR, c'est trois fois non](#), last accessed 1st October 2015.
- <sup>206</sup> Le Quotidien, [Le KPL votera blanc](#), 13 March 2015, last accessed 1st October 2015.
- <sup>207</sup> Gouvernement du Grand-Duché de Luxembourg, [Résultats officiels – Référendum du 7 juin 2015](#), last accessed 1st October 2015.
- <sup>208</sup> Gouvernement du Grand-Duché de Luxembourg, *Procès-verbal du recensement général*, p.2
- <sup>209</sup> Tageblatt, Mil Lorang, [Mit Populismus gegen die Wirklichkeit](#), 18 June 2015 and Luxemburger Wort, [Ex-LSAP-Fraktionschef Ben Fayot - "Das Referendum war ein großer Fehler"](#), 14 August 2015 and Paperjam, Pedro Castilho, [Un «oui» mal préparé a donné un «non»](#), 14 June 2015 and Luxemburger Wort, *Analyse de Jean-Lou Siweck - «C'est un message au gouvernement»*, 7 June 2015, last accessed 1st October 2015.
- <sup>210</sup> [Parliamentary document n°6561/00](#) of 11 April 2013, last accessed 1st October 2015.
- <sup>211</sup> Bill n° 6561 on the approbation of the European Convention on nationality and amending the law on nationality, 26 April 2013, <http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6561#>, last accessed 1st October 2015.
- <sup>212</sup> Article 8 (2) of the bill n° 6561.
- <sup>213</sup> Article 8 (4) 1 of the bill n° 6561.
- <sup>214</sup> Article 8 (4) 2 of the bill n° 6561.
- <sup>215</sup> Article 7 (2) of the bill n° 6561.
- <sup>216</sup> Article 7 (3) 3 of the bill n° 6561.
- <sup>217</sup> Article 1 (1) 4 and 5 of the bill n° 6561.
- <sup>218</sup> Parliamentary document n° 6781/00 of 24 February 2015.
- <sup>219</sup> Bill N° 6781 intending to reform the law of 23 October 2008 on Luxembourgish nationality, 12 May 2015, <http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6781#>, last accessed 1st October 2015.
- <sup>220</sup> Article 7 (2) of the bill n° 6781.
- <sup>221</sup> Article 7 (5) 1 of the bill n° 6781.
- <sup>222</sup> Article 8 (1) of the bill n° 6781.
- <sup>223</sup> Article 8 (3) 1 of the bill n° 6781.
- <sup>224</sup> Article 8 (3) 2 of the bill n° 6781.
- <sup>225</sup> Ibidem.
- <sup>226</sup> Land, Josée Hansen, [Crispation Identitaire](#), 12 June 2015, last accessed 1st October 2015.
- <sup>227</sup> Parliamentary document n° 6822/00.
- <sup>228</sup> Parliamentary document n° 6822, <http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public&id=6822#>, last accessed 1st October 2015.
- <sup>229</sup> Article 6bis of the bill n° 6822.
- <sup>230</sup> Article 10 (2) last paragraph of the bill n° 6822.
- <sup>231</sup> Gouvernement, [Projet de loi sur la jeunesse: des critères de qualité pour une meilleure équité des chances](#), 11 February 2015, last accessed 1st October 2015.
- <sup>232</sup> [Parliamentary document n° 6410/13](#) of 20 February 2015.
- <sup>233</sup> Law of 4 July 2008 on Youth, Memorial A N°109 of 25 July 2008, <http://www.legilux.public.lu/leg/a/archives/2008/0109/a109.pdf#page=2>, last accessed 1st October 2015.
- <sup>234</sup> Gouvernement, [Projet de loi sur la jeunesse: des critères de qualité pour une meilleure équité des chances](#), 11 February 2015.
- <sup>235</sup> Parliamentary document n° 6410/13 p. 2.
- <sup>236</sup> Ibidem.
- <sup>237</sup> Luxemburger Wort, [Le ministre veut des crèches bilingues](#), 8 July 2014, last accessed 1st October 2015.
- <sup>238</sup> Ibidem.
- <sup>239</sup> Ibidem.
- <sup>240</sup> [Parliamentary document n° 6818/00](#) of 21 May 2015, last accessed 1st October 2015.
- <sup>241</sup> Gouvernement, [Claude Meisch et François Bausch ont présenté la future École internationale à Differdange](#), 8 April 2015, last accessed 1st October 2015.
- <sup>242</sup> Gouvernement, [Claude Meisch et François Bausch ont présenté la future École internationale à Differdange](#), 8 April 2015, last accessed 1st October 2015.
- <sup>243</sup> Le Jeudi, [Une école «européenne» ou «internationale» à Differdange?](#), last accessed 1st October 2015.
- <sup>244</sup> Parliamentary document n° 6818/00, p. 2.



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- <sup>245</sup> Ibidem, p.4.
- <sup>246</sup> Parliamentary document n° 6818/00, p. 3.
- <sup>247</sup> Ibidem.
- <sup>248</sup> Ibidem.
- <sup>249</sup> [Parliamentary document n° 6779/02](#) of 5 June 2015.
- <sup>250</sup> [Parliamentary document n° 6779/03](#) of 20 July 2015.
- <sup>251</sup> STATEC, *Population par nationalités détaillées 2011 – 2015*, last accessed 1st October 2015.
- <sup>252</sup> STATEC, *Population par nationalités détaillées 2011 – 2015*, last accessed 1st October 2015.
- <sup>253</sup> STATEC, *Naissances vivantes selon le mois 1950-2014*, last accessed 1st October 2015.
- <sup>254</sup> Centre d'étude et de formation interculturelles et sociales (CEFIS), *Evolution des soldes naturels – Naissances-Décès de 1992 à 2014*, last accessed 1st October 2015.
- <sup>255</sup> This data comprehends not only EEA citizens but also nationals coming from other European countries.
- <sup>256</sup> In these figures we only include third-country nationals coming outside of the European continent.
- <sup>257</sup> STATEC, *Arrivées, départs, excédents des arrivées sur les départs 1967 – 2014*, last accessed 1st October 2015.
- <sup>258</sup> Ibidem.
- <sup>259</sup> Institut national de la statistique et des études économiques du Grand-Duché du Luxembourg
- <sup>260</sup> STATEC, *Note de conjuncture: La situation économique au Luxembourg – Évolution récente et perspectives, n°1/2015*, p. 43.
- <sup>261</sup> CEFIS, *Statistiques, Démographie*
- <sup>262</sup> Lesfrontaliers.lu, [Bouchons : trop, c'est trop ! Certains sautent le pas et déménagent !](#), 26 June 2014, last accessed 1st October 2015.
- <sup>263</sup> STATEC, *Population par nationalités détaillées 2011 – 2015*, last accessed 1st October 2015.
- <sup>264</sup> This is probably due to the increasing economic interest of China in Luxembourg
- <sup>265</sup> The study of the evolution of naturalizations is limited to the period between 2009 and 2014 as the law of 23 October 2008 on Luxembourg nationality entered into force in 2009. As it reformed the entire naturalization system, data collection is not comparable to previous years before the entering into force of the law.
- <sup>266</sup> Ministry of Justice – *Indigénat, Procédures de nationalité luxembourgeoise évacuées – Année 2014*, last accessed 1st October 2015.
- <sup>267</sup> STATEC, *Naturalisations et options de la nationalité luxembourgeoise selon la nationalité d'origine 1950 – 2014*, last accessed 1st October 2015.
- <sup>268</sup> Ministry of Justice - Indigénat, Ibidem.
- <sup>269</sup> Ibidem.
- <sup>270</sup> Pauly, Michel, *Le phénomène migratoire : une constante de l'histoire luxembourgeoise*, in *ASTI 30+*, 2010, p. 72. Pauly says : « *Au Luxembourg l'immigration a toujours été et reste double : à toutes les époques elle concerne le haut et le bas de l'échelle sociale. Et vu le manque structurel de main d'œuvre les migrants n'ont pratiquement jamais constitué une concurrence pour les autochtones sur le marché du travail.* »
- <sup>271</sup> In Luxembourg, 258.679 residents (46%) of a total population of 562.958 are foreigners. 222.192 are EU citizens representing 39% of the total population of the country and 76% of the foreign population of the country. The 36.487 third-country nationals only represent 6,5% of the total population and 14,1% of the foreign population. Source: Statec, 2015. This phenomenon can be explained by a high level of immigration, which is attracted by the permanent needs for workers in the Luxembourgish economy. Observatoire Interrégional du marché de l'emploi, *Situation du marché de l'emploi dans la Grand Région, Evolution démographique, 9ème rapport*, November 2014, p. 18.
- <sup>272</sup> Since the country is located at very important crossroads of the Union, bordering two large economic motors of the Union (France and Germany), Luxembourg has always benefited from a highly skilled workforce coming from the Greater Region. See *Chambre de Commerce Luxembourg, Actualité & Tendances*, n° 12, March 2012, p. 59.
- <sup>273</sup> *Chambre de Commerce Luxembourg, Actualité & Tendances*, n° 12, March 2012, p. 61.
- <sup>274</sup> « *Une étude des Offices statistiques de la Grande Région parue en 2011 a révélé que dans la comparaison avec les actifs résidents, on trouve parmi les frontaliers une part plus importante d'hommes, de jeunes et de personnes d'un niveau de qualification plus élevée. Par ailleurs, les travailleurs frontaliers occupent moins souvent un emploi à temps partiel et sont un peu plus rarement touchés par les contrats à durée déterminée. En outre, les frontaliers sont plus souvent employés dans de plus grandes entreprises (de 50 employés et plus).* » See *Observatoire interrégional du marché de l'emploi, Neuvième rapport de l'OIE - Mobilité des frontaliers*, 2014, p. 14.

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<sup>275</sup> This is a “pull” factor that has to be measured in parallel with a “push” factor from the country of origin. As Ad Knotter says: “Deindustrialization at the “push” side is also part of the explanation of the growth of cross-border labour in the Luxembourg–Lorraine borderland: the demise of the steel industry in the Longwy basin caused a loss of employment in the 1980s of several ten thousands, in spite of fierce resistance by the steel workers. The next generation massively crossed the border to find work in Luxembourg and Belgium...” Ad Knotter (2014) Perspectives on Cross-Border Labor in Europe: “(Un)familiarity” or “Push-and-Pull”?, *Journal of Borderlands Studies*, 29:3, 319-326, p. 321.

<sup>276</sup> A national orientation in labour market behaviour seems to be the rule. Cross-border labour only emerges in specific circumstances; it depends on a combination of distance and “push-and-pull,” on the attainability of higher wages and employment opportunities within easy reach across the border. As economic development, also in specific regions, is often connected to national economic performance (the Luxembourg, Swiss and Baden-Württemberg cases are clear, it is within this logic that cross-border labour is stimulated more by national differences than by European transborder integration (Kayali and Van Gheluwe 2001, 3). See Ad Knotter (2014) Perspectives on Cross-Border Labor in Europe: “(Un)familiarity” or “Push-and-Pull”?, *Journal of Borderlands Studies*, 29:3, 319-326, pp. 321-322. See also, Observatoire interrégional du marché de l’emploi, Frontaliers et marché de l’emploi transfrontalier dans la Grande Région Résumé (version longue) du cahier thématique dans le cadre du projet général « Etat d’avancement, perspectives et exigences d’action du marché de l’emploi dans la Grande Région d’ici l’année 2020 », 2004, pp. 4-5. Observatoire interrégional du marché de l’emploi, Neuvième rapport de l’OIE - Mobilité des frontaliers, 2014, p. 21.

<sup>277</sup> See [http://europa.eu/rapid/press-release MEMO-14-344 en.htm](http://europa.eu/rapid/press-release_MEMO-14-344_en.htm), last accessed 1st October 2015.

<sup>278</sup> EUROPEAN COMMISSION Employment, Social Affairs and Inclusion DG Posting of workers in the European Union and EFTA countries: Report on A1 portable documents issued in 2010 and 2011, October 2012, pp. 13-14. This document allows workers living in an EU Member State to be posted in another Member State and do not be compelled to pay contributions to the other Member State social security scheme in order to be entitled to state-funded healthcare there.

<sup>279</sup> STATEC, *Note de conjuncture: La situation économique au Luxembourg – Évolution récente et perspectives*, n°1/2015, p. 8.

<sup>280</sup> Banque Centrale de Luxembourg, [Evolution de la somme des bilans des institutions financières monétaires](#), 7 août 2015, last accessed 1st October 2015.

<sup>281</sup> There were 121849 new recruitments and 112.617 contract termination (including 5.353 retirements). RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 1.

<sup>282</sup> RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 2.

<sup>283</sup> RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 1.

<sup>284</sup> RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 10.

<sup>285</sup> RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 10.

<sup>286</sup> LU EMN NCP, Determining labour shortages and the need for labour migration from third countries in the EU, Focussed study, 2015, p. 1.

<sup>287</sup> STATEC, [Emploi salarié intérieur par lieu de résidence et nationalité 1995 – 2015](#), 2015, last accessed 1st October 2015.

<sup>288</sup> RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 13.

<sup>289</sup> There Luxembourgish retirees were 800 more than the cross-border workers who retired and 1200 more than the foreigner resident population who retired during 2014. RETEL, *Tableau de bord du marché de l’emploi: période de référence: 31 décembre 2013 – 31 décembre 2014*, n° 3 – juin 2015, p. 6.

<sup>290</sup> It is important to note that the information provided is extracted from the Inspectorate General of Social Security which are provided up to 31 March of each year. For comparability reasons the data that will be used is from 31 March 2013 and 31 March 2014.

<sup>291</sup> CEFIS, *Salariés résidents travaillant au Luxembourg selon nationalité et sexe (situation au 31 mars 2013)* and *Salariés résidents travaillant au Luxembourg selon nationalité et sexe (situation au 31 mars 2014)*. The difference with the data provided by STATEC is that this data is established at the 31 March of each year and it includes the season workers.

<sup>292</sup> Ministry of Foreign and European Affairs, Activity Report 2014, p. 13.

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- <sup>293</sup> LU EMN NCP, Annual policy report on migration and asylum, Luxembourg, 2015, p. 34.
- <sup>294</sup> Ministry of Foreign and European Affairs, Activity Report 2014, p. 15.
- <sup>295</sup> European Union Newsroom, EU Sanctions against Russia over Ukraine crisis, [http://europa.eu/newsroom/highlights/special-coverage/eu\\_sanctions/index\\_en.htm](http://europa.eu/newsroom/highlights/special-coverage/eu_sanctions/index_en.htm)
- <sup>296</sup> Directorate of Immigration, Press Conference, “Figures for the year 2014”, 30.01.2015, pp. 15-16, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>
- <sup>297</sup> Directorate of Immigration, Press Conference, “Figures for the year 2014”, 30.01.2015, pp. 14-16, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>
- <sup>298</sup> Ibidem
- <sup>299</sup> Ibidem.
- <sup>300</sup> Ibidem.
- <sup>301</sup> The data for 2015 refers only to the first semester of the year, from 1<sup>st</sup> January until 31 August 2015.
- <sup>302</sup> Chambre de Députés, *Corinne Cahen: Nouveau centre de primo-accueil*, 22.09.2015, last accessed 1st October 2015.
- <sup>303</sup> L’essentiel, *650 réfugiés accueillis à Luxembourg-Ville*, 16 September 2015, last accessed 1st October 2015.
- <sup>304</sup> See Chapter 2 for more details.
- <sup>305</sup> However, it is important to mention that some of the positive decisions do not correspond the applications filed in 2014 because they can be older applications from previous years.
- <sup>306</sup> Directorate of Immigration, Press Conference, “Figures for the year 2014”, 30.01.2015, p.14, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>
- <sup>307</sup> Ministry of Foreign and European Affairs, Activity Report 2012, pp. 78-88 and Activity Report 2013, pp.71-82 ; Directorate of Immigration, Press Conference, “Figures for the year 2014”, 30.01.2015, pp. 3 – 11 ; Ministry of Foreign and European Affairs, Statistics concerning International protection in the Grand-Duchy of Luxembourg – June 2015, 2015, p.p. 2, 6.
- <sup>308</sup> No information available.
- <sup>309</sup> Ministry of Foreign and European Affairs, Statistics concerning International protection in the Grand-Duchy of Luxembourg – August 2015, p.2
- <sup>310</sup> All recognition rates refer to refugee and subsidiary protection status.
- <sup>311</sup> LU EMN NCP answer to the FI EMN NCP AHQ on Asylum seekers for Iraq launched on 17 September 2015, answered by LU EMN NCP on 23 September 2015.
- <sup>312</sup> There is no data available for 2015.
- <sup>313</sup> Ministry of Foreign and European Affairs, Activity Report 2014, p. 98
- <sup>314</sup> Ibidem.
- <sup>315</sup> Ministry of Foreign and European Affairs, Activity Report 2013, p. 85
- <sup>316</sup> Ministry of Foreign and European Affairs, Activity Report 2012, p. 89
- <sup>317</sup> Ministry of Foreign and European Affairs, Activity Report 2013, p. 83
- <sup>318</sup> Ministry of Foreign and European Affairs, Activity Report 2014, p. 98
- <sup>319</sup> Ibidem
- <sup>320</sup> Ministry of Foreign and European Affairs, Statistics concerning International protection in the Grand-Duchy of Luxembourg – June 2015, p. 7
- <sup>321</sup> Assisted Returns refer to IOM supported returns and are included in Voluntary returns in the table.
- <sup>322</sup> Forced returns refer to migrants who had to be escorted back in their Country of Origin by police officers.
- <sup>323</sup> Ministry of Foreign and European Affairs, Activity Report 2014, p. 94
- <sup>324</sup> Ministry of Foreign and European Affairs, Statistics concerning International protection in the Grand-Duchy of Luxembourg – June 2015, 2015, p. 7
- <sup>325</sup> For the purpose of this report, campuses of foreign universities are not taken into consideration.
- <sup>326</sup> See Law of 12 August 2003 creating the University of Luxembourg, Memorial A N°149 of 6 October 2003, <http://www.legilux.public.lu/leg/a/archives/2003/0149/a149.pdf#page=2>.
- <sup>327</sup> University of Luxembourg, Student Registration Statistics WS 2014-15 (As of 31/12/2014), p. 1
- <sup>328</sup> Ibidem, p.3
- <sup>329</sup> Ibidem
- <sup>330</sup> Ibidem, p.8
- <sup>331</sup> Ibidem, p.11
- <sup>332</sup> University of Luxembourg, <http://www.en.uni.lu/international>, last accessed 1st October 2015.
- <sup>333</sup> University of Luxembourg, Student Registration Statistics WS 2014-15 (As of 31/12/2014), p.1
- <sup>334</sup> University of Luxembourg, Student Registration Statistics WS 2014-15 (As of 31/12/2014), p. 11
- <sup>335</sup> Ibidem, p. 17

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<sup>336</sup> Ibidem, p.11

<sup>337</sup> Ibidem, p. 12

<sup>338</sup> Rates calculated by comparing Winter Semester 14/15 registration to Global New Students growth Rate of the respective programs (Bachelor and Master)

<sup>339</sup> University of Luxembourg, Student Registration Statistics WS 2014-15 (As of 31/12/2014), p.14

<sup>340</sup> University of Luxembourg, Student Registration Statistics WS 2014-15 (As of 31/12/2014), p.14

<sup>341</sup> Directorate of Immigration, Press Conference, “Figures for the year 2014”, 30.01.2015, pp.15-16, <https://www.gouvernement.lu/4402750/150130---dossier-de-presse---vf-rev.pdf>.

<sup>342</sup> Ibidem, p.15

<sup>343</sup> University of Luxembourg, Student Registration Statistics WS 2014-15 (As of 31/12/2014), p.16

<sup>344</sup> Clement, F., Maas, Roland, *Le travail non déclaré au Luxembourg*, Gouvernance & Emploi n° 1, CEPS/INSTEAD, November 2007, p. 3.

<sup>345</sup> Law of 21 December 2012 on the illegal employment of third-country nationals residing illegally, [http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/179/117708.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/171/179/117708.pdf), last accessed 1st October 2015.

<sup>346</sup> Article 89 of the Law on Immigration says : (1) Subject to the condition that his presence is not likely to pose any threat to public order, public security, or public health, and under the condition that he did not use false or misleading information on his identity and has shown real commitment to integrate, a residence permit can be granted by the Minister to the third-country national in view of the following exceptional reasons:

1. he provides proof that he resided continuously by any means on the territory and that he has regularly worked on the territory since at least eight years, or
2. he provides proof that he has completed at least six years of education at a school in the Grand-Duchy of Luxembourg, under the condition that he has submitted his application within the year after his eighteenth birthday.

<sup>347</sup> Article L.572-3 (1) of the Labour Code

<sup>348</sup> Article L.572-3 (1) 2 and 3 of the Labour Code.

<sup>349</sup> Article L-572-4 (1) of the Labour Code.

<sup>350</sup> 1. The infringement is persistently repeated; 2. The infringement concerns the simultaneous employment of a significant number of illegally staying third-country nationals; 3. The infringement is accompanied by particularly exploitative working conditions; 4. The infringement is committed by an employer who uses work or services from an illegally staying third-country national with the knowledge that (s)he is a victim of trafficking in human beings; 5. the infringement relates to the illegal employment of a minor.

<sup>351</sup> Article L-572-5 (1) of the Labour Code

<sup>352</sup> Article L.572-6 (1) of the Labour Code.

<sup>353</sup> Article L.572-6 (2) of the Labour Code.

<sup>354</sup> Article L.572-7 (1) of the Labour Code

<sup>355</sup> L.572-7 (2) of the Labour Code.

<sup>356</sup> Article L.572-10 (1) in conjunction with L.572-7 (2) of the Labour Code.

<sup>357</sup> Article L.572-7 (1) paragraph 2 of the Labour Code.

<sup>358</sup> [http://www.itm.lu/files/live/sites/itm/files/itm/miss\\_val\\_vis\\_obj/missions.pdf](http://www.itm.lu/files/live/sites/itm/files/itm/miss_val_vis_obj/missions.pdf), last accessed 1st October 2015.

<sup>359</sup> Article L. 612-1 (1) f) of the Labour Code as amended by the Law of 21 December 2012.

<sup>360</sup> Inspectorate of Labour and Mines, Activity Report 2014, Luxembourg, p. 51.

<sup>361</sup> Inspectorate of Labour and Mines, Activity Report 2014, Luxembourg, p. 45.

<sup>362</sup> Pôle Détachement et Travail illégal (PDTI)

<sup>363</sup> Inspectorate of Labour and Mines, Activity Report 2014, Luxembourg, p. 44.

<sup>364</sup> Cellule inter-administrative de lutte contre le travail illégal.

<sup>365</sup> Inspectorate of Labour and Mines, Activity Report 2014, Luxembourg, p. 45.

<sup>366</sup> Inspectorate of Labour and Mines, Activity Report 2014, Luxembourg, p. 45.

<sup>367</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0067&from=FR>, last accessed 1st October 2015.

<sup>368</sup> European Commission Press Release, Employment: Commission welcomes Council adoption of Posting of Workers Enforcement Directive, 13 May 2014, last accessed 1st October 2015.

<sup>369</sup> Guichet.public.lu, Creation of a social identification badge, 8 October 2013, last accessed 1st October 2015.

<sup>370</sup> [http://www.eurodetachement-travail.eu/synthese/informer-sensibiliser/SensibiliserMO\\_Luxembourg\\_FR.html](http://www.eurodetachement-travail.eu/synthese/informer-sensibiliser/SensibiliserMO_Luxembourg_FR.html), last accessed 1st October 2015.

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<sup>371</sup> Information provided by the ITM.

<sup>372</sup> Article L.142-1 of the Labour Code.

<sup>373</sup> Inspectorate of Labour and Mines, Activity Report 2014, Luxembourg, p. 48.

<sup>374</sup> European commission, Institut du Travail – Université de Strasbourg, European Institute for Construction Labour Research, *Détachement des travailleurs : Améliorer les collaborations entre les partenaires sociaux et les autorités publiques en Europe – Synthèse générale*, p.146

<sup>375</sup> Ibidem, pp.146-147.

<sup>376</sup> Inspectorate of Labour and Mines, Activity Report 2014, p.50

<sup>377</sup> ASTREES (Association travail emploi Europe société), Institut National du Travail, de l'Emploi et de la Formation Professionnelle (intefp), *Projet Européen Février 2014 – janvier 2015 « Agir sur les situations de détachement des travailleurs : se former par la pratique "Learning by doing" »*, p.4

<sup>378</sup> Sylvain, Besch, *Les réfugiés entre droit et politique (1990-2009)*, ASTI 30+, Luxembourg, 2010, pp. 106-123.

<sup>379</sup> Article 89 of the law of 29 August 2008 on free movement of persons and immigration published in Memorial A-138 of 10 September 2008. The original article foresaw the possibility of a regularization for any person whose presence does not constitute a danger for the public order, public security or public health, under condition to have abstained from using false or misleading information regarding his identity and to evidence a real willingness of integration under the following circumstances:

1. the person proves by any means that s/he has been residing continuously in the territory and that s/he has been habitually working in Luxembourg for at least eight years or,
2. S/he proves that s/he has finished his/her school education in a school establishment in the Grand-Duchy of Luxembourg since at least six years, under the condition to apply within the year following his 18<sup>th</sup> birthday.

People falling under the first condition will receive salaried worker permit if they also satisfy the conditions of article 42, paragraph (1), points 3 and 4.

People being granted a residence permit under point 2 of the article will obtain the permit foreseen by article 79 if they pursue their studies or professional education.

This possibility was abrogated by law of 21 December 2012.

<sup>380</sup> RTL, 5 minutes, Schmit: Regularisation of illegal individuals early 2013, 18 December 2012, <http://5minutes.rtl.lu/fr/actualite/luxembourg/365515.html>, last accessed 1st October 2015.

<sup>381</sup> MAE, Immigration Service, Residence Permits for third country nationals residing without authorisation, for public information, 3 January 2013, <http://www.mae.lu/Site-MAE/VISAS-Immigration/Titre-de-sejour-pour-ressortissants-de-pays-tiers-en-sejour-irregulier> last accessed 1st October 2015.

<sup>382</sup> Nicolas Schmit: *Eemoleg Regularisatiouns-Mesure virgestallt*, 03.01.2013, <http://news.rtl.lu/news/national/372323.html>, Europaforum.lu, *La Chambre des Députés transpose à l'unanimité une directive européenne qui sanctionne les employeurs de ressortissants de pays tiers en séjour irrégulier*, 18 December 2012, last accessed 1st October 2015.

<sup>383</sup> Directorate of Immigration, Press Conference: Figures for the year 2013, 13 February 2014, p.14, <http://www.gouvernement.lu/3508079/bilan.pdf> and answer to Parliamentary question n°2787, 16 July 2013, [http://www.chd.lu/wps/PA\\_Archive/FTSShowAttachment?mime=application%2fpdf&id=1209660&fn=1209660.pdf](http://www.chd.lu/wps/PA_Archive/FTSShowAttachment?mime=application%2fpdf&id=1209660&fn=1209660.pdf), last accessed 1st October 2015.

<sup>384</sup> Distribution by economic sector: 1. Food, beverage and hotel industry; 2. Private households; 3. Crafts; 4. Building sector.

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

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