



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

2015 POLICY REPORT ON MIGRATION AND ASYLUM

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PREFACE

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

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

ABREVIATIONS

ADR	Alternativ Demokratesch Reformpartei
AI	Amnesty International Luxembourg
AMIF	Fond européen Asile, Migration et Intégration
ASTI	Association de Soutien aux Travailleurs Immigrés
ASS	Administration des services de secours
CAI OLAI	Contrat d'Accueil et d'Intégration de l'OLAI
CASNA	Cellule d'Accueil Scolaire Nouveaux Arrivants
CCDH	Commission Consultative des Droits de l'Homme
CECRL	Cadre Européen Commun de Référence pour les Langues
CEFIS	Centre d'Etudes et de Formations Interculturelles et Sociales
CGFP	Confédération Générale de la Fonction Publique
CLAE	Comité de Liaison des Associations d'Etrangers
CPA	Centre Primo-Accueil
CSJ	Chrëschtlech-Sozial Jugendpartei
CSV	Chrëschtlech-Sozial Vollekspartei
DP	Demokratesch Partei
DPI	Demandeurs de Protection Internationale
EMN NCP	European Migration Network National Contact Point
HCPN	Haut-Commissariat à la Protection Nationale
KPL	Kommunistesch Partei Lëtzebuerg
LCGB	Lëtzebuenger Chrëschtleche Gewerkschaftsbond
LFR	Lëtzebuenger Flüchtlingsrot
LSAP	Lëtzebuergesch Sozialistesche Arbechterpartei
MFIGR	Ministère de la Famille, de l'intégration et de la Grande Région
MNA	Mineurs Non-Accompagnés
OLAI	Office Luxembourgeois de l'Accueil et de l'Intégration
OGBL	Onofhängege Gewerkschaftsbond Lëtzebuerg
Plateforme MINTE	Plateforme Migrations et Intégration
RMG	Revenu Minimal Garanti
RTL	Radio Télé Lëtzebuerg

SIP	Service information et presse du gouvernement
STATEC	Institut national de la statistique et des études économique Grand Duché de Luxembourg
SYVICOL	Syndicat des Villes et des Communes Luxembourgeoises
UE	Union Européenne
UNEL	Union Nationale des Etudiant-e-s du Luxembourg
UNHCR	United Nations High Commissioner for Refugees

PRELIMINARY CONSIDERATIONS

Methodology

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

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

The principal sources of information that were used are:

- Information provided by national governmental and non-governmental experts;
- Information provided by non-governmental organisations active in the field of migration and asylum;
- Systematic monitoring of parliamentary debates and questions;
- Systematic consultation of all the press articles written in the main daily and weekly newspapers in Luxembourg;
- Systematic consultation of relevant internet sites (ministries, non-governmental organisations, etc.);
- Consultation of reference documents such as studies and activity reports from various actors, etc., which have fed the debate on asylum and migration policies in Luxembourg;
- Consultation of the positions taken by non-governmental organisations;
- Consultation of the database on administrative case law regarding migration and international protection established by the Luxembourg National Contact Point within the European Migration Network.¹

Terminology and definitions

As for terminology, we refer to the terms used in the Asylum and Migration Glossary 3.0 of the European Migration Network².

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

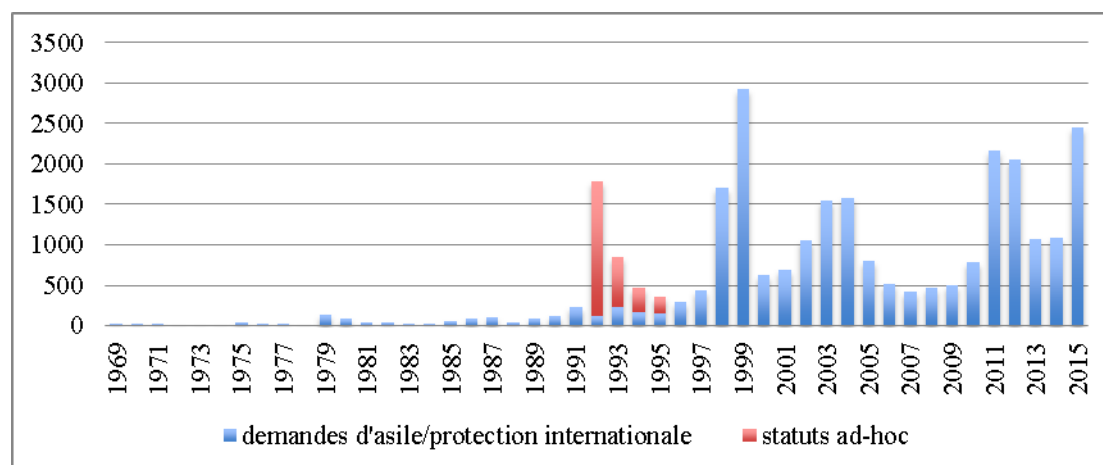
1. OVERVIEW OF MIGRATION AND ASYLUM POLICY AND DEMOGRAPHIC CHANGES

2015 could be described as historic in terms of migratory phenomena and its effects on Luxembourg society. Although population growth in the Grand Duchy continued to rise in 2015, net immigration accounts for over 80% of demographic growth. In 2015, the migratory balance (arrivals–departures) totalled 11,159 new inhabitants (compared to 11,049 in 2014), increasing the resident population by 13,291 inhabitants.⁴ The lion's share of this net migration was based on the settlement of French nationals (+2,283) followed by Portuguese nationals (+1,560) and Italian nationals (+1,040).⁵

Overall, in January 2016, the population of Luxembourg stood at 576,249 inhabitants, with 46.7%, or 269,175 inhabitants, being foreign nationals. In addition, out of these foreign nationals, 39.8%, or 229,506 inhabitants, are EU nationals. They make up 39.8% of Luxembourg's total population and 85.3% of the foreign population. This is consistent with the uniqueness of Luxembourg, a country which, on the one hand, has the highest rate of foreign residents and, on the other hand, the highest proportion of EU nationals in its foreign population. It should also be emphasised here that the proportion of foreign nationals in the total population has steadily increased in recent years. The percentage of foreign nationals has in fact increased from 36.9% in 2001 to 46.7% in 2016.⁶

Applications for international protection (hereinafter AIP) also increased significantly, more than doubling compared to the previous year (2,447 applicants in 2015; 1,091 in 2014). However, at this stage it would be premature to speak of an "unprecedented crisis". Need we be reminded of the considerable influx of refugees fleeing from the former Yugoslav Republic into the Grand Duchy, both in the early nineties and during the latter part of the last century? If we examine closely the numbers of applications for international protection and ad-hoc protection statuses over recent decades, it soon becomes apparent that there is a correlation in the fluctuations between the periods of growth and decline in relation to specific events.

Number of applications for asylum/international protection and ad-hoc status ⁷ (1969-2015)



Source: Ministry of Foreign Affairs, Ministry of Justice, Directorate of Immigration; information provided by CEFIS asbl, 2016

Despite this nuance which must be recognised whenever we talk about the "refugee crisis", the issue of refugees and asylum has been a subject of much discussion, both in public and policy debates and in the media and on social networks. This has allowed Luxembourg residents to reflect on and discuss principles such as solidarity and social cohesion, as well as democracy, the rule of law, community life and even identity.

Moreover, the debates and issues of the referendum of 7 June 2015 were centred on the very same principles, in which one of the questions submitted to Luxembourg voters concerned the right for non-Luxembourgish residents to vote in legislative elections. From the outset, it should be noted that 46.7%⁸ of Luxembourg residents do not have Luxembourg nationality, and are therefore excluded from participating in the national legislative elections. 2015 was therefore one of the rare years when Luxembourg has called a referendum to address the key issue of social cohesion.

Although a reform of the law on nationality was well underway prior to 2015, it shaped the debate surrounding the issue of voting rights for foreign residents. Presented ahead of and during the referendum campaign as an alternative to voting rights for foreign residents, following the referendum, the acquisition of Luxembourgish nationality appears to be the only realistic means by which foreign nationals would be granted the right to vote in national elections. Luxembourgers overwhelmingly rejected the referendum question of residence-based citizenship granting voting rights in legislative elections to foreign residents.

Given their prominence in the debates that took place in 2015, this report focuses on

the following three issues: international protection, the referendum and more specifically voting rights for foreign residents, as well as the reform of the law on nationality.

As regards any other policy changes or additions during the course of the year concerning immigration and asylum, please consult the *"2015 Policy Report on migration and asylum Part 1"*. The main policy changes or additions that took place in 2015 are associated with various aspects of migration policies, measures regulating immigration, measures facilitating integration, as well as measures aimed at combating irregular migration. The policy changes implemented were as follows:

- In March 2015, the Grand-Ducal Regulation of 9 March 2015 amending the Grand-Ducal Regulation of 7 May 2009 establishing the procedures for issuing a laissez-passer was adopted. The regulation extended the scope and conditions for issuing a laissez-passer to persons who are not in possession of any travel document but are nevertheless authorised to stay in Luxembourg.
- The multi-year programme of the European Union "Asylum, Migration and Integration Fund" (AMIF) proposed by Luxembourg was adopted by the European Commission on 18 March 2015. It is expected that some of the actions will be carried out by the authorities themselves, while others will be subject to a call for proposals. The actions to be launched in 2015 concern in particular assistance to applicants for international protection, the development of mechanisms promoting empowerment and the professional integration of third-country nationals, as well as the monitoring of migration flows. As regards the returns policy implemented in the framework of the fund, this will form part of efforts in pursuance of the existing policy. In the long-term, it includes in particular prioritising voluntary returns and improving the forced returns process, along with supporting measures.
- A Government Council Decree of 22 May 2015 establishes the minimum salary threshold for the granting of the European Blue Card for certain professions. To facilitate the recruitment of highly qualified people, the decree also establishes, for the first time, a list of professions, particularly in the Information and Communications Technology (ICT) sector, in which the government believes there is a skilled labour shortage.

- The work on the transposition of Directive 2014/36/EU on seasonal workers and Directive 2014/66/EU on temporary intra-corporate transfers were finalised and a draft bill will be tabled in 2016. The latter will also provide a new category of resident permits for investors.
- On 13 October 2015, the Minister of Foreign and European Affairs signed a bilateral migration agreement between Luxembourg and Cape Verde. The agreement, under the EU's Mobility Partnership with Cape Verde, covers migration management by facilitating legal migration, measures aimed at inclusive development and circular migration, as well as provisions for readmission.
- The roll-out of the VIS (*Visa Information System*) in all of the Luxembourg embassies was completed on 20 November 2015.
- Luxembourg, via the Directorate of Cooperation, contributed 3.1 million euros to the new EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, set up in connection with the Valletta Summit in November 2015.
- In 2015, Luxembourg, on two occasions, seconded a Refugee Officer to support the FRONTEX operations in the Mediterranean. Luxembourg has also committed to providing the European Asylum Support Office (EASO) with six officers from the Directorate of Immigration who will be seconded during the course of 2016.

2. INTERNATIONAL PROTECTION

2.1. "Refugee crisis": Challenges and responses

2015 was one of the worst years Europe and the world has experienced over the last decade: successive political crises, Jihadist terrorism, the rise of right wing extremism and the "refugee crisis". While Syria has been ravaged by four years of continuous war, the world has seen a dramatic rise in the number of exiles, stateless persons and refugees. Although countries in the Middle East (Lebanon, Jordan and Iraq), South-East Asia (Bangladesh and Thailand) and Africa (Ethiopia and Kenya) are continuing to accept the majority of refugees, an unprecedented number of applicants for international protection have been admitted to Europe. One million people in fact crossed the Mediterranean in 2015⁹ in search of protection.

The European policy response to address the imperatives facing Europe has, however, during this troubled year, been painfully slow. Although "Mafia-run human trafficking rings" have rapidly been caught, Europe appears to be divided and fragmented in light of the urgency to reach a "political consensus" on operational rules that offers sustainable solutions. For example, many of the Member States fought tooth and nail against a relocation agreement for tens of thousands of refugees.¹⁰

Although to a lesser extent, and not on the same level as the emergency situations arising in other parts of Europe, Luxembourg has felt the effects of this emergency situation. Consequently, as noted at the beginning of this section, the number of applications for international protection peaked in 2015 with 2,447 applicants, compared to 1,091 new arrivals in 2014, 2,057 in 2012 and 796 in 2010. There was also a change regarding the main countries of origin of applicants for international protection. Consequently, Syria (669, representing 27.3%) and Iraq (539, representing 22%) were the top two countries of origin in 2015. However, the Western Balkans, and in particular Kosovo (239, representing 9.8%), remained in the top ten countries of origin of applicants for international protection.

Country of origin of applicants for international protection in 2015			
	Country of origin	Number of persons	% of the total amount of applications in 2015
1	Syria	669	27.3%
2	Iraq	539	22 %
3	Kosovo	239	9.8 %
4	Afghanistan	214	8.7%
5	Albania	153	6.3 %
6	Montenegro	72	2.9%
7	Bosnia-Herzegovina	68	2.8 %
8	Iran	64	2.6 %
9	Serbia	56	2.3 %
10	Eritrea	38	1.6 %
	Other	335	16%
	Total	2447	100%

Source: Directorate of Immigration, 2016

Although this situation did not in itself create an "unprecedented crisis", given that Luxembourg has previously experienced similar intake periods¹¹, it has, however, required considerable efforts, which will be set out and examined in more detail below.

In general, since the beginning of the increasing influx of arrivals on Grand-Ducal territory, the government has adopted a relatively inclusive and welcoming policy. This attitude can be demonstrated in the measures taken during a state of emergency (i.e. the emergency reception plan and reinforcement of staff), which advocates for finding a solution for refugees based on European solidarity and the support of Luxembourg with the relocation and resettlement of refugees.¹² In the initial version of the draft law on the reception of applicants for international protection, the legislator also conveys this intent of inclusiveness. The creation of a new legislative framework for asylum through the transposition into national law of the "asylum package"¹³ in December 2015 was agreed to at the start of the legislative process with much optimism, both by politicians and civil society. These legislative changes can even be described as a "paradigm shift".¹⁴

This welcoming environment, created at the end of the summer in 2015, has mobilised associations and volunteers. Le Tageblatt, in reference to a public opinion survey conducted by TNS ILRES on the reception of refugees in Luxembourg¹⁵,

indicated in fact, at the end of October 2015, that "refugees are welcome in Luxembourg".¹⁶ Moved by the wave of solidarity shown following the summer of 2015, beyond national borders, potential volunteers from all walks of life offered their assistance, to the point that reception facilities and services have received an overwhelming response from volunteers, whose contribution cushions the effects of what has been commonly referred to as a "crisis".

A series of initiatives have consequently emerged in the Luxembourg charity sector, ranging from the collection of donations of equipment (*Centre Collecte de Tri, eng Hand fir ALL Kand Asbl, Catch a Smile Asbl, Association Narin*), the promotion of intercultural dialogue (*mir wëllen iech on Heemecht weisen*), awareness-raising campaigns (*Linking Luxembourg*) and specific recreational activities (*Sportsunity, Serve the City*). Other initiatives, such as, in particular, *Reech eng Hand*, an initiative of the Catholic Church in Luxembourg, and ASTI's Coaching Project, offer solutions for the reception and day-to-day support of refugees. In the area of philanthropic financing, the Oeuvre Nationale de Secours Grande-Duchesse Charlotte Foundation also agreed on the launch of a call for projects dealing with all activities aimed at supporting refugees and promoting their integration. Moreover, on the social networks, initiatives, appeals and groups dedicated to the support of refugees and applicants for international protection, which include *WELLcome, Refugee Support Luxembourg* and *Refugees Luxembourg*, to name but a few, have proliferated.

The arts and culture scene also joined this surge of solidarity: the launch of the interactive media installation *Euphobia*¹⁷, a fictitious immigration office where anyone can experience the entry process on European soil, and the release of the feature documentary *Mos Stellarium*¹⁸, about the journey of young applicants for international protection living in Luxembourg.

As voluntary action increased during the course of 2015, the OLAI was required to develop a logistic management information system for people wishing to volunteer. The office therefore set up a Volunteer Hotline, which was opened in October 2015, aimed at coordinating the offers of voluntary support and donations of goods.¹⁹

Although solidarity, even euphoria, seemed to continue to set the pace, at least until autumn 2015, some journalists²⁰ were nevertheless of the opinion that some qualification of this apparently general trend was required. At a time when European policy repeatedly refers to the potential terrorist threat associated with an open-door

policy, such as that conducted by the German Chancellor, a survey conducted by TNS ILRES²¹ has clearly demonstrated that solidarity is not shown by all Luxembourgers. Although one-quarter of survey respondents said that Luxembourg had a moral obligation to help refugees and 56% believed that refugees should have the right to welfare benefits, one-third of respondents were not in favour of welcoming applicants for international protection into their neighbourhoods. 25% believed moreover that Luxembourg had accommodated sufficient refugees.

2015, with the political context surrounding the referendum and the increase of migratory flows, also saw the emergence of certain right-wing political parties, such as for example, the SDV (*Sozial Demokratesch Vollekspartei*) – a party set up in spring 2015. Such initiatives have nevertheless been weak and have not really translated into concrete actions. Luxembourg, unlike its neighbour Germany, was until now free of extreme right-wing populism. As Léonie de Jonge points out²², a doctoral student at Cambridge, in an article recently published on the forum, the main platforms for the exchange of populist ideologies²³ in Luxembourg are panels and websites. Xenophobia is a subject that is pretty much taboo in the Grand Duchy, yet these platforms allow people to express their views on illegal subjects while remaining anonymous.

In what follows, this report provides readers with a snapshot of the political developments in international protection. The report first provides an outline of the establishment of the emergency plan, new facilities and the increased staffing levels, before presenting the relocation and resettlement process that Luxembourg has implemented during 2015 and the integration pathway for refugees and applicants for international protection. Focus will then turn to the transposition of the two aforementioned European Directives into national legislation: these directives will be discussed in greater detail below. Lastly, a brief overview of the case law in the field of international protection will be provided.

2.2. Emergency plan and new facilities

Following the increase in the number of applicants for international protection in Europe and Luxembourg, the Government Council, at the formal request of the Ministry of Family, Integration and the Greater Region (MFIGR), granted a mandate in July 2015 to the High Commissioner for National Protection (HCPN) to implement an emergency plan for the reception of applicants for international protection.

These activities are coordinated by the HCPN together with the OLAI and in cooperation with a host of other stakeholders²⁴, with the main objective being to implement "*a responsible and supportive migration policy in order to ensure a stable framework and adequate management of each refugee arriving in Luxembourg*".²⁵

On 11 September 2015, the cabinet of the Luxembourg government agreed in principle to the implementation of an emergency reception concept for international protection. During an initial phase, in the short term, the plan foresees the establishment of four primary reception centres (CPA)²⁶ and in the medium term the establishment of three separate primary reception centres in the form of "container villages"²⁷ that will be available mid-2016. The latter in particular have prompted much debate and considerable uncertainty, even apprehension among the general public as well as among some government officials. In the municipalities that the government has identified as sites for the establishment of container villages, information meetings have been organised in order to address local concerns. The residents have in general come out in favour of the establishment of such villages. However, in Steinfort, the residents have rallied behind a citizens' initiative "*Keen Containerduerf am Duerf* (No container village in the village)" which claims not to be opposed to taking in refugees, but questions the use of containers and of the formation of ghettos on the outskirts of the village.²⁸

In addition to the setting up of reception facilities, the emergency reception concept also foresees the setting up of an evaluation unit of inflows of applicants for international protection, tasked with permanently monitoring the situation. It is composed of representatives of the Directorate of Immigration, the OLAI and the HCPN as well as a logistics unit chaired by the Luxembourg Civil Defence Service (*Administration des services de secours* [ASS]) responsible for coordinating the construction and fitting out of the reception facilities.²⁹

2.3. Increased staffing levels

The high number of applicants for international protection during the course of 2015 also resulted in increased staffing levels at the national authorities responsible for registering and processing applications for international protection.

Consequently, the ministers agreed to recruit from within their departments to identify, on a voluntary basis, some twenty employees to be temporarily seconded to OLAI.³⁰

With the aim of satisfying the dual objective of "Procedures" directive 2013/32/EU, to ensure quicker access to first instance procedures and the protection of applicants' rights, the Government Council also agreed to recruit additional officers to the Refugee Department of the Directorate of Immigration.³¹

2.4. Resettlement and relocation

Although resettlement, a concept that emerged after the second world war, is defined as "the transfer of refugees from a country in which they have sought protection to a third state which has agreed to admit them"³², relocation is defined as "the transfer of persons having the status defined by the Geneva Convention or subsidiary protection within the meaning of Directive 2004/83/EC from the Member State which granted them international protection to another Member State where they will be granted similar protection."³³ In 2015, Luxembourg participated in both resettlement and relocation programmes.

For example, on 5 and 6 May 2015, 2015, Luxembourg selected 46 Syrian refugees for resettlement from Turkey. Following an international appeal launched by the UN Refugee Agency (UNHCR), Luxembourg had already taken in 28 refugees in April 2014. The 43 refugees that arrived on 5 May 2015 were welcomed at Luxembourg Airport by the Minister of Family and Integration, the Director of the Luxembourg Reception and Integration Agency (OLAI), the Director of Immigration, the Ministry

of Foreign and European Affairs, the Mayor of Berdorf and the Vice-President of SYVICOL.

The eight families – comprising 16 adults and 27 children – were selected following interviews conducted in November 2014 by a Luxembourg delegation in Istanbul. They were granted refugee status, as provided for by the Geneva Convention and the amended Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection.

Initially, the refugees are accommodated at the Héliar Centre in Weilerbach, pending their relocation in facilities and accommodation across the country. OLAI is also responsible for reception services, administrative support, welfare assistance as well as social and educational support for children.

In cooperation with the Ministry for National Education, Childhood and Youth, OLAI also arranges education for children and young people. Children under the age of 13 initially attend special reception classes at the Héliar Centre, while young people above this age attend secondary education reception classes. Language courses are also offered to adults.

The resettlement of the Syrian refugees was partly financed by the new Asylum, Migration and Integration Fund (AMIF) for 2014–2020).³⁴

In addition to the resettlement of 74 refugees, in September 2015, Luxembourg, on an ad-hoc basis, relocated 42 Syrian refugees (9 families, comprising 21 adults and 21 children) from Baden-Württemberg (Germany). Luxembourg also responded positively to an appeal from the German authorities to accept around AIPs who had travelled to Germany via Austria. As with the resettled refugees, the relocated refugees have been housed initially at the Héliar Centre in Weilerbach, before being relocated across the country.³⁵ Luxembourg had initially agreed to accommodate 50 refugees, but due to time constraints and difficulties persuading the refugees to leave, eight people eventually remained in Germany.³⁶

Up to the end of 2017, Luxembourg will receive asylum seekers from Greece and Italy, and an additional 194 asylum seekers once the reserve has been allocated.³⁷

Within the framework of this European relocation mechanism³⁸, on 4 November 2015, Luxembourg carried out the first relocation of 30 refugees from Greece. These comprised two Iraqi and four Syrian families. Their departure from Greece was attended by the Minister of Foreign and European Affairs, the Minister for Immigration and Asylum in Luxembourg, the European Commissioner for

Immigration and Home Affairs, the Greek Prime Minister and the President of the European Parliament.

During a press conference held following the departure to Luxembourg, the Minister of Foreign and European Affairs and the Minister for Immigration and Asylum in Luxembourg stressed that: *"We need responsibility and solidarity to respond to the difficult challenge of migration, in arrival, transit and destination countries alike."*³⁹

The last refugee relocation carried out by Luxembourg dates back to 2010, when six Somali, Eritrean and Ethiopian refugees were transferred to Luxembourg from Malta.⁴⁰

2.5. Reception and integration of AIPs and refugees

2.5.1. Education

The education and schooling of young refugees continues to pose a significant challenge in terms of the policy related to the reception of new arrivals.

In principle, newly arrived minor applicants for international protection under the age of 12 are enrolled, upon the decision of the inspector, at a school in the municipality where they reside, and more specifically are placed in classes according to their age. Outside of their regular school programme, they can take one or more weekly intensive learning classes in the school's language(s).⁴¹

The reception of refugee children aged over 12 is managed by the reception centre for newly arrived pupils – *Cellule d'accueil scolaire des élèves nouveaux arrivants* (CASNA). CASNA assesses the prior learning and language skills of the pupil and refers the pupil to the school that best fits their profile and skills. At school, pupils who have difficulty with some or any of Luxembourg's official languages are enrolled into reception class.

In particular, in response to the current situation, the Ministry of National Education, Childhood and Youth recruited two additional teachers for the 2014/2015 school year to meet the needs of Syrian pupils enrolled in special reception classes at the Héliar Centre in Weilerbach. In collaboration with the Directorate of Immigration and OLAI, additional training on the reception and education of minor applicants for international protection and refugees has also been offered.⁴²

With the aim of offering them better prospects for the future and a better chance of educational success, the government has committed to deploying all of the necessary resources to ensure the integration of child refugees into the Luxembourg education system. To this end, and to better coordinate the education of children from refugee families, the Ministry of National Education, Childhood and Youth established a task force.⁴³

Intercultural mediators have also been appointed in order to facilitate communication between teachers, families and pupils through the use of interpretation. The government continues to grant the hosting municipalities an annual subsidy of 991.57 Euros per child of asylum seekers attending class in the state education system.

Basic training courses (learning to read, write or do arithmetic) offered by the Adult Training Service and its contractual partners are also offered free of charge to applicants for international protection. Where it is deemed necessary to organise additional classes in order to cope with a mass influx of applicants for international protection, the municipalities that have signed up to an agreement may in addition request an amendment thereof. Municipalities that have not yet signed an agreement may do so at any time.

Lastly, the initiative "*Eischt 100 Wierder Lëtzebuergesch*" was designed to introduce applicants for international protection to the Luxembourgish language and the education system. It offers an interactive and game-based approach that places emphasis on the Luxembourgish language while recognising the country's other official languages, as well as the native language of the participants.⁴⁴ There were also many other initiatives launched by associations and coordinated by volunteers.⁴⁵

2.5.2. *Labour market*

In the framework of the European Asylum, Migration and Integration Fund (AMIF), the non-governmental organisation CLAE asbl set up a programme named "InSitu JOBS", which targets third-country nationals and beneficiaries of international protection seeking employment and which offers a gateway back into the working world. The programme offers individual support with job-seeking, thematic group workshops and access to various professional networks and bodies working in the field of social inclusion and employability.⁴⁶

2.5.3. Housing

In its response to a parliamentary question ⁴⁷, the Ministry of Family and Integration clarified the measures to support the housing of refugees who have acquired the status of international protection.

The latter continue therefore to benefit from free accommodation and food for a period of three months to give them sufficient time to carry out the administrative procedure for obtaining the RMG (guaranteed minimum income) and other welfare entitlements. After this three-month period, the beneficiaries of international protection who have not found appropriate housing can continue to reside in the OLAI reception facilities and may still benefit from its services and advice, but they will be required to contribute to the rental costs. The contribution to housing costs is calculated on the basis of household composition.⁴⁸

According to the Minister of Home Affairs, the high number of refugees that have arrived over recent months requires specific and temporary measures and significant efforts to ensure that everyone is housed.

Consequently, the Government has drawn up a package of measures "*in a spirit of national solidarity and shared responsibility*"⁴⁹ in order to support the municipalities in their efforts surrounding the reception and integration of beneficiaries of international protection, and in particular the provision of housing.

A programme has been developed to provide rental housing owned either by municipalities, or by private individuals rented to municipalities, to beneficiaries of international protection and any individuals who are on the waiting list of the National Housing Fund. For housing rented by municipalities from private property owners, the State will cover the difference between the rent negotiated in the contract with the private property owner, subject to a cap, and the amount for provision in accordance with a set scale. In a first phase, the programme will run for a period of three years and will be coordinated by the Ministry of Home Affairs, the Ministry of Housing and OLAI.⁵⁰

2.6. "Asylum package": Transposition and reactions

In 2015, two draft bills on asylum were introduced to transpose two European directives into national law, Directive 2013/32/EU on common procedures for the granting and withdrawing of international protection, and Directive 2013/33/EU laying down standards for the reception of applicants for international protection.

In what follows, firstly we will describe the new provisions provided for by these two draft bills before briefly reflecting on the reactions from civil society following the adoption of the legislative package.

2.6.1. Law of 18 December 2015 on the reception of applicants for international protection and temporary protection

The Law of 18 December 2015 on the reception of applicants for international protection and temporary protection⁵¹ (hereinafter "the reception law") transposes Directive 2013/33/EU into national law. Luxembourg's transposing act has now entered into force, whereas up until that point, the standards for the reception of applicants for international protection were mainly governed by the Grand-Ducal Regulation of 8 June 2012 and the Grand-Ducal Regulation of 21 July 2006 determining the Conditions under which applicants for international protection have access to training.

The main changes introduced by the new law in relation to the previous arrangements are as follows:

- Particular attention is to be granted to the protection of vulnerable persons, and a specific section is dedicated to the latter. From now on applicants for international protection will be assessed on a case-by-case basis in order to determine the specific needs with respect to the reception of vulnerable groups, including, in particular, unaccompanied minors and victims of trafficking.
- Within the first six weeks following arrival in Luxembourg, the applicant for international protection is obliged to submit to a medical examination for public health reasons.

- The reception law reflects the Government's wish to empower applicants for international protection. This is demonstrated through the following two provisions:
 - 1) The possibility for applicants to be involved in managing the physical resources and the non-material aspects of life in the centre through an advisory board or council representing residents.
 - 2) The possibility for international protection seekers to apply for a work permit 6 months after having filed their application if no decision has been made on their application. The initial bill fixed this period at 9 months. Nevertheless, hiring priority is still given to citizens of the European Union.
 - 3) Increased staffing levels at OLAI, the agency responsible for the reception of applicants for international protection, following the significant increase in the number of applications for international protection in 2015.
- Specific training for staff responsible for the reception and care of refugees, particularly unaccompanied minors.
- A specific section on temporary protection will be incorporated into the law, following certain provisions, including, in particular, those relating to access to the labour market, as provided for in the Law on the right of asylum.
- It should be noted that several provisions of the Grand-Ducal Regulation on the granting of social aid to international protection applicants will be incorporated into the new law, including in particular provisions relating to housing, the monthly allowance as well as the reduction or withdrawal of material reception conditions.

During the law-making process preceding the adoption of the reception law, draft law n°6775, which was introduced on 6 February 2015, underwent extensive amendments.

The draft law initially provided:

- The right to a monthly allowance in the form of in-kind assistance or vouchers, for which the amounts and granting procedures are set by Luxembourg regulations according to the stage of the application process of the applicant for international protection and his/her willingness to sign up for a support scheme. The latter, offered by OLAI to asylum seekers after they have been living in the country for

six months, was intended to empower applicants and to help them become more independent.

- The possibility for the applicant to receive payment for doing certain tasks in the reception centres and its surroundings.
- Access to the education system and to vocational training.
- A distinction made between general material reception conditions and basic material reception conditions. Basic material reception conditions are defined here as transitional provisions such as food and housing at the initial reception centre as well as basic medical care. Applicants for international protection have access to the latter regardless of the length of time that they have been staying at an emergency reception centre.
- The replication of the provision of the existing legislation on the access of applicants for international protection to the labour market. The latter provides that applicants for international protection are entitled to a temporary work permit if the minister responsible for asylum has not taken a decision within nine months of submitting their application for international protection.

The government's amendments⁵² to the draft bill then introduced a number of substantial improvements to the initial draft bill:

- The removal of the concept of "basic material reception conditions" due to its potential to generate legal uncertainty in the granting of social aid to applicants.
- The possibility for applicants for international protection to enter the labour market in the absence of a refusal decision within six months of submitting their application for international protection. This measure stems from the government's desire to prevent the risk of excluding applicants for international protection and to encourage their self-sufficiency.
- The possibility to enrol in an apprenticeship, without having been issued a temporary work permit.
- The possibility to pursue a vocational training course (an apprenticeship) until the time they are obliged to leave the country.
- Access to material reception conditions upon submission of the application and without any distinction between the period prior to and after the filing of the application or the issuance of the certificate testifying to the applicant's status.

- The replacement of community service (odd jobs) with the possibility for applicants to be involved in managing the physical resources and non-material aspects of life in the reception centre.
- The granting of full material reception conditions to applicants for international protection residing at an emergency reception centre.
- The incorporation of the amount of the monthly allowance (€25.63 for an adult) and the increase of this amount within three or six months after starting the process.
- The possibility for international protection applicants, seventh months into the application process, to sign up to a support scheme offered by the OLAI with the simultaneous substantial increase of the applicant's monthly allowance (€450 for an adult and €265 for a minor). This support scheme, aimed at encouraging the international protection applicant's independence and promoting the improvement of individual skills, incorporates activities related to the learning of the three official languages of Luxembourg or the fundamental rights of citizens and Luxembourg's State institutions; activities related to facilitating the financial and administrative procedures; social, cultural and sports-related activities or training. The scheme may be adapted at any time upon notice from the welfare assistant in charge of the applicant's case.
- An application for the reversal of decisions to withdraw or reduce material reception conditions, as well as the possibility of appeal against decisions rendered by the administrative court.

The Council of State strongly criticised a number of these provisions and presented a number of legal and political considerations.⁵³

It first pointed out the significant change in the socio-political landscape since the adoption of the directive in respect of the scale of migratory flows. It further highlighted that the draft law includes more favourable conditions than those included in the directive. An example of this is the substantial increase of the monthly allocation in cash six months into the application process. The Council of State further noted that the provisions go against the trends observed in neighbouring countries, which plan to replace the cash benefits with in-kind benefits.

More specifically, the Council of State, although it approved the idea of a support scheme, notwithstanding its general considerations, issued a formal objection due in particular to the lack of specification of the criteria for proposing or refusing a support scheme. In the final version of the draft bill, the provision relating to the support scheme was therefore removed by the legislator.

The Council of State was also opposed to the article on vocational training, particularly as regards the provision according to which the training contract would terminate in the event the applicant was forced to leave the country. The Council of State noted that this provision only applies to unsuccessful applicants for international protection and not to other foreigners for whom a return decision and removal order has not yet been enforced. The authors provide no justification for this difference in treatment.

The legislator consequently removed the provision on the possibility for applicants to enrol in an apprenticeship without having to satisfy the conditions required to obtain a temporary work permit and the possibility to embark on a vocational training course (an apprenticeship) until the time they are obliged to leave the country.

2.6.2. The Law of 18 December 2015 on international protection and temporary protection

The Law of 18 December 2015 on international protection and temporary protection⁵⁴ (hereinafter the "asylum law") transposes Directive 2013/32/EU on asylum procedures. It also repeals the amended Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection.

The main changes introduced by the asylum law are as follows:

- The deadline for the review of applications for international protection is generally set at 6 months. Under certain conditions, this deadline can be extended to 21 months.
- The personal interview conditions as part of the evaluation of applications for international protection are further specified.

- The law also provides for the adequate training of personnel in contact with applicants for international protection. Moreover it foresees that decisions on applications are taken within the framework of an appropriate assessment.
- A medical assessment will now be possible in order to reveal any signs of victimisation.
- It provides for the identification of applicants requiring specific procedural guarantees until a decision at first instance has been taken.
- Procedural guarantees are provided for unaccompanied minors.
- The asylum law determines both detention conditions and less coercive measures, including, in particular, the obligation for applicants for international protection to report regularly to the offices of the Ministry, house arrest, and the obligation to deposit a financial guarantee.

Access to the asylum procedure

Changes were introduced to the asylum law concerning access to the procedure once the application has been filed at the external border of Luxembourg, namely at Luxembourg airport, following transposition of the directive into national law. In Article 4 (1) thereof, it is stipulated that if the application is filed with an agent of the Central Unit of the Grand Ducal Airport Police, the Detention Centre or in prison, the application shall be registered six days after it has been filed.

Article 4(2) introduced a guarantee with respect to access to the procedure, stating that: *"The officials referred to in paragraph (1) shall receive relevant information and necessary training on how to recognise and deal with applications for international protection, inter alia, taking due account of relevant guidelines in order to provide applicants with relevant information as to where and how applications for international protection may be lodged."*⁵⁵

Registration of applications for international protection

As part of the transposition of the asylum package, various stages relating to the registration of the application for international protection were introduced into the asylum law. Consequently, the law makes a clear distinction between:

- a) filing the application for international protection;
- b) the registration of the application;

c) the lodging of the application.

The law also establishes the deadlines relating to the various stages of the application process. The application must be registered at the latest three working days after filing, if presented at the offices of the Directorate of Immigration. If the application is filed with an agent of the Central Unit of the Grand Ducal Airport Police, the Detention Centre or in prison, it must be registered within six working days. If, as a result of a high number of applications from third-country nationals or stateless persons requesting international protection, it becomes difficult in practice to adhere to these deadlines, this deadline can be extended to ten working days.⁵⁶

After the applicant is registered, the AIP is summoned at the earliest opportunity for the lodging of the application. However, the law does not stipulate a specific deadline for this stage.⁵⁷

Lastly, within a period of three days following the lodging of the application, the AIP will be issued with a certificate attesting to their international protection applicant status.⁵⁸

This new system was subject to much criticism from civil society, and in particular the Luxembourg Refugee Collective (hereinafter the LFR⁵⁹) and the Consultative Commission on Human Rights (hereinafter the CCDH) and the UNHCR, which suggested combining the three stages into one single phase to facilitate the AIP's prompt and effective access to the international protection procedure.

The Refugee Collective criticised the bureaucracy of such a system, as well as the length of time that will be allowed to lapse between the filing of the application and the registration certificate for the application, which must be issued to the applicant within three days of submitting the application.⁶⁰ The CCDH lambasted the situation of uncertainty which applicants for international protection would face. It requested that access to the procedure should be made as simple as possible and called for a fixed deadline to be imposed within which the AIP is summoned to lodge the application.⁶¹

However, for the Council of State, the distinction between the filing of the application and the lodging of the application provides AIPs with an additional guarantee. The parliamentary committee also held that AIPs would be granted rights upon filing the applications and that there is no need to define these terms.⁶² The law on the reception of applicants for international protection as adopted in fact specifies that upon filing the applications, AIPs are entitled to material reception conditions, whereas the draft

law provides that the applicant would only be entitled to basic material reception conditions during the period between the lodging of the application and the issuance of the certificate testifying to the applicant's status.⁶³ As pointed out by the CCDH, the draft bill does not refer to the period between the filing and lodging of the application, which would mean that during this period AIPs would not even be entitled to a basic provision.

In addition, the asylum law introduced the possibility for an application to be made by an applicant on behalf of his or her dependants, provided that the latter consent no later than when the personal interview with the dependent adult is conducted. Before consent is requested, each dependent adult shall be informed in private of the relevant procedural consequences of the lodging of the application on his or her behalf, and of his or her right to file a separate application for international protection.

Non-emancipated minors have the right to make an application for international protection through their parents, or other adult family members or an adult responsible for him/her, or through an ad hoc guardian.⁶⁴

Access to information and legal advice/representation

Free legal aid and representation are granted, as is the current case, within the framework of first instance proceedings, i.e. during the review procedure of applications for international protection, including during interviews and during appeal proceedings.

However, free legal assistance will be excluded if the appeal does not have any realistic chances of success. The text also states that legal aid may not be granted where the applicant no longer remains on the territory after having lodged a subsequent application for international protection that is deemed inadmissible.⁶⁵

This restriction was criticised by the CCDH⁶⁶, the LFR⁶⁷, the UNHCR⁶⁸ and the Council of State. The CCDH held that this would constitute a significant restriction on the right to access to justice. The Council of State proposed the deletion of the wording at the end of the sentence "*does not have any realistic chances of success*" stating that "*the assessment of the merits of the application for free legal assistance should be based on the same criteria for all citizens*"⁶⁹ and be based upon the amended law of 10 August 1991 on the profession of lawyer.

The AIP will still be entitled to consult a lawyer at his/her own expense.⁷⁰ According to the Parliamentary Committee this provides for the entitlement to request further legal assistance.⁷¹

Although Article 18 of the law provides that the lawyer who assists and represents an applicant shall enjoy access to information submitted to the applicant's file on the basis of which a decision is taken or will be taken, this is also subject to a number of exceptions "*where disclosure of information or sources would jeopardise national security, the security of the organisations or persons providing the information or the security of the person(s) to whom the information relates, or where the investigative interests relating to the examination of applications of asylum by the competent authorities of Luxembourg or the international relations of Luxembourg.*"⁷² In such cases, access to the information or sources in question shall be made available to the courts hearing appeals. However, in order to ensure the applicant's rights of defence are respected, access to such information or sources can be made available to a legal adviser insofar as the information is relevant for examining the application.

The CCDH, in a complementary opinion, strongly criticised these provisions, stating that they constituted a violation of the rights of defence and the right to a fair trial, even if access to such information is made available. It proposed including the optional clause of Article 23(1) of the directive which specifies that Member States may "*(...) grant access to such information or sources to a legal adviser or other counsellor who has undergone a security check, insofar as the information is relevant for examining the application or for taking a decision to withdraw international protection*".⁷³

Special procedures

Admissibility procedure

Article 28 of the new law introduced two new situations under which a ruling of inadmissibility may be taken:

- international protection status has been granted by another Member State of the European Union;

- a dependent who lodges an application after he/she has consented, in accordance with Article 5 to have his/her case be part of an application lodged on his/her behalf, and there are no facts relating to the dependant's situation which justify a separate application.

Article 13 of the law also introduces the right to a personal interview as provided by Article 34 of the directive allowing the AIP to present their views with regard to the application of the grounds for inadmissibility in their particular circumstances before the determining authority decides on the admissibility of an application for international protection.⁷⁴

Accelerated procedure

The new law transposed the ten grounds contained in Article 31 (8) of Directive 2013/32/EU for applying the accelerated procedure to an international protection application. The old law contained 13 grounds.

The decision of the Ministry still has to be taken within two months. However, Article 27(2) provides for the possibility to extend this deadline "*when such extension is necessary to ensure an adequate and complete examination of the application for international protection*"⁷⁵.

As with the previous law, the Ministry can still rule on the well-founded nature of the application within the framework of an accelerated procedure if the applicant comes from a safe country of origin. Luxembourg's list of safe countries of origin include the following countries⁷⁶:

- The Republic of Albania;
- the Republic of Bosnia-Herzegovina;
- the Republic of Cape Verde;
- the Republic of Croatia;
- the former Yugoslav Republic of Macedonia;
- the Republic of Montenegro;
- the Republic of Senegal;
- the Republic of Serbia;
- and the Republic of Kosovo.

Benin and Ghana are declared safe countries of origin only for male applicants for international protection.

The Minister may also take decisions on inadmissibility on the basis of application of the notions of first country of asylum and safe third country.

The LFR⁷⁷ reiterated its concern with respect to the retention of the two concepts "first country of asylum" and "safe third country". In this respect, the parliamentary committee stressed that each application is examined individually and that access to the accelerated procedure is on a case-by-case basis. In addition, the list of "safe countries" is not exhaustive; it only provides an indication of the possible risk of persecution. The countries that do not appear on this list are not automatically considered "unsafe" countries. Criteria such as accession to the Council of Europe or fulfilment of the Copenhagen criteria provides objective evidence of a country's situation.⁷⁸

Detention and alternative measures

As with the previous legislation, the initial period of detention is three months. With the introduction of the new law, the detention period can be extended by three-monthly periods, without exceeding a maximum duration of 12 months. Up until now the maximum detention period of 12 months was only applicable in the event the applicant was unable to present travel documents to help establish his/her identity or the applicant had destroyed an identity or travel document that would have helped establish his or her identity. The grounds for detention are the same as those set out in Article 8(3) of Directive 2013/33.⁷⁹

Article 22(3) includes less coercive alternative measures to detention, as provided for in Article 8(4) of the directive, such as regular reporting to the authorities after the surrendering of travel documents, or an obligation to stay at an assigned place designated by the Ministry, which may be combined with electronic surveillance or the deposit of a financial guarantee of five thousand euros.⁸⁰

Article 22(2) of the Law sets out five cases in which an AIP may be placed in detention. These grounds differ from the existing legislation. Under the new Law, an applicant may be placed in detention for the purpose of establishing or verifying their identity or nationality. Until now this was only applicable if the AIP refused to cooperate with the authorities to establish his/her identity. In addition, within the framework of the Dublin transfers, reference is made to Article 28 of Regulation (EU)

n° 604/2013 of the European Parliament and of the Council. Consequently an AIP may be detained "*when there is a significant risk of absconding, based on circumstances establishing that the applicant concerned is avoiding or hampering the preparation of return or the removal process*".⁸¹

First instance procedures

Article 10 of the Asylum Law virtually reproduces all of the provisions of Article 10 of the directive on the requirements for the examination of applications for international protection.⁸² Article 12 of the law also includes the possibility already included in previous legislation that allows an AIP to be submitted to a language test, a provision that is not provided for in the directive. It should be noted that the LFR called for the legislation to set out legal provisions allowing for these language tests to be regulated.⁸³

As part of the assessment of the application, further guarantees are provided, particularly as regards the right to a personal interview. Consequently, it is stipulated that interviews are conducted in conditions which allow applicants to present the grounds of their applications. To that end, the interviewer must be competent to take account of the applicant's personal and general circumstances, with particular emphasis on the specific circumstances of minors, and that interviewers and interpreters shall be of the same sex if the applicant so requests.⁸⁴ In addition, Article 15 clarifies the provisions relating to the interview report and the applicant's opportunity to make comments or provide clarification.⁸⁵

Lastly, Article 16 provides that, when relevant for the assessment of the application, a medical examination of the applicant may be arranged to investigate signs that might indicate past persecution or serious harm. The law stipulates that the medical examination must take into account the "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" established by the 1999 Istanbul Protocol.

Article 26(1-3) transposes Article 31(1-6) of the directive on the duration of the individual examination of applications for international protection. From now on, the maximum duration for taking a decision on an application for international protection is in principle six months from the lodging of the application. Under certain circumstances, this deadline may be extended to 15 months, and in some cases 18 months.⁸⁶ The examination of the application can also be postponed by the authorities

in cases where the applicant's country of origin is in a situation of uncertainty, which is expected to be temporary. In such a case, the procedure may be postponed up to a maximum of 21 months.

The CCDH and the LFR welcomed the establishment of a maximum duration for the examination of applications for international protection.⁸⁷ They also welcomed the incorporation of an article on the training of personnel to better ensure the appropriate examination of applications, while highlighting the importance of providing specific training to professionals involved in the examination procedure, particularly translators/interpreters and healthcare professionals.⁸⁸

Appeal and judicial review

A decision rejecting an application for international protection or withdrawing international protection adopted under the ordinary procedure and an order to leave the territory may be challenged by an action for reversal by the administrative court. The two actions must form the subject of a single originating application, being inadmissible if they are brought separately. The new law retains the time limit for lodging an appeal before the administrative court, which is within one month of notification.⁸⁹

The deadline for lodging an appeal against a decision declaring the international protection application to be inadmissible has been reduced from one month to 15 days. The law also reduced the time limit for bringing an action for annulment against a decision declaring a transfer order in accordance with the "Dublin" Regulation from one month to 15 days. In both cases, the administrative court must hand down its ruling within two months, compared to one month under the previous law. This deadline may be reduced to one month in the case where an AIP is being held in a detention centre.⁹⁰

A decision rejecting an accelerated application for international protection may be challenged by an action for reversal brought before the administrative court within 15 days of notification, as is the present case. On the other hand, the court must give its decision within one month of the lodging of the application, compared to two months under the former system.⁹¹

In order to improve the speed and efficiency of the process⁹², the parliamentary commission⁹³ felt that an "action for annulment" against a decision of the Minister ruling on the merits of an accelerated application for international protection and

against an order to leave the territory, should be replaced with an "action for reversal". The three actions for reversal must form the subject of a single originating application. The case will now be brought before a single judge, either the presiding judge of the chamber or another member of the administrative court. If it is considered that the accelerated procedure has been duly applied and the application is deemed to be manifestly unfounded, the judge shall issue a decision validating the Minister's decision to use the accelerated procedure, dismiss the asylum applicant's application for international protection and validate the order to leave the territory.

Vulnerable persons and unaccompanied minors

The new asylum law considerably strengthens safeguards for vulnerable groups and unaccompanied minors.

Consequently, Article 19 transposes Article 24 of the directive concerning applicants in need of special safeguarding measures. This Article introduces the responsibility of the Minister to *"assess within a reasonable period of time and before a decision has been taken at first instance, whether the applicant is in need of special procedural guarantees which may be necessary for certain applicants due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious illness, mental health issues or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence"*.⁹⁴

It should be noted that the article also provides for the possibility for this assessment to be carried out by the OLAI as part of an examination of the applicant's vulnerability in order to determine, where appropriate, his/her special reception needs. The information collected with respect to special procedural guarantees is sent by the OLAI, with the applicant's agreement, to the Minister. In addition, for the assessment of special procedural guarantees, the Minister may consult a healthcare professional or any other expert.

Where applicants have been identified as applicants in need of special procedural guarantees, those applicants shall be provided with adequate support, including sufficient time, in order to facilitate their access to procedures and to submit the elements required to substantiate their application for international protection.

Where adequate support cannot be provided to an applicant in need of special procedural guarantees, such as victims of torture, rape or other forms of

psychological, physical or sexual violence, in the framework of accelerated procedures, such an applicant should be exempted from those procedures.

The CCDH⁹⁵ and the LFR⁹⁶ criticised the lack of a practical mechanism for identifying individuals in need of special procedural guarantees. In this respect, the CCDH considered that the assessment of such special safeguards should be conducted before any other interview, and not just as soon as possible or only before a decision is taken at first instance.

Several other articles address the need to take into account the special needs of vulnerable persons, including in particular Article 14(3) on the requirements for a personal interview, Article 16(1) allowing the Minister to submit an applicant to a medical examination to identify signs of torture or other serious acts of physical or psychological abuse, as well as Article 26(4), authorising the Minister to prioritise the examination of an application for international protection lodged by vulnerable persons.

Lastly, a number of articles deal with the situation of unaccompanied minors (hereinafter UM), providing further guarantees in respect of the examination of these applications.

The unaccompanied minor has the right to make an application for international protection either on his or her own behalf, or through an ad-hoc guardian.⁹⁷

Unaccompanied minors (UM) in 2015		
	Number of UM who did not request international protection	Number of UM who requested international protection
Total	0	103
Girls	0	5
Boys	0	98

Source: Directorate of Immigration, 2016

The procedure for appointing an ad-hoc guardian is clarified and corresponds to the current practice. The legislator also made use of the option introduced in Article 25(2) of the directive allowing the Minister to *"refrain from appointing a representative where the unaccompanied minor will in all likelihood reach the age of 18 before a decision at first instance is taken"*.⁹⁸

The agent processing the unaccompanied minor's application must be familiar with the special needs of minors.⁹⁹

The cases in which a UM may be subject to an accelerated procedure are now specified¹⁰⁰ and applications for international protection from UMs may now be prioritised.¹⁰¹

It should be noted that the CCDH¹⁰² and the LFR¹⁰³ have called for further clarification in this respect with regards to the respective roles of the individuals representing the interests of UMs, that is the ad-hoc guardian, the legal guardian and the lawyer. This clarification was required in order to avoid any risk of confusion or a clash of the respective mandates of the legal guardian and ad-hoc guardian. The LFR and the Council of State was also critical of the fact that the legislator had not taken account of the provision of the directive providing that an unaccompanied minor shall be informed immediately of the appointment of a representative.

Lastly, the new law introduces more favourable provisions with respect to determining the age of unaccompanied minors. It is, for example, stipulated that the Minister may use medical examinations to determine the age of unaccompanied minors, but only where, following general statements or other relevant indications, the Minister has doubts concerning the applicant's age. If, thereafter, the Minister is still in doubt concerning the applicant's age, it shall assume that the applicant is a minor.

The LFR¹⁰⁴ and the CCDH¹⁰⁵ nevertheless criticised the lack of reliability of conducting bone tests to determine the age of unaccompanied minors, a method which has proved to be unreliable. The LFR regretted that with respect to determining age, a new procedure, which formed the subject of an interview with the Directorate of Immigration, was not implemented. The LFR called upon the Luxembourg government to establish a more accurate examination method for determining the age of unaccompanied minors.¹⁰⁶

2.6.3. *"Asylum package": a missed opportunity?*

Although some of these legislative changes were met with optimism and some even perceived as representative of a "paradigm shift", as we shall see further on in this section, the asylum package, as finalised and voted on, has provoked opposed reactions and criticisms. Although civil society approved the improvements to the

previous proposals in general, the LFR, at the time of publication of the legal text in December 2015, cast a shadow over the initial idyll, deploring the "missed opportunity" and painting a negative picture of the laws that clash with reality.

Is this legislation in touch with reality? Does it take into account the recent evolutions in the field of asylum? The LFR press release¹⁰⁷ expressed a resounding No!

Although the LFR welcomed the somewhat modest progress of the law on the right of asylum, including the maximum examination period of 6 months, as well as certain procedural guarantees, particularly with respect to vulnerable persons, and the new opportunities to obtain legal status, it was ultimately pessimistic. It expressed regret as regards the overly complex multi-layered administrative procedures for lodging an application as well as the option to detain unaccompanied minors. In addition, there was severe criticism about the fact that the legislator did not provide for any training for interpreters, that it makes access to legal aid conditional and that the proposed detention alternatives would be difficult to apply.

With regards to the law on the reception of applicants for international protection, the Council only agreed to reduce the time limit for access to the labour market from 9 to 6 months. It nevertheless regretted that the proposals had not been incorporated into the final legal text; it deplored the retention of the *status quo* and ultimately describing the law as being inappropriate, insufficient and falling well short of expectations. One of the major disappointments, for Frank Wies, Barrister and member of the LFR, was the failure of the empowerment project: *"By only providing them with 25 euros per month, they are maintained in a state of dependence and isolation. The procedures are so complex that they are discouraging potential employers. This is because had this support scheme for applicants for international protection been too favourable, Luxembourg would have risked attracting too many applicants for international protection under these measures..."*¹⁰⁸

Faced with the urgent need to transpose the European Directives that the Grand Duchy delayed in incorporating into the legislation, the loophole in laws is hardly surprising, underlined moreover the LFR. Consequently, in order to avoid infringement proceedings by the European Commission, launched in September 2015¹⁰⁹, the parliamentary committee handling the matter abandoned certain provisions and the Chamber of Deputies subsequently approved them.¹¹⁰

No parliamentary opposition party voted in favour of the adoption of these two draft laws.¹¹¹ Although the Christian-Social party (CSV) approved the increased staffing levels as provided for by the two laws, it would have preferred to have seen an increase in support resources for refugees. The party also regretted that the professional chambers had not been consulted, given that both legal texts included provisions on vocational training and access to the labour market. Lastly, according to the CSV, it would have been more "courageous" and "humanitarian" to rule on applications for international protection that have been outstanding over the last few years and are still pending a decision.¹¹² The Christian-Social Party also stressed its request for an effective interministerial Committee that would be in a position to coordinate action across ministries.¹¹³

As regards the draft law on asylum, the right-wing party ADR raised a number of questions concerning security. Consequently, following the Paris terrorist attacks, new arrivals without identity documents must be placed in detention in a more systematic manner. In general, according to the ADR, this would appear to concern unrealistic legal text including more largesse than that provided for by the directives.¹¹⁴

The Déi Lénk left-wing party was concerned as regards the trend that exists both at European Union level and the different Member States, which involved considering all asylum applicants as suspects. As regards the asylum law, the party noted that almost no recommendation by the LFR or the CCDH had been adopted, particularly with respect to procedural guarantees. For the left-wing party, the draft bill did not really represent any real progress, but rather adopts a particularly restrictive "EU doctrine".¹¹⁵

The opposition parties were also unanimous in their assessment of how the work at the Chamber has been organised, which it deemed unstructured and chaotic. It is also in this context that the CSV regretted that the "support scheme" had been omitted as a result of the urgency of transposing the directive and given the formal opposition of the Council of State. The CSV was, however, of the opinion that an increase in the amount of the monthly allocation after six months, as initially provided for by the draft bill, would not be conducive to the empowerment of applicants for international protection.¹¹⁶

The ADR pointed out the "naivety" of the government with respect to the support scheme, which had provided applicants for international protection with a material benefit which was not granted in other countries. It therefore congratulated the Council of State for having anticipated this "danger" that is likely to result in "*asylum shopping*".¹¹⁷

Although the left-wing party Déi Lénk initially stated that the draft law on reception was progressive, and approved of the government's intention to incorporate the majority of the recommendations of the LFR, it was ultimately "disappointed" by the Council of State for obstructing government efforts. Although some progress has been made by the draft law, in particular access to the labour market, provisions as regards monthly allowances, vocational training and the empowerment of applicants for international protection were obstructed by the left-wing party.¹¹⁸

2.7. Changes to the regularisation process provisions

In the framework of the adoption of the new law on international protection, Article 89 of the Law on the free movement of persons and immigration was amended following a government amendment introduced with draft law 6779.¹¹⁹

This article, concerning the regularisation of individuals without right of residence – whether or not they have been rejected as applicants for international protection – has been extended in scope. The explanatory statement sets out the reasons for this amendment:

"The obligation to leave the territory imposed on families with children who have been educated up to a certain period of time, was strongly criticised and generally considered to be unfair given the relative integration of said children into Luxembourg society."

The previous legal text only provided for the possibility of regularisation for illegally staying third-country nationals who were able to prove that they had completed their education in an educational institution in the Grand Duchy of Luxembourg within the last six years. The new article reduces this deadline to four years and specifies that such education must be completed successfully. The deadline for lodging an

application is before the applicant's 21st birthday (instead of the 18th birthday, which was the case until now).

In addition, the new article offers the possibility of regularisation for parents of minors that have been enrolled in an educational institute for the last four years, if they fulfil certain conditions relating to this stay. They must, at the time of the application, provide proof that they are able to provide for the family's needs while engaged in paid work.

Other regularisation conditions that must be satisfied include:

- The presence of the third-country national is not a danger to public order, national security or public health;
- The applicant has not made false or misleading statements with regards to his/her identity;
- The applicant has shown a genuine commitment to integrate;
- The applicant must not be subject to an expulsion measure;
- The applicant has sufficient resources to meet his/her needs.

The proposed amendment has nevertheless been criticised on several fronts:

The LFR¹²⁰, after being consulted by the Minister of Immigration and Asylum, welcomed the proposed changes but questioned whether the article would be sufficient to cover the range of circumstances and the complexity of the problems involved. It therefore questioned whether *"children attending school whose parents have not shown a genuine commitment to integrate, would be excluded from the benefit of this legislative provision?"*. Consequently, the LFR called upon the legislator to abolish the requirement to demonstrate a genuine commitment to integrate. Furthermore, the LFR was of the view that with regards to the requirement of *"not being subject to an expulsion measure"* that the wording is open to interpretation and raises the issue of individuals who are still residing in the territory despite an expulsion measure that has not yet been enforced in their official status file. It suggested that account should be taken in the draft law of families with children who have reached the age of majority and are in education. Lastly, it requested further clarification on the notion of *"sufficient resources"*.

The CCDH¹²¹ questioned the purpose and justification of the requirement established for third-country nationals who have reached the age of maturity, and have attended

school in Luxembourg for the last four years, to have "*successfully completed*" such schooling. It hoped that the government would also take into account the situation of families whose children have reached the age of maturity.

The Déi Lénk opposition party asked the same question, while highlighting that there was no link between "successful schooling" and integration.¹²²

The Council of State¹²³, after being questioned on whether or not the difference in treatment based on family status infringed the constitutional principle of equality before the law¹²⁴, finally concluded that the provision might be justified on the basis of the fundamental principle of the best interests of the child.

2.8. Case law

In several cases, the Administrative Court overturned the administrative court's decision granting/refusing subsidiary protection status to Kurdish applicants for international protection. In one case¹²⁵, the Court considered that the combination of the various acts of pressure and harassment from the Turkish authorities would be serious enough to constitute a serious violation of their fundamental rights and to grant them refugee status. In another case¹²⁶, the Court had on the other hand estimated that the risk of being prosecuted and sentenced to a maximum three years of imprisonment for insubordination or desertion did not in itself constitute inhumane or degrading treatment. This is all the more so as these circumstances do not reflect the repetitive nature of the criminal prosecutions and convictions to which a person refusing to perform military service is subject, which exceeds the usual level of humiliation attached to a criminal conviction.

Other cases cover APIs from the Balkan States. In several cases, the Supreme Administrative Court overturned the administrative court's decision granting subsidiary protection status to Albanian nationals from Albania. Although the Court deems as a general rule that Albania's legal system should be viewed such that it detects, prosecutes and punishes actions which constitute serious harm, in some specific cases, it is impossible to verify whether or not the country is able to provide effective protection against threats or attacks by private actors. This was the situation for a former member of the Albanian secret service whose identity was revealed to

notorious criminals¹²⁷, and again in the case of a key witness¹²⁸ following a murder committed in Albania. In another case,¹²⁹ the Supreme Court granted subsidiary protection status to a brother who already had refugee status. It deemed that the individual in question was exposed to serious harm due to the fear of persecution affecting his brother, an investigator who had been denounced by criminal gangs.

On the other hand, the Supreme Court also overturned decisions by the court granting refugee or subsidiary protection status to Kosovan nationals. In one case,¹³⁰ the Court ruled that refugee status should not be granted to the person in question, as the acts of persecution put forward were not sufficiently serious. In another case¹³¹, the Court deemed that the Minister had been right to refuse refugee and subsidiary protection status to the persons in question. Indeed, the events referred to were not sufficiently serious to establish a well-founded fear of persecution or serious harm, and in addition adequate protection was available in Kosovo.

Court rulings related to Somalian APIs were made both in favour of and against those concerned. The Court therefore overturned a ruling on a Somalian API¹³², deeming that the applicant's account lacked credibility, and that there was no real risk of his suffering serious harm on his return to the country. In another case¹³³, in circumstances involving both a false identity card and an identity established using a birth certificate, the Court held that the account was credible, particularly in respect of the core of the actions and harm set forth, thereby justifying the granting of refugee status.¹³⁴

Finally, protection was granted by the Court for several 'LGBTI' cases in Nigeria, Cameroon and Senegal.¹³⁵

3. THE REFERENDUM

3.1. Introduction and Background

The referendum of 7 June 2015 was historic in several respects.

Firstly, Luxembourg does not have a long tradition of holding referendums, and has only used this approach on three occasions: 29 September 1919 on monarchy or republic, and economic ties to France or Belgium; 6 June 1937 on the prohibition of the Luxembourg Communist Party, and 10 July 2005 on the European Constitution.¹³⁶ It is also worth noting that this is the first referendum to have been held as part of a process of reform of the Luxembourg Constitution.

The referendum's results and consequences were particularly striking. The three questions posed by the coalition government were overwhelmingly rejected by nearly 80% of voters, in all of the country's municipalities.¹³⁷

The scale of the result led socio-political stakeholders to question the integration model, while various stakeholders referred to cracks in Luxembourg's image as an oasis of wellbeing where people of various origins and cultures live in harmony. Surveys carried out during the campaign revealed major divisions between Luxembourg citizens and foreigners in their perception of the integration process.

Finally, the use of a referendum also prompted questions on the place of such instruments in a functioning democracy. A number of stakeholders raised the question of the means used to bring about social progress in certain areas. Should consensus and parliamentary debate be prioritised, as was the case in the past, or rather direct democracy?¹³⁸

3.1.1. Referendum framework

On 7 June 2015, Luxembourg voters¹³⁹ had their say on the following three questions:

1. Do you agree with the idea that Luxembourgers aged between 16 and 18 should have the right, at their own discretion, to register on the electoral roll in order to vote in the Chamber of Deputies elections, European elections, local elections and referenda?

2. Do you agree with the idea that non-Luxembourgish residents should have the right,
 - at their own discretion, to register on the electoral roll in order to vote in the Chamber of Deputies elections,
 - provided they have
 - been resident for at least 10 years in Luxembourg and
 - have previously taken part in local or European elections in Luxembourg?

3. Do you agree with the idea of limiting the maximum period during which a person can continuously be a member of Government to ten years?

The referendum formed part of the process to draw up a new Constitution, which, in accordance with the 2013 governmental programme, called for public consultation via referendum on four questions.¹⁴⁰ Another question on the financing of religious ministers was abandoned following an agreement between the Luxembourg government and religious representatives.

3.1.2. Legitimation of the question on allowing foreigners the right to vote

Parliamentary bill No. 6738, introduced by political groups from the parliamentary majority (DP, LSAP, Déi Gréng) regarding the referendum of 7 June 2015, was adopted on 24 February 2015 with a majority of 34 votes¹⁴¹ of a total of 60 (32 votes by deputies from the governing majority, and two deputies from the Déi Lénk

opposition) compared with 26 votes from the parliamentary opposition of the CSV and the ADR.¹⁴²

The referendum questions were the result of a compromise between the political parties of the governing majority. A referendum was held due to the fact that there was not a sufficiently large majority in Parliament on these institutional questions to enable any changes to be made to the Constitution. During the parliamentary debate to approve the bill, the rapporteur set out three criteria for the legitimisation of the three referendum questions: first, their relevance to the drafting of a new Constitution; secondly, their controversial nature, apparent through the lack of a majority authorised either to maintain the status quo of the current legislation, or to change it; and finally the clear-cut choice either in favour or against the three proposals.¹⁴³

On allowing foreigners the right to vote, the head of the LSAP suggested that if the question had been phrased in a more generous manner, the answer would have been a clear and concise no, as large swathes of the population were rather sceptical on this point. The proposal was therefore to pose a more realistic question, which in itself risked causing dissatisfaction amongst clear Yes voters.¹⁴⁴ Until 2013, the major political parties agreed on a new Article 65 in any future draft Constitution, to be phrased as follows: "*An Act adopted by a qualified majority may, under conditions to be determined by it, grant the right to vote to people who do not have Luxembourg nationality.*"¹⁴⁵ This did not refer to an unambiguous right to vote, but provided for the possibility of introducing a right to vote through legislation.¹⁴⁶

The debate immediately centred on not only the content of the questions, but also the merits of consulting the Luxembourg electorate on these issues.

In his State of the Nation address, the Prime Minister declared that: "*The three coalition parties support an inclusive democratic model, whereby the citizen is involved in the decision-making process rather than being excluded. It is for this reason that the use of the referendum as a tool in its own right (and not only on these three questions) shows that we take seriously our willingness to listen to our citizens and seek their opinion.*"¹⁴⁷

During the parliamentary debate on the adoption of the referendum bill, the CSV party leader criticised the use of the referendum approach, and argued that constitutional changes should be based on as wide a consensus as possible, with large societal and parliamentary majorities. He argued that as there was no constitutional majority to change the Constitution in relation to these points, a referendum would be

used to circumvent the CSV (the major opposition party). The referendum instrument would therefore be misused for party political purposes.¹⁴⁸

On the day after the referendum, the 'Migration and Integration Platform' (hereinafter MINTE), having noted the result, questioned "*whether a referendum is an adequate tool for addressing such sensitive and complex issues*".¹⁴⁹

At the beginning of November 2014, 71% of Luxembourg voters (and 75% of the population as a whole) took a positive view of the referendum approach. In February 2015, before the campaign was launched, the figures increased to 74% of voters and 77% of the population as a whole. Similar figures were recorded in mid-March of 2015, with a slight drop to 70% amongst Luxembourgish voters.¹⁵⁰

Several days prior to the referendum of 7 June 2015, the President of the Chamber of Deputies deemed the referendum a triumph for participation: "*I do not believe in referendum for referendum's sake. But on the fundamental constitutional issues which divide politicians, the referendum is a tool that we are able to use more regularly than in the past.*"¹⁵¹

3.1.3. *In figures*

The referendum question on the right of foreigners to vote should be viewed within Luxembourg's specific demographic background, as set out in section one of this political report.

The potential electorate covered by the referendum question is made up of persons of foreign nationality who have previously voted in municipal or European elections, and who have resided in the country for at least ten years.

The stakes of this referendum question are difficult to assess, due to a lack of both immediate and long-term figures. In addition, they are influenced by demographic, economic, sociological, political and legal factors.¹⁵²

Reports on polling rates conducted by the CEFIS, the observatory for polling rates of persons with foreign nationality in local and European elections, provide a basis for assessing potential voter numbers based on the number of foreigners registered on the electoral roll. Thus, on 28 February 2014 some 35,379 persons with foreign nationality were registered on municipal electoral rolls, European electoral rolls¹⁵³, or on both electoral rolls.

It has not been possible to gather precise data on the number of people registered on electoral rolls who actually voted in the elections, and who also fulfil the length of residence criterion. There is also a question mark over this ever-changing figure, as we do not know how many of the people who satisfy both criteria (previous voters and length of residence) are registered on national electoral rolls.

Therefore, based on figures from 28 February 2014, the actual potential number of additional voters in parliamentary elections would be below 35,379, as one would not only need to deduct the people who do not fulfil the residence criterion, but also those who did not go through the process of registering on the electoral roll for parliamentary elections.

It is important to discuss whether these restrictive criteria (previous voter and length of residence) would address the democratic deficit, and this question has been asked both by Yes and No supporters.

If we count only foreigners of 18 years and over who fulfil the ten years of residence criterion (and thereby cancel out the residence criterion), there are a potential 105,000 foreign nationals.¹⁵⁴ The publication of this figure by STATEC [Luxembourg National Institute for Statistics and Economic Studies] was therefore bound to cause some confusion about the figures.

3.2. The campaign

3.2.1. Campaign framework

As part of its governmental programme, the government had proposed discussion forums prior to the referendum. The explanatory statement for the parliamentary bill to hold a national referendum on various questions related to the preparation of a new Constitution sets out the need for the referendum to be preceded by a three-month discussion period on the content of the new Constitution, and on the questions on which the public would be consulted.¹⁵⁵

The official campaign must be distinguished from the civil society-led campaign. During its meeting of 6 March 2015, the Government Council set out the terms of the official media campaign for the referendum of 7 June 2015. This official campaign

ran for four weeks (10 May 2015 to 6 June 2015) and covered the audiovisual media, including RTL Télé Lëtzebuerg, RTL Radio Lëtzebuerg and Radio 100.7. From an official perspective, the campaign "*puts forward a balanced debate in which broadcasters shall ensure that each party is able to express itself on the various questions, and shall ensure that the arguments of Yes supporters and No supporters are presented in a balanced manner. The debate will also include civil society groups.*"¹⁵⁶

The Chamber of Deputies created a new website ahead of the referendum of 7 June 2015¹⁵⁷, enabling any interested party to access information about the three questions posed and on the referendum process. The site also addresses the full redrafting of the Constitution. The public were accordingly invited to actively participate in the debate and put forward their ideas.

Prior to the launch of the official campaign, the MINTE platform¹⁵⁸ was already active on the ground from March 2015. The platform brings together around 20 organisations which defend the rights of foreigners and trade unions, in order to make a case for the Yes vote.¹⁵⁹ Sensing that the public debate was being dominated by the Yes campaign, a non-parliamentary No initiative was set up to support the No vote in the form of the Nee2015 website¹⁶⁰, which claimed to have been excluded from the debate.¹⁶¹ Several debate evenings were then held in order to hear the arguments of both the Yes and No camps. However, the municipal officers did not always add No supporters to the guest list.¹⁶²

3.2.2. The arguments for and against the right of foreigners to vote in the national elections

Supporters and arguments for the Yes campaign on the right of foreigners to vote
Yes campaign supporters included the coalition parties¹⁶³ and members of government, the Déi Lénk party¹⁶⁴, the Piratepartei, the CSJ (youth section of the CSV), the Chamber of Commerce, the OGBL and LCGB unions, the Church, most civil society organisations brought together under the MINTE platform, a number of high-fliers from the cultural sector, and several press publications including Luxemburger Wort, the Tageblatt, UNEL, Richtung 22 and the founders of "*et ass 5vir12*".¹⁶⁵

What follows is a sample of the stances and arguments of some of the stakeholders. MINTE, a platform set up in 2007 comprising some 20 Luxembourgish organisations, was one of the most active parties in the referendum campaign. Indeed, it argued its case during a series of discussion evenings held in partnership with the municipal authorities. It also published a brochure which set out the arguments in favour of Yes to the right to vote, with the aim of uniting civil society behind what it considered to be a widening of democracy.¹⁶⁶ Here are the main arguments, which can be broken down into a number of categories:

1. The democratic deficit argument

- Extending the right to vote to foreigners would fulfil a democratic requirement, as well as recognising Luxembourg's very unique demographic circumstances.
- Extending the right to vote would breach the major divide between the resident population and the electorate. This divide constitutes a democratic deficit, while in 2014 the Chamber of Deputies and the Government was only representative of 44% of the country's population (Luxembourg citizens aged 18 and over).

2. The socio-economic argument

- The fact that people living in Luxembourg for an extended period or permanently, who pay taxes, whose children attend Luxembourg schools, who shape life in Luxembourg society and make a substantial contribution to our country's success, are not able to take part in political decision-making, goes against the democratic principles of participation and legitimacy.

3. The argument of integration and social cohesion

- The right to vote discourages communitarianism, thereby making foreign residents feel recognised and represented and promoting their integration.
- It is important to remember that foreigners are not altogether foreign, and that the distinction between nationals and foreigners is merely an artificial construct.
- Far from being a concession granted to foreigners, the opening up of the right to vote is testament to a more dynamic society, and would make Luxembourg a pioneer in European politics.

During its national conference, the CSJ adopted a resolution in favour of holding a referendum and granting the right to vote to foreign residents in parliamentary elections. The CSJ deems the right of non-Luxembourg residents to vote as a principle of constitutional value, and has based its case on the democratic deficit, integration and social cohesion arguments. However, the CSJ is disappointed in the lack of political courage of the legislator's conditions (particularly the restrictive criteria) on which the opening up of the right to vote is based.¹⁶⁷

During the parliamentary debate on the adoption of the bill, LSAP Deputy Mr Franz Fayot supported the right to vote by stating that he considered it a fundamental right which should apply regardless of nationality. The Prime Minister should moreover have supported the right of residents to vote (*Awunnerwahlrecht*) rather than the right of foreigners to vote (*Ausländerwahlrecht*).¹⁶⁸

This notion of the 'right of residents to vote' also appeared in the MINTE platform's speech and during various discussion evenings held for the referendum.

Under the heading 'Culture, citizenship and fraternity' (*Culture, citoyenneté et fraternité*), representatives from the cultural sector were sought for the Yes campaign in relation to the right of foreign residents to vote.¹⁶⁹ Their call for representatives stipulates that given that citizenship is not necessarily related to nationality, it is the equal rights and duties associated with citizenship which form the social bond. Granting this new right would therefore not take anything away from citizens of Luxembourg nationality, but would protect the country from the risk of fracture, as well as enhancing Luxembourg's positive image abroad.

*Luxemburger Wort*¹⁷⁰ based its case on the country's demographic situation. In this way, the newspaper questioned the legitimacy of democratic institutions when only a minority are able to participate in decision-making. The electorate thus becomes less and less representative of the social and electoral composition of the population as a whole, and this issue of legitimacy cannot only be resolved by further extending access to dual nationality. Besides, opening up the active right to vote is in no way a threat to the political order or to the Luxembourgish language. *Luxemburger Wort's* support of the Yes campaign was all the more unexpected and striking given that the newspaper has historically been aligned with the CSV. Moreover, the newspaper has the highest daily readership in the country, at 35.9% of the population.¹⁷¹

Professor Heuschling has reviewed the arguments used in favour of and against the extension of the right to vote¹⁷², and begins by highlighting those which have seldom

or never been used. Thus for the Yes campaign, the Professor begins by citing the argument of encouraging immigration, together with that based on which the right to vote ought to be considered a human right. He then provides a critical perspective on the following three arguments: social integration, the economic contribution of foreigners and the democratic deficit. He states that granting the right to vote in order to promote social integration ultimately signals that there is no longer a distinction between the natives and foreigners who form society as a whole. The right to stand for election should logically be granted to all residents within the territory. As regards social integration, the right to vote promotes social cohesion by contributing to the sense of belonging, and in doing so helps prevent communitarianism. Yet Professor Heuschling casts doubt over the relevance of this argument, first given that many foreigners do not register on municipal electoral rolls, and secondly given that nationals of third countries are more interested in the European passport, which is synonymous with permanent residence, free movement and access to the labour market.¹⁷³

Citing foreigners' economic contributions as a justification for granting the right to vote¹⁷⁴ is a double-edged sword, which is both inclusive and exclusive of certain groups. The extremes of the economic argument could favour high-achieving foreigners over low achievers. It could also ultimately lead to the extension of the right to vote and the right to stand for election to include those living near the border. Finally, according to Heuschling, the prevention of a democratic deficit represents the most powerful argument from the Yes campaign. While No campaigners view the granting of the right to vote to foreigners as constituting a loss of sovereignty, testament to differing concepts of democracy, for Yes campaigners, including foreigners in the electorate represents the achievement of universal suffrage.

Supporters and arguments for No to the right of foreigners to vote

The No campaign includes the following organisations: the CSV (the main opposition party) the ADR, the KPL, the CGFP and the Nee2015 platform.

All of the above defend the premise of obtaining the right to vote by obtaining Luxembourg nationality, while making access to Luxembourg nationality easier, where required.

Therefore, from the outset and when the vote was held to adopt the parliamentary bill to hold a referendum, the leader of the CSV parliamentary group submitted a

parliamentary bill on Luxembourg nationality. The reasoning behind the bill is to promote the political participation of foreigners by making it easier to gain Luxembourg nationality. This was presented as an alternative route to granting the right to vote to foreigners, which in addition would also have a greater impact on participation than the restrictive conditions of the right to vote as set out by the referendum question.¹⁷⁵ The CSV believes that political rights in parliamentary elections are tied to Luxembourg nationality. In its parliamentary bill of 24 February 2015, the CSV thereby suggested¹⁷⁶ the following:

- The introduction of jus soli;
- Lowering of the residence clause to five years;
- Abolishing the residence clause for spouses;
- The continued aim of integration through the Luxembourgish language;
- Dispensation from the language test for residents of 20 years or more.

According to the ADR, Luxembourg nationality must be sought in order to have access to voting rights for parliamentary elections. The right-wing party's arguments include the risk of a community vote, the loss of sovereignty for nationals "*who run the risk of becoming a minority*"¹⁷⁷, and the lack of reciprocal agreements for Luxembourg citizens abroad. According to Deputy Gast Gibéryen, the purpose of the national parliamentary elections is to elect national deputies, and therefore only national voters should participate. Mr Gibéryen believes that the Grand Duchy's circumstances in no way constitute a democratic deficit. Indeed, Luxembourg is the only country which enables its citizens to gain dual nationality relatively easily.¹⁷⁸

As for the KPL, it reiterates that the Communist Party has always supported the idea of the right to vote for the Chamber of Deputies based on Luxembourg nationality, for which the criteria should be relaxed. It considers the referendum a farce and calls for blank ballot papers to be submitted.¹⁷⁹

From 28 February 2015 onwards, the CGFP federal committee (General Confederation of Civil Servants) expressed its fears that the referendum would create a divide between two electoral camps. It has also highlighted the risk of a questioning of national identity.¹⁸⁰

The Nee2015 platform¹⁸¹, which presents itself as being at the centre or mainstream of politics, believes that naturalisation is the best way to achieve integration, as it

enables identification both with the country and its language. Nee2015 states that the right of foreigners to vote would end the country's sovereignty, and lead to the language gradually dying out – politically, in civil service and in schools. It also challenges the notion of *Awunnerwahlrecht*, meaning that the 34,000 Luxembourg citizens residing abroad would no longer be able to vote, on the basis that this would not be the case. The platform rejects the idea of a democratic deficit, and refers to the fact that Luxembourg residents are already represented by their parliaments in their respective countries of origin, just as the Chamber of Deputies represents Luxembourg nationals.

The platform also highlighted the fact that it is not foreigners who requested their right to vote in parliamentary elections, but rather the country's political and economic elite.¹⁸² It also questions the fact that foreigners can choose the right to vote, while for Luxembourg citizens voting is still compulsory.¹⁸³

Having advocated nationality as the means to obtain access to the right to vote, the Nee2015 Platform believes that foreigners should be encouraged to learn Luxembourgish in order to simplify learning requirements and access.¹⁸⁴

3.3. The results of the referendum

On 7 June 2015, an overwhelming majority of the Luxembourg electorate voted No to all three questions. The overwhelming rejection of the three proposals perplexed many observers.

The following national figures were obtained in response to the questions¹⁸⁵:

- Question one on reducing the voting age to 16 was rejected by **80.87%**, with a No vote recorded in each of Luxembourg's 105 municipalities.
- Question two on opening up voting rights for foreign residents was rejected by **78.02%**, with a No vote recorded in each of Luxembourg's 105 municipalities.
- Question three on limiting the accumulation of political mandates was rejected by **69.93%**, with a No vote recorded in each of Luxembourg's 105 municipalities.

The figures also surprised the public, as the differences observed by the various surveys were far less pronounced than the results revealed by the referendum itself.

59% of voters therefore admitted to being surprised by the scale of the referendum results¹⁸⁶, even though various surveys showed the number of voters in favour of the right of foreigners to vote had dropped very significantly in the final weeks leading up to the referendum. This was testament to the shift in public opinion, and specifically the change in voter opinion.

At the beginning of November 2014¹⁸⁷, 47% of Luxembourg residents were in favour of the right of foreigners to vote, while 45% were opposed. 80% of foreign residents were in favour of the right to vote.

At the beginning of June 2015¹⁸⁸, 55% of voters still believed that dual nationality was the best means of living together harmoniously, while only 21% believed that the right to vote was the way to achieve this. This is entirely at odds with foreign residents, for whom the figures are 38% and 43%.

It was therefore only in the final month that the No campaign really took off. Following the involvement of the political parties in May, perhaps people have realised that "no" is no longer a politically incorrect answer...¹⁸⁹

3.4. The campaign, results and consequences

3.4.1. How the campaign was conducted

Generally speaking, the campaign was run as a debate of two sides, which were nevertheless respectful of one another's opinions, as agreed by politicians when the parliamentary bill to hold the referendum was submitted.¹⁹⁰

However, a number of disrespectful and in some cases vicious words were exchanged both by Yes and No campaigners.

Thus during the 9 June 2015 parliamentary debate on the referendum, Deputy David Wagener (Déi Lénk) highlighted the harm caused both by classifying opponents of the right to vote as racists or idiots, or by suspecting foreigners of using their right to vote in order to destabilise Luxembourg's sovereignty.

The MINTE Platform also warned against the vicious language used by some during the campaign. It hoped that *"the difficulties roused by the referendum pass and do not cause long-term damage for social cohesion and our ability to live together. There is a risk that the result of the referendum might be perceived as a lack of trust in non-*

*Luxembourg citizens. We can only hope that the Government and Luxembourg society are able to prove that this feeling is unfounded, and that a proactive and solid integration policy can be implemented."*¹⁹¹

While reiterating its stance on the referendum question a few weeks before the vote, the CGFP, in a similar vein, criticised the *"campaign for the systematic defamation it has unleashed on the CGFP"*, and of *"the xenophobia and even racism of which it is constantly accused by its detractors"*¹⁹².

Journalist David Angel is of the opinion that the Nee2015 platform managed to achieve its objective of reversing the demonization of the No campaign, by proclaiming that it occupied the political middle ground, and by tirelessly repeating that a No vote did not make the voter racist or xenophobic.¹⁹³

Political commentator Raphaël Kies of the University of Luxembourg criticised pseudo-participation or improvised participation in the context of the constitutional reform process. He lamented the lack of a political strategy in order to implement greater democracy, even though the Government had promised public fora prior to the referendum.¹⁹⁴

In its press release which was circulated on the day of the referendum, the MINTE Platform criticised the parliamentary majority, stating: *"that a consultation of the people by referendum on societal issues such as citizenship ought to be better prepared, and should be accompanied by a detailed explanation"*¹⁹⁵.

Various observers also highlighted the minimal investment and late commitment of the coalition parties.¹⁹⁶ Serge Kollwelter¹⁹⁷ therefore accused these parties of introducing the idea of the right to vote, and then abandoning it to their opponents. This minimal investment of the coalition parties was evident in a symposium held by the Chamber of Deputies on 19 and 20 March 2015, which was only partially attended by just four Yes campaigners.

During the post-referendum parliamentary debate, despite highlighting the courage shown by the Government in submitting these issues to public consultation, the DP representative questioned whether more time was required to explain the issue.¹⁹⁸

3.4.2. *Penalising the government – A distrust of politics*

The media described the results of the 7 June 2015 referendum as a failure, a disaster, a fiasco and disillusionment with the incumbent Government.

A number of analysts therefore viewed the referendum results as penalising the incumbent Government. They believed that this would explain the low turnout in support of the Yes campaign, whereas a few months previously the result had been far closer.¹⁹⁹ However, a survey conducted just after the referendum suggests that this theory cannot be verified, or at the very least is insufficient to explain the significant No majority. 70% of voters stated that they had voted on the questions, while only 3% stated that they had intentionally voted against the Government. 24% stated that they voted both on the questions and on the Government.²⁰⁰ Just before the referendum, for 7% of voters, the No vote on the issue of the right of foreigners to vote signified disillusionment with the Government, while for 38% of those polled, it signified both a disagreement with the Government and with the question itself. Finally, 47% of voters stated that they had voted solely on the question of the right of foreigners to vote.

The MINTE Platform identified multiple factors leading to the No campaign's victory. It highlighted the fact that the No vote constituted "*the conviction that the referendum was simply a way of forcing the opposition's hand, a means of voicing one's disapproval of Government policy, and frustration with politics partially due to the withdrawal of the question on the relationship between the Church and the State (...) Luxembourg citizens' fear of failing to control the political game, and of course the desire to maintain the connection between the right to vote and the acquisition of nationality, while advocating reforms to the Luxembourg nationality application process.*"²⁰¹

3.4.3. *Other attempts at sociological analysis of the results*

During the post-referendum parliamentary debate, the Chair of the LSAP parliamentary group, Alex Bodry, recognised that the result was clear and

‘*unambiguous*’. The No vote was representative of the whole country and people from all walks of life.²⁰²

According to David Angel, journalist and editor of Luxembourg newspaper *Woxx*, the No vote gained a landslide on all three questions in the municipalities with the lowest rental prices.²⁰³ The municipalities with the highest Yes vote figures were those with the highest rents, such as Luxembourg City, Strassen, Bertrange and Niederanven. Angel also noted that the fewer foreigners there were in a given municipality, the more predominant the No vote. Both the CGFP’s stance and the fear of losing privileges also played a significant role in the overwhelming No from civil servants. Indeed, 68% of those working in the public sector stated that they had voted No.

He noted three trends among the No voters: first, a working class No vote based on a longing to cling to an identity, together with nostalgia for the pre-globalisation world. Secondly, a middle class No for those concerned about their entitlements, and some civil servants worried about losing their privileges. Finally, the rural No for those unable to pay extortionate city rents.

Angel later comments that Yes campaigners failed to convince their own grassroots supporters.²⁰⁴

Finally, Kim Muller’s thesis on Luxembourg identity in the globalisation era²⁰⁵ suggests that the higher rates of objection amongst farming communities should be interpreted as an expression of more widespread political trends. Indeed, divisions often emerge between the urban centres and the rural regions in the results of political processes. These regions are often secluded and isolated, and regularly exhibit more conservative (or even traditional) political leanings. This trend is confirmed in the North of Luxembourg.

3.4.4. The organisations’ inability to galvanise support

As we have seen above, the Yes campaign’s inability to galvanise support, including employers, the main unions (OGBL and LCGB), the green movement, civil society, the Catholic Church and the press, is one of the main lessons to be learned from the overwhelming rejection.²⁰⁶ Some commentators have therefore remarked that the organisations ought to examine their relationships with the people they represent.

These commentators note that the divide between institutions and the people marks the start of a crisis of legitimacy.²⁰⁷

It should also be noted that a relative majority of voters (ranging between 47 and 50%) disapproved of the fact that various organisations and figures in civil society had adopted a stance before the referendum, whether they be cultural figures, the OGBL, LGCB or CGFP unions or employers.²⁰⁸

At the end of April/beginning of May 2015, 74% of voters stated that their party's position had little bearing on how they intended to vote during the referendum. As far as political parties are concerned, only the CSV (89% of voters) and the ADR (99% of voters) received overwhelming support from their electoral base on their opposition to the right of foreigners to vote. As for the political parties in favour of the Yes vote, only the Green Party's electoral base (56%) admitted to supporting the Yes vote. The LSAP's electoral base is divided into 48% Yes voters and 50% No voters, the DP comprises 44% Yes voters and 55% No voters, and for Déi Lénk, the figures are 20% in favour of Yes and 66% in favour of No.²⁰⁹

According to a survey performed just after the referendum, 69% of voters believed that the debates had created a gulf in Luxembourg society between the general public and the elite. 50% of these voters believe that the referendum has widened this gulf. 53% believe that politicians are out of touch with ordinary people's concerns.²¹⁰

The same survey also reiterates how little political trust socio-economic and political stakeholders have in voters, including political parties (30%), employers (31%), the Government (32%) and the unions (39%).

3.4.5. The referendum campaign: providing an insight into societal divides?

The referendum results revealed a number of facts and shone a light on the discontent related to a certain image of Luxembourg, based on the reality and the ability to live together. Finally, they also impacted on how the future integration process is perceived (see below).

During the Chamber of Deputies parliamentary debate of 7 June 2015 on the referendum results, the leader of the CSV's parliamentary faction asserted that the referendum had triggered a negative debate for the country. Luxembourg had

therefore been split, causing tension, suspicion and accusations between Luxembourg citizens and non-Luxembourg citizens.²¹¹ Alex Bodry, the Chair of the LSAP parliamentary group, stated that the fractures already existed before the referendum.

In the view of sociologist Fernand Fehlen, the campaign focused exclusively on the right to vote and created divisions between Luxembourg citizens and foreigners. As such, it is likely to increase communitarianism, even though it could have divided the problems shared by the two groups into topics, such as for example the problem of finding affordable accommodation.²¹² 56% of Luxembourg citizens and 53% of foreigners therefore believed that the country had been split in two following the referendum.²¹³ David Angel therefore states that: "*If the question has the potential to expose tensions in society, then these tensions must have already existed.*"²¹⁴

Generally speaking, the picture of life together is not as idyllic as some would like to believe. Indeed, the majority of Luxembourg citizens (53%) and foreigners (55%) view Luxembourg's situation as being closer to co-existing rather than living together (44% of Luxembourg citizens and foreigners qualified it as the latter).²¹⁵ For some the result explodes the myth that Luxembourg is a multicultural country, and a country which has succeeded, more than any other, in integrating its foreigners, thereby being the most pro-European country in the EU.²¹⁶

Surveys have always revealed areas both of agreement and disagreement between voters and foreigners, particularly as regards the perception of integration factors, and specifically cultural and identity-related aspects (such as language or a sense of belonging). Over the months, we have therefore witnessed a certain focus on a national sense of belonging amongst voters, while our foreign counterparts referred in large numbers to a sense of dual identity or international identity.²¹⁷

As a general rule, it has been noted that language (35%), the residents of the country (24%) and the culture, habits and customs (18%) constituted the focal areas of national identity for Luxembourg voters. Foreigners rated the following as their key elements: the residents (25%), the culture, habits and customs (24%), and then finally the history (23%). Language only ranked fourth (16%).²¹⁸

There is once again a difference in opinion between the two groups regarding trilingualism in Luxembourg. 39% of Luxembourg citizens deem speaking Luxembourgish to be essential, compared with 59% for whom being trilingual is more important. Foreigners do not share this opinion. Indeed, only 17% of them deem a

knowledge of Luxembourgish to be essential, compared with 79% who believe trilingualism to be more important.

Differences in opinion between Luxembourg citizens and foreigners were also evident in the perception of the Luxembourg language as an integration factor. 42% of the electorate therefore deemed that it was possible to integrate even without speaking the national language, compared with 69% of foreigners.²¹⁹

As regards the issue of access to the right to vote, a majority of voters linked the right to vote to proficiency in Luxembourgish. 86% of voters (50% "very clearly") believe that those participating in municipal, European and national elections should be able to speak Luxembourgish, while the figure for foreigners is 66%.

3.4.6. Issues of identity and national sovereignty

According to François Bausch (Déi Gréng) the referendum results reflect a genuine fear of a loss of identity. The Minister for Sustainable Development and Infrastructure feels that voters are anxious about the way in which the EU has changed.²²⁰

Deputy Claude Adam (Déi Gréng) attributes this return to identity-based values to an overall sense of insecurity in the light of globalisation, as well as a scepticism towards the power of the banks and multinationals. He also highlights the fact that the Luxembourgish language has been regularly mentioned in debates, together with nationality and sovereignty.²²¹

Political commentator Philippe Poirier refers to the misalignment of the supporters. He believes that Luxembourg citizens' attachment to national preference has been underestimated. He also stipulates that the right of foreigners to vote has been monopolised by Luxembourg citizens' fears of losing their identity, language and sovereignty.²²²

This is also the view of the MINTE platform, which stipulates that the overwhelming No vote does not necessarily constitute a rejection of the prominent and growing presence of non-Luxembourg citizens. We cannot, however, ignore the fears expressed through the referendum vote, particularly those related to a loss of identity and national sovereignty.²²³

The electorate does appear to have harboured such a fear. Indeed, according to a survey conducted by TNS ILRES in June 2015, 36% of voters (compared with 47%) expressed a fear of loss should the right of foreigners to vote come into force.

There is a significant gulf between these views and those of foreign residents, 62% of whom did not believe that there would be any loss.²²⁴

Such explanations are generally in line with the changes which Fernand Fehlen has noted over the past 20 years, which he describes as a "*re-ethnicization of the political debate*": "*In a manner of speaking, politics is discovering identity. There are true reasons for this phenomenon: politics has been spurned by the economy*"²²⁵ (author's translation from German, then translated into English by the translator). In Luxembourg, as Mr Fehlen points out, this return to values of national identity is essentially linked to the issue of language. The ideological surge of Luxemburgish, as a marker of identity, is thus a response to both socio-cultural and economic shifts, and to the resulting problems.

3.5. Consequences

3.5.1. Improving participation through a reform of the nationality Law

The referendum results had the almost-immediate effect of the three referendum proposals not being included in the draft changes for the Constitution.

The issue of foreigners' rights now risks being swept under the carpet.²²⁶ In any case, 50% of voters thought that the post-referendum discussion on the right to vote would be off limits for a long time.²²⁷

For political bodies, the post-referendum period was defined by the seeking of a consensus with the parliamentary opposition based on the reform of nationality law.²²⁸ Following the overwhelming rejection of the right to vote based on residential citizenship, it is now only the nationality route which enables full citizenship to be obtained.

Generally speaking, commentators and political leaders, together with civil society stakeholders, did not see the referendum result as a xenophobic response. Instead,

they concluded that citizenship and nationality are closely intertwined, and that nationality should now be the preferred route towards obtaining full citizenship.²²⁹ All political parties now agree on the importance of relaxing the access criteria for Luxembourg nationality.²³⁰ There have been many calls from civil society for a reform of the nationality Law.

In this way, in its press release of June 2015, the CLAE (Liaison and Action Committee for Foreigners) emphasised that the referendum result should not polarise society, but rather open up a new, calmer debate on a shared future. The Committee also reiterated that it *"had never positioned itself as acting in the sole interest of foreigners, but rather for society as a whole"*. It also hopes that *"in the near future, a societal consensus is found in order to facilitate access to Luxembourg nationality and to extend jus soli"*.²³¹

On the day after the referendum, the MINTE Platform reiterated that it had *"always asserted that the opening up of the right to vote alone would not resolve the issues of the democratic deficit, and that a more logical Act governing access to nationality ought to be implemented"*.²³²

The Nee2015 Platform²³³ warned that the authorities should respect the will of voters, and not sell Luxembourg nationality short. It reiterated its stance by insisting that foreigners wishing to participate in parliamentary elections should obtain Luxembourg nationality, and also learn the Luxembourgish language.

3.5.2. Promoting the status of Luxembourgish. Which linguistic policy is best?

According to sociologist Fernand Fehlen, post-referendum integration can be achieved through naturalisation and learning the national language. There does not seem to be any compromise on multilingualism between the elite and the people.²³⁴ Political commentator Nuria Garcia is also a firm believer in this viewpoint:

*"Beyond the divide between the supporters of three yes's and three no's, a consensus seems to be forming around which the Luxembourgish language and identity must be protected and preserved by introducing a proactive policy. More broadly, asking voters to learn Luxembourgish seems to be a legitimate and reasonable condition for access to political rights."*²³⁵

Calls for the Luxembourgish language to be promoted now originate from a range of sources and political sides.

Thus, the Chair of the LSAP parliamentary group, Alex Bodry, states that Luxembourgish must remain the gold standard language for communication. He is therefore calling for the language to be incorporated into the Constitution, as there is currently no reference to it. Trilingualism should, however, still be seen as an asset. He therefore proposes a reform of the nationality Law, in which the Luxembourgish language must remain a key criterion for obtaining nationality. Like ADR Deputy Gast Gibéryen, Alex Bodry argues in favour of Luxembourgish lessons being extended throughout the country.²³⁶

Civil society has also expressed its opinions on this topic. Indeed, MINTÉ appealed to Luxembourg citizens to volunteer for initiatives to teach Luxembourgish to non-Luxembourgish citizens. It raised the importance of official trilingualism for Luxembourg, while acknowledging that Luxembourgish is important in order for communities to live together harmoniously.²³⁷

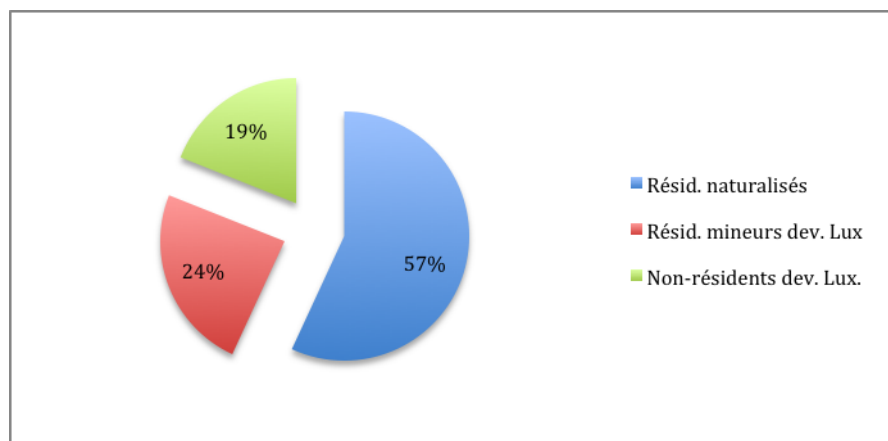
In response to the persistence of the language factor during and after the referendum debate, Nuria Garcia asks the question of whether Luxembourg citizens restricted the right of foreign residents to vote in order to preserve their language, or whether, on the contrary, the Luxembourgish language was used as a pretext to legitimise the status quo and in particular, certain privileges which Luxembourg citizens enjoy.²³⁸

4. TOWARDS A REFORM OF THE NATIONALITY LAW

4.1. Introduction and Background

Although the Luxembourg population continues to grow in absolute numbers, this increase is primarily due to the acquisition of nationality by residents of foreign nationality. Indeed, the Act of 23 October 2008 which introduced the principle of multiple nationality, impacted significantly on transfers of nationality and on the growth of the Luxembourg population in absolute numbers. Between 2009 and 2015, 41,007 people – 81% (33,221) residents and 19% (7786) non-residents – obtained Luxembourg nationality, either through the application process or, in the case of children, automatically.²³⁹

Fig. 3: New Luxembourg citizens from 2009 to 2015



Source: Statec, Ministry of Justice © CEFIS

In 2009, dual jus sanguinis was introduced into legislation with retroactive effect, automatically conferring Luxembourg nationality upon 4,209 minors. In 2009, this route for obtaining nationality created more new Luxembourg citizens than those going through the naturalisation process.

Those obtaining Luxembourg nationality in 2015 originated from the five main national community groups within Luxembourg, with a considerably higher number

of Portuguese nationals than the other groups (namely the French, Italians, Germans and Belgians). The main non-EU nationalities who applied for naturalisation were the four Balkan States (Montenegro, Kosovo, Bosnia and Serbia), ranking in 6th to 8th and 10th position. 13th and 14th positions are occupied by Russia and Cape Verde.²⁴⁰ Against this backdrop, it is hardly surprising that the most widely debated topics have been nationality, the obtaining of Luxembourg nationality, and more specifically nationality reform. Indeed, the latter was directly linked to the national referendum, as during the referendum campaign it was presented as an alternative to the right of foreigners to vote.

Generally speaking, the argument surrounding the right to vote caused a rift between supporters of residence-based citizenship, and the defenders of a link between citizenship and nationality. As described above, many interpreted the referendum results as a message from voters that the right to vote should be accessed through nationality. Some also specifically insisted that applicants should learn Luxembourgish.²⁴¹

Prior to the referendum campaign, the CSV had presented a parliamentary bill on the reform of nationality law as an alternative to the referendum of 7 June 2015. The writer of the parliamentary bill deemed that "*the right to vote in national elections is linked to nationality. As the Chamber of Deputies embodies national sovereignty, it seems logical that the right to elect deputies be dependent not only on residency, but also on nationality.*"²⁴²

This parliamentary bill, despite being more sophisticated, was itself based on bill 6561²⁴³ (hereinafter the bill), submitted on 11 April 2013 by François Biltgen, then Minister for Justice. The main points of reform for the bill submitted on 24 February 2015 are as follows:

- Shortening the period of residence from 7 to 5 years;
- Scrapping the period of residence condition for nationality applicants married to a Luxembourg citizen;
- The option for children born in Luxembourg with one or two foreign parents to automatically obtain Luxembourg nationality at the age of 18, provided that they meet the residence criteria;
- Maintaining the condition of knowledge of the Luxembourgish language, yet with a lowering of the required linguistic level: the required levels for listening

comprehension and oral expression in Luxembourgish are set at level A2 of the Common European Framework of Reference for Languages, whereas at the present time, level B1 must be attained for listening comprehension and A2 for oral expression;

- Language dispensations for people resident in the Grand Duchy for 20 years or more.

Despite also intending to hold talks on the matter with opposition political parties, at a press conference held on 8 October 2015, the Minister for Justice presented a draft nationality bill.²⁴⁴

The legislator intended to use this new law to promote the societal and political integration of foreign nationals, and to strengthen cohesion in the Grand Duchy. This reform formed part of the government programme in the wake of the 2013 elections:

*"Following the successful 2008 legislative reform on the obtaining of Luxembourg nationality, the required conditions and procedures for access to Luxembourg nationality will be relaxed. Changes primarily relate to the lowering of the level of linguistic knowledge in order to ensure social equity."*²⁴⁵

The new Act must also be grounded in the post-referendum context, the referendum having clearly demonstrated that Luxembourg citizens did not wish to open up the right to vote in parliamentary elections to foreign nationals. Moreover, both before and during the referendum campaign, a number of stakeholders repeatedly reiterated that there was another way of increasing the involvement of foreign nationals in politics, i.e. by making it easier for them to obtain Luxembourg nationality. During the referendum debates on the right of foreigners to vote, the themes of citizenship and nationality were often linked.

Naturalisation would therefore appear to be a means of tackling demographic changes in Luxembourg. Indeed, the proportion of Luxembourg citizens has fallen in relation to the total population, despite the positive impact that the current law has had on the growth of the Luxembourg population. Following the 2008 Luxembourg nationality Law, the number of applications to obtain and re-acquire nationality has almost quadrupled.

4.2. Primary changes set out by the draft bill

In order to make it easier to access nationality, the draft bill²⁴⁶ sets out substantial changes related both to the criteria for obtaining nationality (period of residence condition, linguistic requirements and citizenship courses) and to procedures. It therefore re-introduces the option process and incorporates first generation jus soli. These changes are more extensive than those contained in the CSV's parliamentary bill to reform nationality law.²⁴⁷

As discussed below, the main changes pertain to naturalisation, the option process and jus soli.

4.2.1. Naturalisation

Individuals who fulfil the following conditions are eligible to undergo the naturalisation process:

- Proof of a five-year period of residence in the country (compared with 7 years currently). The final year of residence must precede the date on which the naturalisation application is submitted;
- A pass in the Luxembourg language test to assess A2 proficiency in listening comprehension and oral expression;
- Attendance of 24 hours of a '*Living together in Luxembourg*' course, or a pass in the course examination.

Flexibility on the period of residence has, however, been introduced for various situations:

- a) A three-year period of residence will be accepted for three categories of people:
 - Those covered by the reception and integration contract (CAI), managed by OLAI [Luxembourg Office of Reception and Integration];
 - Applicants who moved to Luxembourg before the age of 18 (based on the European Convention on Nationality);

- Those covered by international protection and the stateless.
- b) An eight-year period of residence and a dispensation from the language test is envisaged to provide opportunities for certain poorly educated socio-professional categories who are unlikely to pass the language test, but who have made an effort to integrate by attending Luxembourgish language lessons.
- c) Finally, it is not necessary to prove that the entire period of residence in the Grand Duchy is uninterrupted before submitting the naturalisation request. Only the final year of residence must be continuous.

Linguistic criteria

Taking as a starting point the fact that proficiency in Luxembourgish is an important factor for integration, and that the Luxembourgish language must be regarded as an asset rather than an obstacle to nationality, the government plans to link language and residency criteria. The following stipulations have therefore been made:

- a) Naturalisation applicants must provide proof of level A2 in the Common European Framework of Reference for Languages (CEFR), both for listening comprehension (compared with B1 currently) and for oral expression, and must pass the assessment examination for spoken Luxembourgish held by the National Languages Institute [*Institut national des langues*].
- b) The following people will receive a dispensation from the Luxembourgish language test:
 - Those resident in Luxembourg for a minimum of eight years, provided that they have attended 100 hours of Luxembourgish language lessons;
 - Those aged 75 and over;
 - Those who have great difficulties with learning Luxembourgish due to physical or mental health issues, or are unable to learn the language due to being poorly educated, elderly (75 years and over) or having a severe disability.
- c) An examination compensation and deferral system will be introduced for the spoken Luxembourgish language test.

The ‘Living together in the Grand Duchy of Luxembourg’ course and exam

Applicants are offered a choice between attending the ‘*Living together in the Grand Duchy of Luxembourg*’ course, and passing the course examination in the form of a multiple-choice questionnaire.

4.2.2. *Option process*

The Government is proposing the reintroduction into Luxembourg nationality law of an option to follow a simplified process in order to become Luxembourgish.

Only individuals with particularly close ties to the Grand Duchy will be eligible to use this simplified process. Close ties include having a Luxembourgish relative, or cohabiting with a Luxembourgish spouse. This process also covers people born in the Grand Duchy, those who have resided on Luxembourg territory for a lengthy period, those who have completed their schooling in Luxembourg, and State officials.

Another objective is to ensure that Luxembourg nationality covers whole families. The following people can also obtain Luxembourg nationality through the option process:

- a. People born in Luxembourg, aged from 12 to 17, who satisfy the following conditions:
 - The applicant and his/her non-Luxembourgish parent or adoptive parent must habitually reside in Luxembourg;
 - The parent or adoptive parent must provide proof of lawful and continuous residency of at least one year immediately preceding the date of birth of the person in question;
 - The applicant must provide proof of lawful and continuous residency of at least one year immediately preceding the day on which the option process is initiated.
- b) Adults born in Luxembourg who did not automatically gain Luxembourg nationality due to residing abroad at the time of their eighteenth birthday;
- c) Adults whose parent or adoptive parent holds or used to hold Luxembourg nationality, and to whom Luxembourg nationality has not been granted;

- d) Parents or adoptive parents of a Luxembourg citizen, provided they are habitually resident in Luxembourg and have lawfully resided there for at least five years, with the final year immediately preceding the initiation of the option process having been uninterrupted;
- e) Spouses of a Luxembourg citizen
 - If both spouses habitually and lawfully reside in the Grand Duchy of Luxembourg and are cohabiting when the option process is initiated;
 - Or, if the spouses have not habitually and lawfully resided in the Grand Duchy of Luxembourg, they are able to provide proof of cohabitation for at least three consecutive years immediately preceding the initiation of the option process.
- f) Adults having completed a minimum of seven years of schooling in the Luxembourg State education system, or in a private system which uses Luxembourg State education programmes, provided that they habitually reside in the Grand Duchy of Luxembourg and have lawfully resided there for a minimum of 12 consecutive months immediately preceding the date on which the option process is initiated;
- g) Adults having habitually and lawfully resided in the Grand Duchy of Luxembourg for a minimum of 20 years, with the final year immediately preceding the date on which the option process is initiated having been uninterrupted;
- h) People having well and faithfully served either as a civil servant, employee or worker of a State authority or public institution, or as a volunteer soldier in the Luxembourg Army, for a minimum of 36 months.

Linguistic criteria

Applicants following the option process who are parents or adoptive parents of a Luxembourg citizen, the spouse of a Luxembourg citizen or who have been residing in the country for a minimum of 20 years must provide proof of active and passive knowledge of one of the country's three official languages. This knowledge is assessed by the civil registrar. People who have completed a minimum of seven years of their schooling in Luxembourg and those having well and faithfully served for an authority are exempt from the linguistic knowledge test.

The 'Living together in the Grand Duchy of Luxembourg' course and exam

Option applicants who are parents or adoptive parents of a Luxembourg citizen or who have been residing in the country for a minimum of 20 years must choose between attending the course, or passing the course examination.

The process

The legislator would like to implement a process which reconciles two objectives, first to simplify and speed up the system, and secondly to ensure that each case is treated uniformly throughout the country.

The option process is initiated when the civil registrar and the option applicant sign the option statement.

4.2.3. Jus soli

The introduction of first generation jus soli

In order to prevent birth tourism in Luxembourg and to ensure that nationality is granted only to those who have a true link with the country, the legislator requires that the applicant is not only born in Luxembourg, but also meets a dual residency condition covering the applicant and one of their parents.

Anyone aged 18 who was born in Luxembourg will automatically obtain Luxembourg nationality if they fulfil the following conditions:

- One of the non-Luxembourgish parents or adoptive parents and the applicant must habitually reside in Luxembourg;
- One of the non-Luxembourgish parents or adoptive parents must provide proof of lawful and continuous residency of a minimum of one year preceding the birth of the individual in question;
- The applicant must provide proof of his/her lawful and continuous residency for a minimum of one year preceding the date of his/her eighteenth birthday.

This system also applies to people born in the Grand Duchy of Luxembourg while an international protection application is being processed, provided that they have refugee or subsidiary protection status when they reach adulthood.

4.3. Stances

A number of organisations have been quick to criticise the proposals contained in the draft bill, including in particular the CSV, Déi Lénk, the ADR, the CGFP, the Nee2015 initiative (subsequently rebranded "Nee2015-Wee 2050"), the ASTI and the CLAE. Some of them have also criticised the fact that, following the failure of the referendum, the Government has attempted to introduce the right of foreigners to vote by the back door by simplifying or 'selling off' the granting of Luxembourg nationality.²⁴⁸

The ADR saw this as an attack on the nation of Luxembourg, and as a mockery of the 80% of Luxembourg citizens who voted in the referendum against the extending of the right to vote in parliamentary elections to foreigners.²⁴⁹ The General Confederation of Civil Servants union [*Confédération Générale de la Fonction Publique* – CGFP], as a No campaigner, expressed shock that the Government had submitted its draft bill on nationality so soon after its failure in the referendum. The union feared that this strategy amounted to granting nationality "*practically for free*".²⁵⁰

Although everyone appears to agree on the shortening of the period of residence for naturalisation from seven to five years, several of the criteria for gaining nationality are deemed too generous, particularly as regards the option process or *jus soli*. One of the main sticking points is the dispensation from the Luxembourgish language test, together with the lowering of the linguistic requirements.

The Chair of the CSV parliamentary group reacted quickly to the news. In keeping with the parliamentary bill, the main parliamentary opposition group shared some of the Government's main principles such as *jus soli*, the five-year period of residence and faster granting of nationality for married couples, and even the relaxing of the Luxembourgish proficiency level for listening comprehension. Nevertheless, the CSV did not accept the legislation as it was due to some of the provisions and derogations regarding Luxembourgish language learning and the *jus soli* principle. The Government and the CSV shared the view that a native of the country could automatically gain Luxembourg nationality at adulthood. Yet although the CSV required a minimum of five years of residency prior to the applicant's eighteenth birthday, the Government agreed on just one year. The CSV states that integration is

not guaranteed after one year, and maintains its stance of five years.²⁵¹ On this point, the ADR claimed that 18 years' habitual residence should be required.²⁵²

As regards Luxembourgish language requirements, the CSV believes that the language test could be scrapped for those having resided in Luxembourg for 20 years, given that such applicants are likely to be fully integrated. However, the CSV finds it unacceptable to eliminate the requirement to take the test after eight years of residency, and all the more so as it did not see the benefit of setting a five-year period of residency with a language test if nationality could be granted after eight years of residency without having to sit a language test.²⁵³ The CSV also rejected the idea of providing dispensation from the language test for spouses of Luxembourgish citizens under the option route.²⁵⁴

Finally, the CSV emphasised the fact that nationality is linked to identity, reiterating the huge success of the introduction of dual nationality. This would enable new Luxembourgers to keep their original nationality, which is crucial.²⁵⁵

Some parties and initiatives are even more vigorously opposed to the plans. The ADR was one of the first to lament the lack of clarity in the legislation which offers 20 possible routes for obtaining nationality.²⁵⁶ This complexity was also raised by the 'nee2015-Wee2050'²⁵⁷ initiative and by some journalists²⁵⁸. The ADR later pointed out that the Luxembourgish language was the most important integration factor, and therefore that the required level of knowledge should under no circumstances fall below the current level. This requirement, it asserted, should be applied to beneficiaries of international protection, people married to a Luxembourgish citizen or to people with a proven 20-year period of residence, and to employees having worked for a State public authority for at least 36 months. The ADR even suggested that level B1 should also be introduced for oral expression (currently A2). The conservative-leaning party finally pointed out that an exemption from the Luxembourgish test is only justified if the person in question has completed all of their primary schooling in the Luxembourg school system, in schools whose common language is Luxembourgish.²⁵⁹

While welcoming the Government's attempt to gain a consensus, the CGFP was similarly opposed to the lowering of the Luxembourgish proficiency level required in order to access Luxembourg nationality.²⁶⁰ Moreover, it contested the *jus soli* policy proposed by the legislation.²⁶¹

Like the CSV and the ADR, the 'Nee2015-Wee 2050' initiative condemned the proposal under which Luxembourg nationality could be granted after eight years of residence, without having to sit a Luxembourgish language test. It was, however, in favour of first generation jus soli for those schooled in Luxembourg. It agreed with the CSV and the ADR that foreign spouses of Luxembourg nationals should have to pass the language test. Finally, as it disagreed with the proposal to lower the required Luxembourgish proficiency level, the initiative lobbied for concrete measures to make it easier to learn the language, which it deemed crucial for integration.²⁶²

Some organisations and parties, including the ASTI (Association to Support Immigrant Workers) and Déi Lénk, have, however, been basically satisfied with the legislative changes, noting that they represented progress in comparison with the previous situation. The latter generally believed that language should not be a basis for exclusion, while welcoming the introduction of first generation jus soli.²⁶³

Left-wing party Déi Lénk welcomed the legislation's recognition of those finding the Luxembourgish language difficult to learn for social and cultural reasons. Although the party did not go as far as to deny the importance of Luxembourgish in the integration process, it did nevertheless stipulate that a knowledge of Luxembourgish was not sufficient in itself. In this way, nationality and, of course, the nation are defined "*above all by the will of people who live alongside one another and wish to live alongside one another*".²⁶⁴

In its press release, the ASTI reiterated Luxembourg's unusual demographics in that 46% of its residents are foreigners. It also later welcomed the fact that the legislator had opted to create a balance between jus sanguinis and jus soli. It also, however, lamented the lack of "*political courage to emphasise that Luxembourg is a country of immigration, that our demography depends on the contribution of foreigners, and that someone who is born in Luxembourg should be a Luxembourg citizen*".²⁶⁵

However, the Association agrees with its 'Nee2015-Wee 2050' opponents on promoting the Luxembourgish language, and on adopting practical measures to make it easier to learn. It believes that the lowering of linguistic requirements would be the best route to follow in order to take into account the sociodemographic reality. For ASTI, integration is not only related to the Luxembourgish language. Rather, it covers a whole host of socio-economic factors, and political and cultural aspects which encourage all residents to play a part in society.²⁶⁶

4.4. Surveys

The referendum campaign has been punctuated by various surveys on topics such as the criteria for accessing Luxembourg nationality.

One survey from March 2015²⁶⁷ indicated some points of agreement, but also both minor and major divides between Luxembourgers and foreign citizens on the criteria for access to Luxembourg nationality.

There is a consensus on the CSV's proposal to automatically grant Luxembourg nationality to children born in Luxembourg when they reach the age of 18: 72% of Luxembourg citizens (71% at the beginning of June²⁶⁸) and 75% of foreigners (78% at the beginning of June) share this view. Older people are especially in favour (79% amongst over 65s), as are the highly educated.

Seven months later, at the beginning of November 2015, this idea of first generation *jus soli* granted to children who were born and raised in Luxembourg is still supported by a 64% majority of voters, and 77% of foreign residents. Also at the beginning of November, both Luxembourgers (64%) and foreigners (66%) were widely in favour of the Government's future proposal to grant Luxembourg nationality to children aged 12 who were born in the country, at the parents' request, provided that the parents had lived in Luxembourg for at least one year before the child was born.²⁶⁹

Finally, at the beginning of November 2015, 56% of Luxembourg citizens supported a shortening of the period of residence from 7 to 5 years, provided that naturalisation applicants were able to pass a Luxembourgish language test. In March 2015, and again at the beginning of June 2015²⁷⁰, only 43% of voters supported the same proposal with no reference to the language test, with 54% against the proposal (55% at the beginning of June). 51% of foreigners were in favour (52% at the beginning of June 2015) and 43% against. Highly educated people were generally more in favour than the poorly educated, and more 18-to-24s supported the proposal than those in more mature age groups.

The main differences between Luxembourgers and foreign citizens were evident on the topic of linguistic requirements.

Thus in March 2015, an absolute majority of 54% of Luxembourgers felt that it was necessary to speak Luxembourgish fluently in order to become a Luxembourgger,

compared with 41% of foreigners. A relative majority of foreigners (44%) were of the view that speaking a little bit of Luxembourgish or understanding it was sufficient.

There was also a difference of opinion between Luxembourgers and foreigners in relation to the simplification of the language test for Luxembourg nationality. Over the year, the gap continued to grow between the supporters and opponents of the idea, especially after the debates on the draft reform bill for Luxembourg nationality. At the start of November, 70% of Luxembourg citizens were opposed to it (compared with 62% at the start of June 2015, and 57% in March 2015) while 58% of foreigners supported it (compared with 60% at the start of June 2015 and 65% in March 2015). In March 2015, the youngest people surveyed appeared to be the least opposed to the idea (65% for the 18–24 age group and 67% for the 25–35 age group). In November 2015, over 26% of voters were behind the proposal, down from 35% in March 2015 and 34% in June.

There was also a clear divide between Luxembourgers and foreigners on the issue of dispensation from the language test for residents having lived in Luxembourg for over 20 years. In March, 66% of Luxembourg citizens were opposed, while 67% of foreigners were in favour. The age variable had little impact on people's stance on this issue. The highly educated were more likely to be in favour of the proposal. At the start of June 2015, 70% of voters rejected the proposal, while over 60% of foreigners were still in favour. Between March and the beginning of June 2015, support from voters fell from 31% to 28%.²⁷¹

A large majority of voters rejected the idea that foreign spouses of Luxembourg citizens could gain Luxembourg nationality without having to sit the Luxembourgish test if the couple lives and habitually resides in Luxembourg, while 57% of foreigners supported the proposal.²⁷²

Finally, there was a difference of opinion between Luxembourg citizens and foreigners on the issue of whether Government proposals to reform the nationality law constituted an adequate response to the integration of foreigners. Only a minority of Luxembourgers believed this (27%), compared with a relative majority of 48% of foreigners.²⁷³

4.5. Bill on Luxembourg nationality (2016)

After signalling its agreement with the draft bill in October 2015, the Government Council initiated the discussion process with the parliamentary opposition in order to gather broad parliamentary approval.

On 14 March 2016, the Minister for Justice presented the bill, which is earmarked to replace the Act of 23 October 2008 on Luxembourg nationality, and which takes into account the results of political consultations that the Minister has conducted with the three opposition parties (CSV, ADR and Déi Lénk).²⁷⁴ On 24 March 2016, bill no. 6977 on Luxembourg nationality²⁷⁵ was introduced to the Chamber of Deputies.

We will return to the bill and the more in-depth debates which followed in the 2016 political report. It is worth noting, however, the main changes introduced in relation to the draft bill:

First, while the draft bill enabled Luxembourg nationality to be granted automatically to an applicant born in Luxembourg who can prove habitual residence of one year prior to the date of his/her eighteenth birthday, the bill lengthens this time period to five years. However the other essential condition in order to be covered by first generation *jus soli*, i.e. the requirement of at least one year's residence by one of the parents prior to the birth of the individual in question, remains unchanged.

Minors of 12 years and over can gain Luxembourg nationality through the option process, based on the same double Luxembourg residency requirement.

Although the bill maintains the draft bill's period of residence condition of five years for naturalisation applicants, it also reverts to the Luxembourgish language proficiency requirements as stipulated by the current law, which are level B1 for listening comprehension and level A2 for oral expression, even though the draft bill proposed level A2 for both listening comprehension and oral expression.

While the draft bill covered several situations in which applicants would receive a dispensation from the Luxembourgish language test, including for people who have lived in the country for eight years, the bill only retains the following circumstances for such dispensation:

- Applicants whose physical or mental health prevents him/her from learning a language;

- Applicants who have lived in the country for a minimum of 20 years, who must nevertheless provide proof of attendance of 24 hours of Luxemburgish language lessons;
- Individuals who can prove that they were schooled for seven years in the Luxembourg State education system, or in a private system which uses Luxembourg State education programmes.

Exemptions on the five-year period of residence for naturalisation have been removed for various categories of people, including those covered by international protection and the stateless. These categories are, however, still covered by the more straightforward option process.

Finally, more scenarios are now eligible for the option process.

As a general rule, the bill could be described as less ambitious and innovative than the draft bill that preceded it. The new legislation reflects the parliamentary consensus which the Government wanted to use, yet some also view it as an '*acceptable compromise*' and a consequence of the June 2015 referendum results, which were testament to the disillusionment with the opening up policy that it had wanted to put in place.²⁷⁶

5. GENERAL CONCLUSION

2015 was an alarming and also tragic year for migration the world over. Together with its 244 million international migrants, the highest number ever recorded, 2015's unending conflicts also gave rise to an unprecedented number of refugees.²⁷⁷ Last year was also the deadliest in history for the migrants who crossed the Mediterranean. The story of Aylan, the Syrian child found drowned on a Turkish beach, is imprinted upon our memories. There were thousands before him (3,771 to be precise) who died on the Mediterranean shores in 2015.²⁷⁸

Luxembourg, although located at the heart of Europe and therefore distanced from the shipwrecks, nevertheless felt the impact of these tragic events and recent developments. Although the arrival of increased numbers of applicants for international protection could not be described as a 'crisis', Luxembourg saw a sharp increase in comparison with 2014, with the number of new arrivals reaching 2,447. International protection was therefore pushed to the top of the Luxembourg political agenda, as suggested by this political report. Although the issue was inevitable and still remains at the forefront of political debate, it nevertheless coincided with at least two other significant and major events, namely the referendum, with the question of the opening up of the right to vote to foreigners, and the new nationality Law, for which the draft bill was presented in 2015.

This political report assessed the relevance and scope of these three changes within the Luxembourg political landscape, and attempted to uncover the central themes. In order to retrace events and the ensuing discussions, this report relied on a multi-disciplinary documentary toolkit based on media coverage, parliamentary debates, official communications and stances, from both socio-economic and civil society stakeholders, and finally on statistical data analysis.

Chapter one of this report, which is fittingly based on **international protection**, provided a background and then recapped on the new developments born out of what can only be described as an 'emergency' situation.

We saw that, in order to address the increase in applications for international protection in Luxembourg, in summer 2015 the MFIGR began to implement an emergency reception plan through the HPCN, in partnership with the OLAI. The programme in particular set out the creation of four primary reception centres, together with three ‘container villages’, and the creation of an evaluation cell for the influx of applications for international protection, as well as a logistics cell responsible for coordinating the fitting out of accommodation. The increase also led to the national authorities increasing their workforce (OLAI). As this report highlights, Luxembourg was also involved in resettlement and relocation programmes for refugees. The first part of this chapter ended by examining integration measures for new arrivals through the national education system, provided by the CASNA (reception centre for newly arrived pupils), as well those related to jobs and accommodation.

The second part of the chapter set out legislative changes, namely the Act of 18 December 2015 on the reception of applicants for international protection and temporary protection, and the Act of 18 December on international protection and subsidiary protection, covering the transposition of both European directives into national law (Directive 2013/32/EU and Directive 2013/33/EU). Although the bills were welcomed by the majority of those involved in migratory politics, the adopted ‘asylum package’ attracted criticism. Despite the positive feedback expressed on some improvements, such as the restriction of the application processing time to six months, and the reduction of the period during which applicants are not permitted to work to six months, most criticisms highlighted the legislation’s failure to recognise and adapt to the reality on the ground.

We then addressed the broadening of the provisions relating to the regularisation of people residing unlawfully in Luxembourg. Chapter one ended by highlighting several instances of case law in the area of international protection, in which the Administrative Court had reversed the rulings of the administrative court.

The focus of chapter two of this 2015 political report is the **referendum**. Part one attempts first to put the referendum into context from both a historical and political standpoint, and secondly to further analyse the issue of the right of foreigners to vote. As part of the process to prepare a new Constitution, as set out by the 2013 Governmental programme, the June 2015 referendum consulted the public on the

issue of the optional right to vote for Luxembourg citizens aged between 16 and 18 in the election of deputies, European and local elections, and referenda; on the optional right of non-Luxembourg residents to vote (parliamentary elections) provided that they had lived in Luxembourg for a minimum of 10 years and had previously voted in Luxembourg's local or European elections; and on the restriction of terms of office for members of the Government to 10 years. Part one also tackles the referendum campaign, specifically in relation to the issue of the foreign vote. We gave an overview of the background of the campaign led both by official entities and by civil society, as well as the arguments both in favour of and against the right of foreigners to vote. While Yes campaigners (especially the coalition Government, opposition party Déi Lenk and the MINTE platform) put a particular emphasis on the issue of the democratic deficit, the socio-economic arguments and the issues of integration and social cohesion, No campaigners (including the CSV, the ADR and the Nee2015 Platform) proposed a number of ideas including that of accessing the right to vote by relaxing the criteria for access to Luxembourg nationality.

The referendum debates focused on the well-supported issue of participatory democracy, even though in Luxembourg only around 43% of the resident population were able to actually vote in the referendum. Discussions following the referendum focused on the content of the questions, and on the merits of consulting Luxembourg citizens on these questions.

Therefore, chapter two puts a particular emphasis on assessing the referendum as well as examining the referendum campaign. Using statistics and interpretative analysis, we attempted to comprehend why the No vote prevailed in the referendum results. We were able to identify six areas which might help to explain the results: (1) *The way in which the campaign was run*, and specifically the lack of a clear concept by the coalition Government in power; (2) a vote to *punish the incumbent Government*, and more broadly a *lack of trust* in politics, or even an expression of disapproval of politics; (3) *socio-demographic perceptions*, including social inequality and a fear of social deprivation; (4) the Yes campaign's *lack of power to galvanise support*; (5) the *societal divides* and communitarianism revealed by the campaign, exploding the myth of established integration in Luxembourg; (6) the issue of *identity and national sovereignty*, which is often related to the Luxembourgish language.

We ended the chapter by examining the consequences of the vote. Indeed, given that foreigners in Luxembourg will not gain political citizenship through a residence-

based right to vote, the debate has now shifted towards access to nationality and the language policy.

The final chapter closed this political report by examining the proposed reforms of the **Nationality Law**, which is closely linked to the June 2015 referendum. Following a brief introduction on the role of the referendum in prompting discussion on reforms to the Nationality Law, this chapter lays out in detail the changes suggested by the draft bill, which are divided into three components: naturalisation, the option process and jus soli. We saw that in order to facilitate access to nationality, this draft bill further extended the changes proposed by the CSV in advance of the referendum campaign.

Part two of this chapter goes on to reveal the stances, comments and criticisms voiced by certain civil society organisations and political parties. We covered the ADR's fear that nationality would be granted "practically for free", and that despite accepting the reduction of the period of residence and quicker obtaining of nationality through marriage, the CSV expressed its opposition to the conditions set out for jus soli and exemptions for Luxembourgish language learning.

Finally, this section was followed by a summary of survey results related to the conditions for access to nationality as observed during the referendum debate, and for which there is a noticeable difference between the responses provided by Luxembourg citizens and by foreigners. The chapter concluded with a reminder of the main provisions of the nationality bill introduced in March 2016 by the Minister for Justice.

Although the recurring theme of the three major 2015 events was (clearly and in the broadest sense) migration, another pervasive topic was that of the Luxembourgish language, multilingualism and the language policy.

Thus, not only has language proven to be, as suggested in a recent study published by the EMN, "one of the main obstacles for beneficiaries of international protection to access the labour market".²⁷⁹ It also constitutes "in most cases (...) the first hurdle they have to overcome" as "In Luxembourg most of the employers require from the applicant that s/he speaks one or more of the administrative languages of the country (French, German or Luxembourgish)", which "often require significant time and efforts from them before they may even integrate the national labour market" (as above). Moreover, and as a general rule, which languages should be prioritised to be

taught to new arrivals, migrants or refugees? And which teaching resources are required?

The 2015 referendum (and specifically the question on the right of foreigners to vote) breathed new life into the debate on the loss of the Luxembourgish language in public life. Both the 'Nee2015' platform and Déi Lenk were therefore firmly committed to "Luxembourgish as an integration language".²⁸⁰ If language – in this case Luxembourgish – indeed represents a key component which is crucial both to individual identity and, in the case of nationalism and the nation, collective identity, through what Benedict Anderson calls 'imagined communities',²⁸¹ it is high time we reiterated the importance of multilingualism, which is deeply rooted in the Luxembourg social and historic reality.²⁸²

Finally, the reforms of the Nationality Law went right to the heart of the debate on the Luxembourgish language, not only in purely practical terms (namely the criteria for obtaining Luxembourg nationality), but also by fuelling rather than calming the spirit of the discussion. For example, we touched on the extent to which many social and political stakeholders are opposed to the relaxing of Luxembourgish language knowledge requirements, believing that this is the most crucial integration factor.

Ultimately, the complexity of the Luxembourg linguistic debate is evident in the fact that first, Luxembourgish seems to occupy an important role in the identification and integration process and that secondly, multilingualism in public life seems to only partially reflect this trend.

Given that the refugee issue has shaped debates and politics in 2015, there is nothing to suggest that 2016 will be any different. Indeed, some 200 people are set to arrive in Luxembourg by the end of August 2016, following the European Union's agreement with Turkey, an agreement which was in fact strongly criticised by human rights activists²⁸³, and as part of the implementation of the European Council's conclusions (17 and 18 March 2016).²⁸⁴ While the number of applicants for international protection in Luxembourg in the first three months of 2016 fell significantly in comparison to previous months, it is difficult to give a detailed explanation of this phenomenon, and even more difficult to predict any future developments.

On the contrary, what is certain is that these new arrivals, the majority of whom will be covered by international protection, will do everything that they can to gain a foothold and integrate in Luxembourg, whether through education, work,

accommodation, language or by other means. What remains to be seen is to what extent the State authorities will create a suitable environment in order to permit them to do so.

¹ Please see: www.emnluxembourg.lu

² The EMN Asylum and Migration Glossary 3.0 is available on the following website:
http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf

³ Law of 29 August 2008 on the Free Movement of Persons and Immigration, Memorial A N°113 of 3 July 2013,

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

⁴ STATEC, Croissance de la population de +2.4% en 2015 (Population growth of 2.4% in 2015) (21.3.2016), Press release N°08-2016, in: *statistiques.public.lu*, URL:
<http://www.statistiques.public.lu/fr/actualites/population/population/2016/03/20160321/index.html>
(consulted on 2 May 2016).

⁵ STATEC, Press release (November 2015), in: *statistiques.public.lu*, URL:
<http://www.statistiques.public.lu/fr/actualites/population/population/2015/04/20150408/20150408.pdf>
(consulted on 29 April 2016).

⁶ STATEC, Press release (November 2015), in: *statistiques.public.lu*, URL:
<http://www.statistiques.public.lu/fr/actualites/population/population/2015/04/20150408/20150408.pdf>
(consulted on 29 April 2016).

⁷ The ad-hoc status was established in 1992 by the Government Council to cope with the significant influx of war refugees of former Yugoslavia. The ad-hoc status was abolished in 1995. Please see: BESCH, Sylvain, *Les réfugiés entre droit et politique (1990-2009)*, in: PAULY, Michel (ed.), *ASTI 30+ - Migrations, Recherches, Engagements*. Association de soutien aux travailleurs immigrés (Association for the Support of Immigrant Workers) Luxembourg, 2010, p. 110.

⁸ STATEC, Population by gender and nationality (x 1 000) 1981, 1991, 2001 -2016 (21.03.2016), in: *statistiques.public.lu*, URL:
http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=384&IF_Language=fra&MainTheme=2&FldrName=1 (consulted on 20.04.2016).

⁹ UNHCR, Un million de réfugiés et de migrants ont rejoint l'Europe en 2015 (One million refugees and migrants reach Europe in 2015) (22.12.2015), in: *unhcr.fr*, URL:
<http://www.unhcr.fr/567a746ec.html> (consulted on 19.04.2016).

¹⁰ ANONYME, Bras de fer dans l'UE: Quatre pays européens toujours opposés aux quotas (Tug of War in the EU: Four European countries still opposed to the quotas plan) (23.9.2015), in: *France24.com*, URL: <http://www.france24.com/fr/20150923-sommet-europeen-migrants-crise-migratoire-pays-est-hongrie-slovaquie-quotas> (consulted on 11.4.2016).

¹¹ HOFFMANN, Anne, Les réfugiés politiques au Luxembourg au XXe siècle, (Political refugees in Luxemburg in the 20th century), in: *forum* 225 (2003), pp. 37-43.

¹² See for example: The official website of the Presidency of the Council of the European Union, Grand-Duchy of Luxembourg, On a visit to Athens, Jean Asselborn attended the departure of 30 asylum seekers for relocation to Luxembourg (4.11.2015), in: *eu2015.lu*, URL:
<http://www.eu2015lu.eu/fr/actualites/articles-actualite/2015/11/04-asselborn-athenes/index.html>
(consulted on 28 April 2016).

¹³ Transposition of Directive 2013/32/EU on common procedures for the granting and withdrawing of international protection, and Directive 2013/33/EU laying down standards for the reception of applicants for international protection.

¹⁴ ANGEL, David, Asylum policy: Du pain sur la planche, in: *woxx* (06.02.2015), p.6.

¹⁵ TNS ILRES, Public opinion on the reception of refugees in Luxembourg 2015, in: *tns-ilres.lu*, URL:
<https://www.tns-ilres.com/cms/Home/News/Publications/2015/Opinion-publique-par-rapport-a-1%E2%80%99accueil-des-refug> (consulted on 7.4.2016).

¹⁶ KLEIN, Raymond, Un-friending refugees: Herzen brauchen Hirne (14.1.2016), in: *woxx.lu*, URL:
<http://www.woxx.lu/un-friending-refugees-herzen-brauchen-hirne/> (consulted on 7.4.2016).

¹⁷ CAREGARI, Luc, Réfugiés: Façades (20.7.2015), in: *woxx.lu*, URL: <http://www.woxx.lu/refugies-facades%e2%80%a9/> (consulted on 12.4.2016).

¹⁸ ROLLAND, Marie-Laure, Mos Stellarium : les enfants de l'exil (13.11.2015), in: *Luxemburgerwort.lu*, URL: <https://www.wort.lu/de/kultur/paroles-de-jeunes-refugies-au-luxembourg-mos-stellarium-les-enfants-de-l-exil-56461dea0da165c55dc4d1f6> (consulted on 12.4.2016).

¹⁹ OLAI, Volunteer Hotline, in: *olai.public.lu*, URL: <http://www.olai.public.lu/fr/actualites/2015/10/hotline-benevolat/index.html> (consulted on 12.4.2016).

²⁰ See in particular: ANGEL, David, Luxemburg weltoffen : wachsam bleiben (02.11.2015), in: *woxx.lu*, URL: <http://www.woxx.lu/luxemburg-weltoffen-wachsam-bleiben/> (consulted on 7.4.2016);

WAGNER, Francis, 'Lezeboia': Die Schande (9.9.2015), in: *Tageblatt.lu*, URL: <http://www.tageblatt.lu/meinung/story/15352887> (consulted on 8.4.2016).

²¹ TNS IRLS, Survey – Public opinion on the reception of refugees in Luxembourg, October 2015, URL: https://www.tns-ilres.com/cms/_tnsNewsAttachments/Opinion%20publique%20par%20rapport%20à%20l'accueil%20des%20réfugiés%20au%20Luxembourg.pdf (consulted on 12.4.2016).

²² DE JONGE, Léonie, Direkte Demokratie als Waffe der Rechtspopulisten ?, in: *forum 361* (April 2016), pp. 7-10; see also WEBER, Maxime, Die rechte Szene Luxemburgs und Verschwörungstheorien, in: *forum 353* (Juli-August 2015), pp. 41-44.

²³ See for example: *I love my Lëtzebuerg* or *Onst Lëtzebuerg Land*.

²⁴ Ministry of Foreign and European Affairs: Directorate of Immigration; Ministry of Finance: Acquisitions Committee, Directorate for Financial Control, General Inspectorate of Finance; Ministry of Sustainable Development and Infrastructure: Department of Transport, Department of Spatial Planning and Development, Department of Environment, the Public Works Administration (ABP); Ministry of National Security, Ministry of Home Affairs, Ministry of National Education, Childhood and Youth; Ministry of Health – Directorate of Health; Luxembourg Reception and Integration Agency (OLAI); Civil Defence Service (ASS); Information and Press Office of the Government of Luxembourg (SIP); the Grand-Ducal Army; the Customs and Excise Administration; the Grand-Ducal Police Force; High Commissioner for National Protection (HCPN); External experts: Red Cross and Caritas.

²⁵ Government of the Grand Duchy of Luxembourg, National planning, the reception of applicants for international protection (AIP) (13.11.2015), in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/5320378/dpi/5320426/introduction> (consulted on 19.04.2016).

²⁶ These four primary reception centres are located in Strassen: the former Speech Therapy Centre (300 beds, available from 23 September 2015); Luxembourg City: the former CHL Maternity unit, (130 beds, ready for end September 2015), Ettelbruck: Building A of the Neuro-Psychiatric Hospital, CHNP (220 beds, available end of October 2015) and Luxembourg-Kirchberg: Hall 6 of Luxexpo (360 campbeds in tents, available from the beginning of October 2015).

²⁷ A list of potential sites was drawn up and three of these sites were selected (on 31 December 2015) for more detailed study. Steinfort: a 1.6-ha site (alongside the existing Park&Ride car park); Diekirch: a 3.6-ha site (opposite the Grand-Duc Jean army barracks) and Mamer: a 2.3-ha site (next to the European School II and Lycée Josy Barthel).

²⁸ SOMNARD, Audrey, Ces conteneurs qui dérangent, in: *Le Quotidien* (24.11.2015).

²⁹ Government of the Grand Duchy of Luxembourg, National planning, the reception of applicants for international protection (AIP) *lu* (13.10.2015), in: *gouvernement*, URL: <http://www.gouvernement.lu/5320378/dpi/5320426/introduction> (consulted on 19.04.2016).

³⁰ Government of the Grand Duchy of Luxembourg, Press release, Summary of work of 11 September 2015 (11.9.2015), in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/5214681/11-conseil-gouvernement> (consulted on 19.04.2016).

³¹ Directorate of Immigration, Bilan de l'année 2015 en matière d'asile et d'immigration (5.2.2016), p.2, URL: <http://www.gouvernement.lu/5680602/Bilan-2015.pdf> (consulted on 19.04.2016).

³² Definition developed by the EMN from Articles 3(1)(d) and 6(e) of Council Decision 573/2007/EC establishing the Refugee Fund for the period 2008 to 2013, derived from the 2012 Luxembourg EMN glossary, URL: http://www.emnluxembourg.lu/wp-content/uploads/2015/09/EMN_Glossary_FR_Version.pdf (p. 176) (consulted on 29 April 2016).

³³ Definition developed by the *Study on the feasibility of establishing a Mechanism for the Relocation of beneficiaries of International Protection* by the European Commission derived from the 2012 Luxembourg EMN glossary, URL: http://www.emnluxembourg.lu/wp-content/uploads/2015/09/EMN_Glossary_FR_Version.pdf (p. 178) (consulted on 29 April 2016).

³⁴ Government of the Grand Duchy of Luxembourg, Press release, Accueil de réfugiés syriens par Corinne Cahen (Syrian refugees greeted by Corinne Cahen) (6.5.2015), in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/4802237/05-cahen-refugies> (consulted on 19.04.2016).

³⁵ Ministry of Family, Integration and the Greater Region, Arrivée des 50 personnes de protection internationale au Luxembourg (The arrival of 50 applicants for international protection in Luxembourg) (8.9.2015), in: *mfi.public.lu*, URL: http://www.mfi.public.lu/actualites/2015/09/08_dpi/index.html (consulted on 19.04.2016).

³⁶ WILDSCHUTZ, Nico, Riese in die Sicherheit, in: *Tageblatt* (10.9.2015).

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- ³⁷ Directorate of Immigration, Bilan de l'année 2015 en matière d'asile et d'immigration (Annual Report 2015 regarding asylum and immigration) (52.2016), p.2, URL: <http://www.gouvernement.lu/5680602/Bilan-2015.pdf> (consulted on 19.04.2016).
- ³⁸ The Council of the European Union approved the two-stage emergency relocation from Italy and Greece of a total of 160,000 people seeking international protection, on a proposal from the European Commission.
- ³⁹ Presidency of the Council of the European Union, Grand-Duchy of Luxembourg, *On a visit to Athens, Jean Asselborn attended the departure of 30 asylum seekers for relocation to Luxembourg* (4.11.2015), in: *eu2015.lu*, URL <http://www.eu2015lu.eu/fr/actualites/articles-actualite/2015/11/04-asselborn-athenes/index.html> (consulted on 19.04.2016).
- ⁴⁰ LU EMN NCP, 2010 Policy Report on migration and asylum. Luxembourg: LU EMN NCP, p.112.
- ⁴¹ Ministry of National Education, Childhood and Youth, Information concerning the reception of applicants for international protection, Information brochure (11.2015), in: *men.public.lu*, <http://www.men.public.lu/fr/actualites/publications/systeme-educatif/scolarisation-eleves-etrangers/brochures-enseignants/accueil-dem-protection/index.html> (consulted on 19.04.2016).
- ⁴² Ministry of Foreign and European Affairs (Directorate of Immigration), Ministry of Family, Integration and the Greater Region, Ministry of National Education, Childhood and Youth, press release, Visite du Centre Héliar à Weilerbach, conférence de presse du 10 juin 2015, (Visit to the Héliar Centre in Weilerbach, press conference of 10 June 2015) http://www.gouvernement.lu/4937425/DP-Weilerbach-100615_final.pdf (consulted on 19.04.2016).
- ⁴³ Government of the Grand Duchy of Luxembourg, New school year 2015-2016: Mir schwätzen Zukunft. Méisproocheg, differenzéiert, kandgerecht, Press release (14.09.2015), in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/5225464/14-meisch-rentree?context=3422896> (consulted on 19.04.2016).
- ⁴⁴ Ministry of National Education, Childhood and Youth, Information concerning the reception of applicants for international protection, Information brochure (11.2015), in: *men.public.lu*, URL: <http://www.men.public.lu/fr/actualites/publications/systeme-educatif/scolarisation-eleves-etrangers/brochures-enseignants/accueil-dem-protection/index.html> (consulted on 19.04.2016).
- ⁴⁵ Of particular note among these initiatives were the French language classes offered to applicants for international protection by ASTI asbl. (URL: <http://www.asti.lu/2015/10/21/lasti-active-dans-des-projets-concrets-a-lintegration-de-refugies-conference-de-presse/> (consulted on 21.04.2016)).
- ⁴⁶ Liaison and Action Committee for Foreigners (CLAE asbl.), InSitu Jobs, in: *clae.lu*, URL: http://www.clae.lu/migrations/#_insitujobs (consulted on 19.04.2016).
- ⁴⁷ Response of the Minister of Family and Integration to parliamentary question n°1345 on 4 August 2015.
- ⁴⁸ In the case of families, this financial contribution to accommodation costs is a third of their entire income. For single adults, the financial participation is progressive: it is fixed at 450€ on the 4th month, 550€ on the 5th month and 650€ as of 6 months.
- ⁴⁹ Response of the Minister of Home Affairs to parliamentary question n°1536 on 04 December 2015.
- ⁵⁰ Response of the Minister of Home Affairs to parliamentary question n°1536 on 04 December 2015 and Response of the Minister of Home Affairs to parliamentary question n°1529 on 29 October 2015.
- ⁵¹ Law of 18 December 2015 on the reception of applicants for international protection and temporary protection, URL: *Mémorial A n°255 of 28 December 2015*. (consulted on 28 April 2016).
- ⁵² Government's amendments of 19 May 2015, Parliamentary document 6775/01, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016).
- ⁵³ Opinion of the Council of State on 20 July 2015, Parliamentary document 6775/03, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016).
- ⁵⁴ The Law of 18 December 2015 on International Protection and Temporary Protection, URL: *Mémorial A n°255 of 28 December 2015*. (consulted on 28 April 2016).
- ⁵⁵ Article 4 (2) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: *Mémorial A n°255 of 28 December 2015*. (consulted on 28 April 2016).
- ⁵⁶ Article 4 (1) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: *Mémorial A n°255 of 28 December 2015*. (consulted on 28 April 2016).

- ⁵⁷ Article 6 (1) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁵⁸ Article 7 (1) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁵⁹ The LFR consists of the following associations and institutions: ACAT, AIL, ASTI, ASTM, CARITAS, CEFIS, CLAE and Vie Nouvelle.
- ⁶⁰ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 2.
- ⁶¹ Opinion of the CCDH, Parliamentary document 6779/04 of 28 August 2015, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 3.
- ⁶² Opinion of the Council of State of 20 July 2015, Parliamentary document 6779/03, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p.4.
- ⁶³ Article 4 of draft bill n°6775, Parliamentary document 6775/00 (consulted on 28 April 2016).
- ⁶⁴ Article 5 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁶⁵ Article 7 of the Law of 18 December 2015 on International Protection and Temporary Protection, Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁶⁶ Opinion of the CCDH of 28 August 2015, Parliamentary document 6779/04, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 4.
- ⁶⁷ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 4.
- ⁶⁸ Opinion of the UNHCR of 26 October 2015, Parliamentary document 6779/07, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), pp. 1-2.
- ⁶⁹ Within the meaning of Article 37-1, paragraph 3, of the same law, free legal assistance can be refused to persons bringing an "action which appears to be manifestly inadmissible, without merit or unreasonable or whose aim seems disproportionate in relation to the potential costs".
- ⁷⁰ Article 11 (3) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁷¹ Opinion of the parliamentary committee of 7 December 2015, Parliamentary document 6779/11, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 16.
- ⁷² Article 18 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁷³ Opinion of the CCDH of 26 October 2015, Parliamentary document 6779/07, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), pp. 1-2.

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- ⁷⁴ Article 13 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁷⁵ Article 27 (2) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁷⁶ Response of the Minister of Family and Integration to parliamentary question n°1557 of 09 December 2015.
- ⁷⁷ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p.8.
- ⁷⁸ Opinion of the parliamentary committee of 7 December 2015, Parliamentary document 6779/11, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), pp. 22-23.
- ⁷⁹ Article 22 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸⁰ Article 22 (3) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸¹ Article 22 (2) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸² Article 10 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸³ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 4.
- ⁸⁴ Article 14 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸⁵ Article 15 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸⁶ Article 26 (-3) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁸⁷ Opinion of the Refugee Collective on 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 8; Opinion of the CCDH, Parliamentary document 6779/04 of 28 August 2015, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 2.
- ⁸⁸ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 2; Opinion of the CCDH, Parliamentary document 6779/04 of 28 August 2015, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISevZ0FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 8.
- ⁸⁹ Article 35 (1) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).

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- ⁹⁰ Article 35 (3) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁹¹ Article 35 (3) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁹² Until now, the law provided that a decision by the Minister to rule on the merits of the application for international protection taken under an accelerated procedure may be challenged by an action for annulment before the administrative court, while a decision rejecting an application for international protection taken under an accelerated procedure may be challenged by an action for reversal before the administrative court. Lastly, an order to leave the territory may be challenged by an action for annulment before the administrative court. The three actions must form the subject of a single originating application. In the event that the court considers that the accelerated procedure has been used inappropriately, it shall annul the ministerial decision and the Minister will be required to issue a new decision, this time under the ordinary procedure ruling on the merits of the application. This will naturally postpone the entire duration of the procedure according to the parliamentary committee.
- ⁹³ Opinion of the parliamentary committee of 7 December 2015, Parliamentary document 6779/11, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 24.
- ⁹⁴ Article 19 of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁹⁵ Opinion of the CCDH, Parliamentary document 6779/04 of 28 August 2015, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 9.
- ⁹⁶ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 5.
- ⁹⁷ Article 5 (4) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁹⁸ Article 20 (3) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ⁹⁹ Article 3 (2) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ¹⁰⁰ Article 21 (1) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ¹⁰¹ Article 26 (4) of the Law of 18 December 2015 on International Protection and Temporary Protection, URL: Mémorial A n°255 of 28 December 2015. (consulted on 28 April 2016).
- ¹⁰² Opinion of the CCDH, Parliamentary document 6779/04 of 28 August 2015, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), pp. 5-6 (consulted on 28 April 2016).
- ¹⁰³ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 3.
- ¹⁰⁴ Opinion of the Refugee Collective of 5 June 2015, Parliamentary document 6779/02, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite!/ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM412MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBIS9nQSEh/&id=6779# (consulted on 28 April 2016), p. 6.
- ¹⁰⁵ Opinion of the CCDH, Parliamentary document 6779/04 of 28 August 2015, URL: <http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil>

/actualite/!ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), pp. 6-7 (consulted on 28 April 2016).

¹⁰⁶ It should, however, be noted in this respect that the method for determining age was in fact reformed in January 2015. Consequently, where there is some doubt with regards to the age of the person claiming to be a minor, the latter will be required to undergo a medical examination at the hospital consisting of an x-ray test of his/her wrist and hand. If the radiologist reports that bones in the hand wrist are matured fully, further tests will be carried out, such as a physical examination by a specialist doctor, an x-ray of the collarbone as well as a medical examination based on a general dental X-ray. The various X-rays are sent by the hospital to the specialist doctor, who is then required to ascertain the likely age of the applicant. The doctor submits a full and detailed expert report, taking into account a reference atlas and recognised recent studies and standards. In addition, it should be emphasised that the radiologist that performs the first x-ray of the hand and wrist may decide that no further investigations are necessary if the bones in the hand/wrist area are not matured fully. In such a case, the applicant is considered to be a minor and will be given the benefit of the doubt, and no further x-rays will be required (information provided by the Directorate of Immigration, on 6 May 2015).

¹⁰⁷ Lëtzebuurger Flüchtlingsrot, Paquet asile : une occasion ratée (Asylum Package: a missed opportunity) (17.12.2015), in: *asti.lu*, URL: <http://www.asti.lu/2015/12/18/letzebuurger-fluechtlingsrot-paquet-asile-une-occasion-ratee/> (consulted on 13.4.2016).

¹⁰⁸ Frank Wies cited by SOMNARD, Audrey, 'C'est un texte bâclé', in: *Le Quotidien* (18.12.2015).

¹⁰⁹ ANONYME, La Commission européenne épingle le Luxembourg (et 19 autres Etats-membres) pour non respect du droit d'asile (The European Commission criticised Luxembourg (and 19 other member states) for non-compliance with the asylum law) (23.9.2015), in: *jeudi.lu*, URL: <http://jeudi.lu/la-commission-europeenne-epingle-19-pays-de-lue-pour-non-respect-du-droit-dasile/> (consulted on 14.4.2016).

¹¹⁰ Review of the opinion of the Council of State of 25 November 2015, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite/!ut/p/b1/04_SjzSyNLAwNTYyMNOP0I_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dgd80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLABR_BV1/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6775# (consulted on 4 May 2016).

¹¹¹ The ballot paper for the adoption of Draft Bill n°6779: Yes = 32, Abstention= 26, No=2 (Abstention of the CSV and ADR, "no" vote by Déi Lénk); The ballot paper for the adoption of Draft Bill n°6775: Yes =32, Abstentions=25, No=3 (Abstention from the CSV and Déi Lénk, "no" vote by ADR).

¹¹² Intervention of the CSV parliamentary group, Mr Marc Spautz, Deputy, Report of the sessions of the Chamber of Deputies, N°10, Thursday, 10 December 2015, pp. 145-146.

¹¹³ Intervention of the CSV parliamentary group, Ms Martine Mergen, Deputy, Report of the sessions of the Chamber of Deputies, N°15, Thursday, 17 December 2015, p. 216.

¹¹⁴ ADR Political sensitivity intervention, Mr Fernand Kartheiser, Deputy, Report of the sessions of the Chamber of Deputies, N°10, Thursday, 10 December 2015, p. 146.

¹¹⁵ Déi Lénk political responsiveness intervention, Mr David Wagner, Deputy, Report of the sessions of the Chamber of Deputies, N°10, Thursday, 10 December 2015, p. 147.

¹¹⁶ Intervention of the CSV parliamentary group, Ms Martine Mergen, Deputy, Report of the sessions of the Chamber of Deputies, N°15, Thursday, 17 December 2015, p. 217.

¹¹⁷ ADR Political sensitivity intervention, Mr Fernand Kartheiser, Deputy, Report of the sessions of the Chamber of Deputies, N°15, Thursday, 17 December 2015, p. 219.

¹¹⁸ Déi Lénk Political responsiveness intervention, Mr David Wagner, Deputy, Report of the sessions of the Chamber of Deputies, N°15, Thursday, 17 December 2015, p. 219.

¹¹⁹ Government's amendments of 19 May 2015, Parliamentary document 6775/01, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite/!ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016).

¹²⁰ Opinion of the Refugee Collective of 26 October 2015, Parliamentary document 6779/08, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite/!ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016).

¹²¹ Opinion of the CCDH of 26 October 2015, Parliamentary document 6779/07, URL: <http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil>

/actualite/!ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016).

¹²² Déi Lénk political responsiveness intervention, Mr David Wagner, Deputy, Report of the sessions of the Chamber of Deputies, N°10, Thursday, 10 December 2015, p. 147.

¹²³ Opinion of the Council of State of 20 July 2015, Parliamentary document 6779/03, URL: http://chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/portal/public/accueil/actualite/!ut/p/b1/04_SjzQ1MzI0NzO2MNOPOI_KSyzLTE8syczPS8wB8aPM4I2MXMKCPE2MDPx dg80MjIwDjB2Dgo0MDAxMgAoigQoMcABHA0L6_Tzyc1P1c6NyLADV0Dtp/dl4/d5/L2dBISEvZO FBIS9nQSEh/&id=6779# (consulted on 28 April 2016), pp. 14-15.

¹²⁴ Person with or without parental authority over a child living in his/her household.

¹²⁵ Administrative Court, Public Hearing of 20 October 2015, N° 36756C on the cause list. Also see Administrative Court, Public Hearing of 07 July 2015, N° 36755C on the cause list.

¹²⁶ Administrative Court, Public Hearing of 28 April 2015, N° 35716C on the cause list.

¹²⁷ Administrative Court, Public Hearing of 25 June 2015, No. 36163C of the cause list.

¹²⁸ Administrative Court, Public Hearing of 3 February 2015, No. 35438C of the cause list.

¹²⁹ Administrative Court, Public Hearing of 5 February 2015, No. 34795C of the cause list.

¹³⁰ Administrative Court, Public Hearing of 2 July 2015, No. 36139C of the cause list.

¹³¹ Administrative Court, Public Hearing of 5 February 2015, No. 35357C of the cause list.

¹³² Administrative Court, Public Hearing of 7 May 2015, No. 35717C of the cause list.

¹³³ Administrative Court, Public Hearing of 3 February 2015, No. 35528C of the cause list.

¹³⁴ According to the Supreme Court, the recruitment efforts of members of the *Al Shahaab* group, acting against a backdrop of the assassinations of the father and brother (the latter himself a potential recruit), in this case underpinned acts of persecution, specifically due to the act of joining a social group for religious reasons.

¹³⁵ Please see: Administrative court, Public Hearing of 1 July 2015, No. 34211 of the cause list; Administrative court, Public Hearing of 27 October 2015, No. 335825 of the cause list, and Administrative court, Public Hearing of 1 July 2015, No. 34373 of the cause list.

¹³⁶ Ben Fayot, *Les quatre référendums du Grand-Duché de Luxembourg*. [The Grand Duchy of Luxembourg's four referendums]. Luxembourg: Editions de la petite Amérique, 2015.

¹³⁷ A clear result was also obtained from the referendum of 29 September 1919, in which 70% of voters were in favour of an economic union with France.

¹³⁸ All of the electoral programmes from the previous parliamentary elections contain proposals to add to parliamentary democracy through other forms of involvement in participatory or direct democracy. During the parliamentary debate on the adoption of the bill to hold the referendum, the Chair of the CSV parliamentary group highlighted the importance of resolving most of the issues using representative democracy processes, particularly in the light of the complexity and background of the situation. Please see: Report of Chamber of Deputies sessions, No. 9/2014-2015, page 334.

¹³⁹ Only citizens with Luxembourg nationality were able to vote.

¹⁴⁰ It was held in accordance with the provisions of the amended Law of 4 February 2005 on national referendums.

¹⁴¹ Government of the Grand Duchy of Luxembourg, Vote on parliamentary bill No. 6738 to hold a national referendum on various questions related to the preparation of a new Constitution (25.02.2015), in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/4480564/24-referendum-national> (consulted on 21.04.2016).

¹⁴² Report of Chamber of Deputies sessions, No. 9/2014-2015, page 343.

¹⁴³ Report of Chamber of Deputies sessions, No. 9/2014-2015, page 333.

¹⁴⁴ BUMB, Christoph, LSAP Fraktionschef Alex Bodry im Interview. Wir sollten nicht mit der Demokratie Spielen, in: *Luxemburger Wort* (21.04.2015), p. 2.

¹⁴⁵ Draft of the new Constitution as discussed by the Commission for Institutions and Constitutional Review, Version No. 3. On the date of the final report published: PV IR No. 43 (session ord. 2012-2013; 26 June 2013). According to the LSAP politician, there had been an agreement on the Article in question, which the CSV rescinded at the Constitutional Reform Commission following the 2013 elections. During the parliamentary debate of 9 June on the referendum results, Deputy Marc Spautz (CSV) indicated that this proposal was on the table. Following the October 2013 elections, the new government did not refer to the proposal, instead incorporating the right to vote into a referendum.

¹⁴⁶ BUMB, Christoph, LSAP Fraktionschef Alex Bodry im Interview. Wir sollten nicht mit der Demokratie Spielen, in: *Luxemburger Wort* (21.04.2015), page 2.

- ¹⁴⁷ Government statement on the country's economic, social and financial situation in 2015, 11 May 2015, URL: <http://www.gouvernement.lu/4825343/05-declaration-fr> (consulted on 28 April 2016).
- ¹⁴⁸ Report of Chamber of Deputies sessions, No. 9/2014-2015, page 336.
- ¹⁴⁹ MINTE, Press release of 7 June 2015, URL: <http://emdera.net/minte/communiqueresultatsreferendum070615final.pdf> (consulted on 28 April 2016).
- ¹⁵⁰ TNS-ILRES, Politmonitor Lëtzebuerg RTL-Luxemburger Wort, November 2014, February 2015, March 2015.
- ¹⁵¹ Claude Damiani, Monday interview. I am proud that the Luxembourg community is leading this discussion. Interview with journalist Claude Damiani, in: *Le Quotidien* (01.06.2015).
- ¹⁵² Luc Heuschling, Question No. 2 of the referendum of 7 June 2015. The right of foreigners to vote in parliamentary elections. Stakes and arguments, in: *Actes de la Section des Sciences morales et politiques* [Acts by the Section of moral and political sciences] Grand Ducal Institute, gone to print.
- ¹⁵³ CEFIS, Referendum of 7 June 2015. Changes to the population and electorate: Outlook, Unpublished documents, 2015.
- ¹⁵⁴ STATEC referred to the figure as follows: "On 1st February 2011 (date of the last population census), the number of foreigners aged 18 and over was 172,761. 88,552 of these people (51.2%) had been residing in Luxembourg for at least ten years and therefore fulfilled the residence criterion for eligibility to vote in the next parliamentary elections. If all other factors remained the same, if this percentage was transposed to the foreign population aged 18 and over on 1st January 2015 (204,769), the number of potential foreign voters would increase to approximately 105,000 people" (STATEC, Potential voter perspectives, May 2015, in: *statistiques.public.lu*, URL: <http://www.statistiques.public.lu/catalogue-publications/regards/2015/PDF-07-2015.pdf> (consulted on 19.04.2016).)
- ¹⁵⁵ Parliamentary bill to hold a national referendum on various questions related to the drawing up of a new Constitution, Parliamentary document 6738/00, p. 4.
- ¹⁵⁶ Government of the Grand Duchy of Luxembourg Gouvernement.lu, Summary of proceedings dated 6 March 2015 (6.3.2015), in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/4505837/06-conseil-gouvernement> (consulted on 28 April 2016).
- ¹⁵⁷ URL: www.referendum.lu (consulted on 25 April 2016).
- ¹⁵⁸ Migration and Integration Platform [Plate-forme Migrations et Intégration], URL: www.minte.lu (consulted on 28 April 2016).
- ¹⁵⁹ 29 organisations signed a note of support for granting all citizens the right to a national vote. (URL: <http://emdera.net/minte/liste-des-organisations-qui-soutiennent-le-principe-du-droit-de-vote.pdf> (consulted on 28 April 2016).
- ¹⁶⁰ Nee2015.lu, URL: <http://nee2015.lu/> (consulted on 28 April 2016).
- ¹⁶¹ Geneviève Montaigu, 'No' supporters lose patience, in: *Le Quotidien* (14 .4.2015), p. 5.
- ¹⁶² Nevertheless, the municipality of Roeser held the first public round table on the right of foreigners to vote with the political parties represented by the Chamber of Deputies on 3 March 2015.
- ¹⁶³ The three government coalition parties' slogans were as follows: DP 'Dreimol Jo' – *Jo zur Jugend. Jo zur Villfalt. Jo zu méi Demokratie.* 'Three yes's. Yes to youth. Yes to diversity. Yes to democracy; Déi Gréng, '3 x Jo. Fir méi Demokratie. A grouse Schratt fir Lëtzebuerg' – 'Three yes's for more democracy. A giant step for Luxembourg.'
- LSAP, 'Zesummeliwwen, matbestëmmen, erneieren. Méi Demokratie fir Lëtzebuerg. 3xJo' – 'Decide together, live together, innovate.' – 'More democracy for Luxembourg. 3 yes's.'
- ¹⁶⁴ Déi Lenk, 'Jo. Demokratie stäerken' – 'Yes. Let's strengthen democracy.'
- ¹⁶⁵ Dan Schneider and Raymond Schadeck, Une large majorité pour le droit de vote aux étrangers résidents! [A large majority for the right of foreign residents to vote], in: *Luxemburger Wort* (18.4.2015), p. 14.
- ¹⁶⁶ MINTE, Oui au droit de vote. Pourquoi [Why say 'yes' to the right to vote?] Brochure, 2015, in: [maisonsdesassociations.lu](http://www.maisondesassociations.lu/brochure-minte.html), URL: <http://www.maisondesassociations.lu/brochure-minte.html> (consulted on 28 April 2016).
- ¹⁶⁷ CSJ, For political courage and for an opening up of the active right to vote to non-Luxembourg residents during parliamentary elections. Resolution adopted by the CSJ national conference on 21 March 2015.
- ¹⁶⁸ Report of Chamber of Deputies sessions, No. 9/2014-2015, p. 343.
- ¹⁶⁹ Anonymous, Appel de représentants du milieu culturel. Culture, citoyenneté et fraternité, [Call for representatives from the cultural sector. Culture, citizenship and fraternity] in: *Luxemburger Wort* (28.4.2015).

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- ¹⁷⁰ SIWECK, Jean-Louis, Wenn das « Wort wählen dürfte Einmal Ja, zweimal nein : die Position des Luxemburger Wort zum Referendum des 7 Juni 2015. Leitartikel, in: *Luxemburger Wort* (23.5.2015).
- ¹⁷¹ TNS ILRES, TNS ILRES Plurimedia Luxembourg 2014/2015, 10th edition, 20 July 2015, URL: https://www.tns-ilres.com/cms/Home/News/Publications/2015/Communique_de_presse_etudeplurimedia_2015 (consulted on 28 April 2016).
- ¹⁷² Luc Heuschling, Question No. 2 in the referendum of 7 June 2015: the right of foreigners to vote in parliamentary elections. Stakes and arguments, in: *Actes de la Section des sciences morales et politiques* [Acts from the Section of moral and political sciences], gone to print.
- ¹⁷³ Luc Heuschling, Question No. 2 in the referendum of 7 June 2015: the right of foreigners to vote in the parliamentary elections. Stakes and arguments, in: *Actes de la Section des sciences morales et politiques* [Acts from the Section of moral and political sciences], gone to print.
- ¹⁷⁴ The business world which supports these arguments sees an opportunity to counterbalance the electoral influence of the public sector (primarily Luxembourg nationals) with that of the private sector (primarily foreign nationals). Some left-wing stakeholders believe that extending the right to vote to the private sector would better represent private sector workers and employees.
- ¹⁷⁵ Report of Chamber of Deputies sessions, No. 9/2014-2015, p. 336.
- ¹⁷⁶ Parliamentary bill No. 6781/00 to amend the amended Law of 23 October 2008 on Luxembourg nationality, 24.2.2015.
- ¹⁷⁷ ANONYMOUS, ADR, No, no and again no, in: *Le Quotidien* (23.5.2015), p. 5.
- ¹⁷⁸ Claude Damiani, Gast Gibéryen, The right to vote should not be offered (4.5.2015), in: *lequotidien.lu*, URL: <http://www.lequotidien.lu/politique-et-societe/gast-giberyen-le-droit-vote-doit-pas-etre-offert> (consulted on 28 April 2016).
- ¹⁷⁹ Aly Ruckert (KPL), Televised interview (21.05.2015), in: *De Journal RTL*, URL: <http://tele.rtl.lu/emissionen/de-journal/3036899.html> (consulted on 28 April 2016).
- ¹⁸⁰ Frédéric Braun, Vote étranger: la CGFP craint la division [Foreign vote: the CGFP fears a divide], in: *Le Quotidien* (28.2.2015), p. 3.
- ¹⁸¹ Nee2015.lu, 10 Argumenter fir de NEE, URL: <http://nee2015.lu/index.php/argumenter.html> (consulted on 28 April 2016).
- ¹⁸² Anonymous, Interview du mardi, [Tuesday interview] in: *Le Quotidien* (26.5.2015), p. 3.
- ¹⁸³ Nee2015.lu, 10 Argumenter fir de NEE, URL: <http://nee2015.lu/index.php/argumenter.html> (consulted on 28 April 2016).
- ¹⁸⁴ Nee2015.lu, Ausländerwahlrecht. Mir sinn elo 100 Jor laang gutt gefuer... (29.4.2015), in: *Luxemburger Wort*, p. 14.
- ¹⁸⁵ Government of the Grand Duchy of Luxembourg (7.6.2015), in: *elections.public.lu*, URL: <http://www.elections.public.lu/fr/actualites/2015/07-resultats/index.html> (21.04.2016).
- ¹⁸⁶ TNS ILRES, Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Bilan vum Referendum vum 7. Juni 2015, June 2015, survey conducted from 10 June to 17 June 2015 of 965 people aged 18 and over, of whom 712 were voters.
- ¹⁸⁷ TNS ILRES, Politmonitor Lëtzebuerg RTL - Luxemburger Wort, November 2014, survey conducted from 31 October to 5 November 2014 of 1,061 people aged 18 and over.
- ¹⁸⁸ TNS ILRES, De Referendum vum 7. Juni 2015. Survey for RTL conducted from 28 May 2015 to 5 June 2015 of 1,459 people aged 18 and over, of whom 1,161 were voters.
- ¹⁸⁹ Damien Valvasori, Und dann ist das Nein salonfähig geworden. Umfragen. TNS-ILRES spricht von einem « Umkip-Punkt », in: *Tageblatt* (09.06.2015), p. 2.
- ¹⁹⁰ Parliamentary bill to hold a national referendum on various questions related to the drawing up of a new Constitution. Parliamentary document no. 6738, p. 3.
- ¹⁹¹ MİNTE, Press release dated 7 June 2015, URL: <http://emdera.net/minte/communiqueresultatsreferendum070615final.pdf> (consulted on 28 April 2016).
- ¹⁹² CGFP, Le droit de vote pour étrangers (enjeux, dérapages électoraux, conséquences), [The right of foreigners to vote (stakes, electoral misconduct, consequences)], Press releases (19.5.2015), in: *cgfp.lu*, URL: <http://www.cgfp.lu/public/news-communique-de-presse.html?news=396> (consulted on 28 April 2016).
- ¹⁹³ David Angel, Le jour d'après. Onde de choc, [The day after: shockwaves] in: *Wox* (12.6.2015), p. 6.

- ¹⁹⁴ Christoph Bumb, Luxemburgs Weg in die Referendumsdebatte, ‘Eine Form von Pseudo-Partizipation’. Der Politologie Rapahël Kies kritisiert, dass die Politik ihr Anliegen von ‘mehr Demokratie’ ohne wirkliches Konzept angeht, in: *Luxemburger Wort* (21.4.2015), p. 2.
- ¹⁹⁵ MINTE, Press release (7.6.2015), URL: <http://emdera.net/minte/communiqueresultatsreferendum070615final.pdf> (consulted on 28 April 2016).
- ¹⁹⁶ Serge Kollwelter, Le « non » au droit de vote des étrangers aura un effet durable. En-jeux ?, [‘No’ to the right of foreigners to vote will have long-term consequences. What are the stakes?] in: *Luxemburger Wort* (10.10.2015), p. 20.
- ¹⁹⁷ Serge Kollwelter, Idées laissées à l’abandon, sans responsabilité !, [Irresponsibly abandoned ideas!] in: *Luxemburger Wort* (18.4.2015), p. 12.
- ¹⁹⁸ Report of Chamber of Deputies sessions, No. 14/2014-2015, p. 566.
- ¹⁹⁹ Journalist David Angel suggests that the rejection of the Government itself was one of the various factors that contributed to the overwhelming rejection of the three Government proposals (see below under 4.4.3.): "(...) A section of the working and middle classes have perceived the reforms introduced since the coalition came into power as attacking their interests." (David Angel, Le jour d’après. Onde de choc, [The day after: shockwaves] in: *Woxx* (12.6.2015), p. 6.
- ²⁰⁰ TNS ILRES, Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Bilan vum Referendum vum 7. Juni 2015, June 2015, survey conducted from 10 June to 17 June 2015 of 965 people aged 18 and over, of which 712 were voters.
- ²⁰¹ MINTE, Press release (7.6.2015), URL: <http://emdera.net/minte/communiqueresultatsreferendum070615final.pdf> (consulted on 28 April 2016).
- ²⁰² Report of Chamber of Deputies sessions, No. 14/2014-2015, page 564
- ²⁰³ David Angel, Le jour d’après. Onde de choc, [The day after: shockwaves] in: *Woxx* (12.6.2015), p. 6.
- ²⁰⁴ David Angel, Le jour d’après. Onde de choc, [The day after: shockwaves] in: *Woxx* (12.6.2015), p. 6.
- ²⁰⁵ Kim Muller, *Nationale Identität im Zeitalter der Globalisierung : eine Fallstudie zum Großherzogtum Luxemburg – nationale Identität mit dem Zusatzwert von Toleranz, Offenheit und Multikulturalität ?*, Master’s thesis, University of Luxembourg 2015, p. 33-34.
- ²⁰⁶ HILGERT, Romain, 2005/2015 (5.6.2015), in: *Lëtzebuerg Land*, p. 2.
- ²⁰⁷ David Angel, Le jour d’après. Onde de choc [The day after. Shockwaves] (12.6.2015), in: *Woxx*, p. 6.
- ²⁰⁸ TNS ILRES, *Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Bilan vum Referendum vum 7. Juni 2015*, June 2015, survey conducted from 10 June to 17 June 2015 of 965 people aged 18 and over, of whom 712 were voters.
- ²⁰⁹ TNS ILRES, *Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Referendum 2015 – 4 wave (part II)*, May 2015, survey conducted from 23 April to 3 May 2015 of 1,141 people aged 18 and over, of whom 833 were voters.
- ²¹⁰ TNS ILRES, *Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Bilan vum Referendum vum 7. Juni 2015*, June 2015, survey conducted from 10 June to 17 June 2015 of 965 people aged 18 and over, of whom 712 were voters.
- ²¹¹ Report of Chamber of Deputies sessions, No. 14/2014-2015, page 564. Several months after the referendum, when providing an initial reaction to the draft bill reforming the nationality Law, the leader of the parliamentary group noted that the series of discussions on the integration of foreigners or on the issue of nationality had become more complicated since the referendum, which had polarised society.
- ²¹² Maurice Magar, Ethnicisation galopante, Le sociologue Fernand Fehlen met en garde contre la montée des communautarismes [Rampant ethnicization, Sociologist Fernand Fehlen warns against rising communitarianism] (11.6.2015), in: *Jeudi*, p. 4.
- ²¹³ TNS ILRS, *de Referendum vu 7. Juni 2015*. Survey for RTL conducted from 28 May 2015 to 5 June 2015 of 1,459 people aged 18 and over, of whom 1,161 were voters.
- ²¹⁴ David Angel, Référendum Parlons-en ! [Let’s talk about the referendum!] (24.4.2015), in: *Woxx*, p. 2.
- ²¹⁵ TNS ILRS, *Le Jeudi, Sondage Referendum pour Les bistros du Jeudi du 7 mai 2015. [Referendum survey of Thursday 7 May 2015 for bistros]*. Survey conducted from 28 April 2015 to 3 May 2015, of 700 people aged 18 and over, of whom 503 were voters. During the parliamentary debate of 9 June 2015, Deputy David Wagener (Déi Lénk) asks whether the situation is not one of co-existing or living side-by-side, rather than living together.
- ²¹⁶ Fabien Grasser, La fin d’un mythe [The end of a myth], in: *Quotidien* (8.6.2015), p. 3.

- ²¹⁷ See: TNS ILRES, *Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Referendum 2015 – 4 wave (part II)*, May 2015, survey of 23 April to 3 May 2015, of 1,141 people aged 18 and over, of whom 833 were voters, and TNS ILRES, *Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Bilan vum Referendum vum 7. Juni 2015*, June 2015, survey conducted from 10 June to 17 June 2015 of 965 people aged 18 and over, of whom 712 were voters.
- ²¹⁸ TNS ILRS, *de Referendum vum 7. Juni 2015*. Survey for RTL conducted from 28 May 2015 to 5 June 2015 of 1,459 people aged 18 and over, of whom 1161 were voters.
- ²¹⁹ TNS ILRES, *Politmonitor Lëtzebuerg RTL - Luxemburger Wort, Referendum 2015 – 3 wave (component II)*, March 2015, survey from 19 March to 30 March 2015, of 1,179 people aged 18 and over, of whom 841 were voters.
- ²²⁰ Geneviève Montaigu, François Bausch constate une crise d'identité [François Bausch diagnoses an identity crisis] (08.06.2015), in: *Le Quotidien*, URL: <http://www.lequotidien.lu/politique-et-societe/francois-bausch-constate-une-crise-didentite/> (consulted on 20 April 2016).
- ²²¹ Report of Chamber of Deputies sessions, No. 14/2014-2015, page 567.
- ²²² Maurice Magar, Le désalignement partisan, L'analyse du politologue Philippe Poirier, [Supporter misalignment, The analysis of political commentator Philippe Poirier] in: *Jeudi* (11.6.2015), p. 4; A second political commentator, Nuria Garcia, provides a comparable analysis by reiterating that "during the debates on the results of the referendum of 7 June 2015, various commentators and political party representatives referred to Luxembourgers' fear of losing their language, identity and even sovereignty" to explain the overwhelming opposition to the right of foreigners to vote. (Nuria Garcia, *Débat autour de l'extension du droit de vote aux résidents étrangers, nationalisme linguistique 2.0*, [Debate on the extension of the right to vote to foreign residents, linguistic nationalism 2.0] in: *Lëtzebuurger Land* (26.6.2015).)
- ²²³ MINTE, Press release of 7 June 2015, <http://emdera.net/minte/communiqueresultatsreferendum070615final.pdf>
- ²²⁴ TNS ILRS, *de Referendum vum 7. Juni 2015*. Survey for RTL conducted from 28 May 2015 to 5 June 2015 of 1,459 people aged 18 and over, of whom 1161 were voters.
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