

Réseau européen des migrations –  
Point de contact national du Luxembourg  
(LU EMN NCP)

# 2016 POLICY REPORT ON MIGRATION AND ASYLUM

## EXECUTIVE SUMMARY

The present report provides an overview of the main debates and developments in relation to migration and asylum in Luxembourg in 2016. The issue of migration remained on the forefront of public and political debate, a debate axed on both planned legislative changes as well as the concrete migratory situation in Luxembourg. Four topics dominated public and policy discussions over the course of the year: the reform on Luxembourgish nationality, economic migration, the organisation of reception, as well as support and integration measures, linked to the continued inflow of applicants for international protection (AIPs) in 2016 and steps taken to adapt formal and informal education to the increasing heterogeneity of Luxembourg's population.

The debate on international protection that arose in 2015 was carried onward in 2016, the focus shifting towards reception, support and integration measures. As the inflow of AIPs remained relatively high in 2016 with 2.043 applications, Luxembourg's Reception and Integration Agency (OLAI) warned throughout the year that the country's structures would soon reach the limits of their capacity. Linked to the high recognition rate, the legal challenges that local residents put to the plans for the construction of new reception facilities and the difficulty of beneficiaries of international protection (BIPs) in finding appropriate accommodation, the perceived dearth of housing was discussed broadly by the public, the media, as well as civil society and political actors. The continued inflow of AIPs also put a strain on the concerned administrations, both in terms of financial and human resources, leading to discussions regarding the duration of procedures and the variations of this duration. Moreover, the question of integration or support measures for beneficiaries and applicants stepped to the forefront: the changed profile of people arriving in Luxembourg posed new challenges to language learning and education for the newly arrived, and overall, emphasised the need to adapt existing and create new integration and support measures for beneficiaries and applicants.

At the same time, the role of non-governmental organisations in supporting the government in the reception of applicants and in establishing new projects facilitating their integration also grew over the course of 2016, not least due to over 80 projects being granted funding by the *Oeuvre Nationale de Secours Grande Duchesse Charlotte* (henceforth *Oeuvre*). The Luxembourgish Centre for Integration and Social Cohesion (LISKO), part of the Red Cross and supported by convention to the Ministry for Family and Integration opened its doors in April 2016. The newly created centre will take care of the integration of BIPs into Luxembourg's society, putting its emphasis on facilitating access to housing.

The planned extension of the maximum period of detention for families with children and unaccompanied minors (UAMs) from 72 hours to 7 days precipitated strong reactions from civil society and the public. Luxembourg furthermore followed through on its resettlement and relocation commitments made in 2015, with 167 persons being relocated from Greece and Italy to Luxembourg and with 52 being resettled in the context of the EU-Turkey agreement over the course of 2016.

The adaptation of Luxembourg's legislation in the domain of legal migration also took shape over in 2016 and was broadly debated during the law-making process, while warranting less public attention. With the introduction of one bill, the legislator started the process of transposing Directive 2014/36/EU on seasonal workers and Directive 2014/66/EU on intra-corporate transfers into national law. The same bill furthermore introduced an authorisation of stay for investors, the aspect most commented on by civil society; a mechanism for continuation of activity; detailed the conditions under which a TCN (third country national) corporate officer (*mandataire social*) can apply for an authorisation of stay, extended the period of validity of the "European Blue Card" residence permit from two to four years, modified dispositions regarding the change of status of students and facilitated family reunification. These developments are to be framed within a wider context of economic diversification, encouragement of entrepreneurship and the repositioning of the financial centre.

The reform of the Luxembourgish nationality, another major subject of discussion, was recognised as the best way to counteract Luxembourg's increasing democratic deficit after the electorate's refusal to extend legislative voting rights to foreign residents, decided in the referendum of 2015. This reform further proceeded over the course of 2016, reintroduced the perennial language debate in Luxembourg, a larger debate on the role and status of the Luxembourgish language as well as its relation to integration of migrants into Luxembourgish society.

In order to increase foreign residents' participation in the upcoming municipal elections of October 2017, the government launched an awareness campaign encouraging foreign residents to register on the electoral roll, and provided support for organisations wishing to organise complementary actions.

The Ministry of National Education and Youth made efforts to find responses to the growing heterogeneity of Luxembourg's population, aiming to diversify and broaden the post-primary school offer, to develop plurilingual education in nurseries and to develop non-formal education by reforming in-kind benefits, this with the aim of promoting integration and equal opportunity.

The transposition of Directive 2013/55/EU on the recognition of professional qualifications was also completed in 2016. The law further amended several national provisions, recast the legislation in the field of recognition of diplomas, combined all applicable provisions in a single legislative text and simplified the procedure for recognition.

The debate regarding the return of irregular migrants circled around a number of issues in 2016: the exclusion of Kosovar nationals from the AVRRL programme, the Schengen evaluation and the aforementioned resulting changes to provisions on detention, the debate on the enforcement of the EU-Afghanistan 'Joint way forward on migration issues' agreement, as well as the continuation of the elaboration of readmission agreements.

Luxembourg's government took further steps in the fight against trafficking in human beings (THB) over the course of 2016. The Council of Government adopted the National Action Plan on trafficking in human beings, which focuses on the detection and protection of victims, the prosecution and punishment of perpetrators and a policy to combat trafficking. Luxembourg's strategy on prostitution was presented, consisting of a National Action Plan on prostitution and a bill strengthening the fight against the exploitation of prostitution, procuring and THB. Additionally, the Consultative Commission on Human Rights (*Commission Consultative des Droits de l'Homme* – CCDH) published its first report on THB, which reviewed the years 2014-2016.

In reference to migration and development, Luxembourg continued putting emphasis on vocational training and integration programmes in its indicative cooperation programmes with partner countries. Additionally, the Council of Government approved the bill on the agreement between the Grand Duchy of Luxembourg and the Republic of Cape Verde on the concerted management of migratory flows and solidarity-based development, facilitating the movement of persons and to encourage temporary circular professional migration between Luxembourg and Cape Verde.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	1
TABLE OF CONTENTS.....	3
LIST OF TABLES .....	6
LIST OF FIGURES .....	6
PREFACE.....	7
METHODOLOGY.....	7
TERMINOLOGY AND DEFINITIONS.....	8
1. DEMOGRAPHIC DEVELOPMENTS .....	9
2. LUXEMBOURG’S 12 <sup>TH</sup> PRESIDENCY OF THE EUROPEAN COUNCIL.....	9
3. LEGAL MIGRATION AND MOBILITY .....	10
3.1. Economic migration.....	12
3.1.1. Bill n° 6992: enhancing economic competitiveness .....	13
3.1.2. Satisfying labour market needs .....	18
3.2. Efforts to avoid ‘social dumping’ and labour exploitation of TCNs .....	20
3.3. Students and researchers .....	21
3.4. Change of status .....	23
3.5. Facilitating family reunification.....	23
3.6. Recognition of marriages .....	25
3.7. Visa policy .....	25
4. INTERNATIONAL PROTECTION .....	25
4.1. Reception, support and integration measures .....	28
4.1.1. Changes at the OLAI.....	28
4.1.2. Accommodation and access to housing .....	29
4.1.3. Access to the labour market.....	32
4.1.4. Other support and integration measures.....	34
4.2. Asylum Procedures .....	35
4.2.1. Institutional changes and governance at the Directorate of Immigration.....	35
4.2.2. Duration of procedure .....	35
4.3. Safe countries of origin .....	36
4.4. Cooperation with EASO .....	37
4.5. Relocation and resettlement.....	37
5. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS .....	38
5.1. Unaccompanied minors.....	38
5.2. Other vulnerable groups.....	38
6. INTEGRATION .....	39
6.1. Multi-annual national action plan for integration and the fight against discriminations .....	39
6.2. Education .....	40

6.2.1.	Measures to improve attainment in the education system .....	40
6.2.2.	Measures aimed at newly arrived pupils and adults.....	42
6.2.3.	Adult learning.....	44
6.2.4.	Intercultural mediation .....	45
6.3.	Welcome and Integration Contract .....	45
6.4.	Measures to enhance migrants' language skills.....	47
6.5.	Migrant access to social security .....	47
6.6.	Access to citizenship and civic participation .....	48
6.6.1.	The reform of the law on Luxembourgish nationality .....	49
6.6.2.	<i>Sproocheproblematik</i> (language issue) and integration .....	53
6.6.3.	Statelessness.....	54
6.6.4.	Encouraging participation in local elections .....	55
6.7.	Local integration .....	55
6.7.1.	Communal Integration Plan .....	55
6.8.	Support for socio-economic integration projects .....	56
6.9.	Non-discrimination .....	56
6.9.1.	Diversity Charter.....	56
6.9.2.	Centre of Equal Treatment.....	57
6.9.3.	Fight against racism and racial discrimination.....	57
7.	RETURN.....	58
7.1.	Developments in return policy .....	59
7.1.1.	Assisted Voluntary Return and Reintegration for Kosovar nationals .....	59
7.1.2.	Schengen Evaluation.....	59
7.1.3.	Detention .....	60
7.1.4.	Joint Way Forward on migration issues between Afghanistan and the EU.....	61
7.2.	Cooperation on return and readmission .....	62
8.	IRREGULAR MIGRATION AND SMUGGLING .....	63
8.1.	Measures to reduce irregular migration .....	63
8.2.	Prevention of unsafe migration .....	64
9.	COUNTERING TRAFFICKING IN HUMAN BEINGS .....	64
9.1.	National Action Plan against trafficking.....	64
9.2.	Assistance services.....	65
9.3.	Awareness raising on trafficking in human beings .....	65
9.4.	Cooperation in the fight against human trafficking .....	65
9.5.	Absconding UAMs .....	66
9.6.	National strategy on prostitution.....	66
10.	MIGRATION AND DEVELOPMENT .....	67
10.1.	Mitigating 'brain drain' .....	67
10.2.	Involvement of countries of origin.....	68
10.3.	Migrants' remittances .....	70

10.4. Working with diasporas .....	70
10.5. Progress towards mainstreaming migration in development policies.....	70
LIST OF ABBREVIATIONS .....	72
BIBLIOGRAPHY .....	76

## LIST OF TABLES

<b>Table 1:</b> First residence permit issued in 2016.....	11
<b>Table 2:</b> Documents treated / issued to family members of EU citizens in 2016 .....	11
<b>Table 3:</b> Snapshot of residence permits valid on 31 December 2016 .....	12
<b>Table 4:</b> Snapshot of residence cards and permanent residence cards valid on 31 December 2016	12
<b>Table 5:</b> Resident permits issued in 2016 (first deliveries).....	13
<b>Table 6:</b> Students and researchers (first deliveries) .....	21
<b>Table 7:</b> Documents treated / issued to family members of EU citizens in 2016 .....	24
<b>Table 8:</b> Top 10 nationalities of TCN family members of EU citizens issued residence cards in 2016 (first delivery) .....	24
<b>Table 9:</b> Country of origin of AIPs in 2015 and 2016 .....	26
<b>Table 10:</b> Number and origin of persons who were granted international protection in 2016 .....	27
<b>Table 11:</b> Top-10 nationalities having signed the CAI .....	46
<b>Table 12:</b> Top-10 TCN nationalities having signed the CAI .....	46
<b>Table 13:</b> BIPs having signed the CAI in 2016.....	46
<b>Table 14:</b> Top-10 TCNs acquiring the Luxembourgish nationality in 2016.....	48
<b>Table 15:</b> Overview of returns in 2016 .....	58
<b>Table 16:</b> Detention in 2016.....	61

## LIST OF FIGURES

<b>Figure 1:</b> Applications for international protection 2010-2016 .....	26
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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 and Sarah Jacobs, members of the National Contact Point Luxembourg within the European Migration Network (LU EMN NCP) under the responsibility of the coordinator Ass. Prof. Dr. 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; Christiane Martin, Directorate of Immigration, Ministry of Foreign and European Affairs and François Peltier, STATEC - National Statistics and Economic Studies Institute.

## **METHODOLOGY**

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

- Impact of the debate on the political discussions accompanying the legislative process;
- Media coverage;
- 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.<sup>1</sup>



The overall structure of the report differs to some extent to our previous Annual Policy Report (2015). Whereas a more in-depth focus was put on three major themes in our 2015 report, namely ‘international protection’, ‘referendum foreigners’ right to vote’ and ‘nationality law’, this year’s report addressed, to the extent possible, a more balanced overview on all different aspects relating to policy developments in the field of asylum and migration.

It should furthermore be noted that the data provided in the statistical annex varies slightly when compared to the statistics provided in this report. This is due to the fact that the statistics provided in the statistical annex are those delivered to EUROSTAT, which have been extracted from the Directorate of Immigration’s database with a time difference.

## **TERMINOLOGY AND DEFINITIONS**

As for terminology, we refer to the terms used in the Asylum and Migration Glossary 3.0 of the European Migration Network<sup>2</sup>.

The term *foreigner* is the one defined in Article 3(a) of the amended law of 29 August 2008 on the free movement of people 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*”<sup>3</sup>.

## **1. DEMOGRAPHIC DEVELOPMENTS**

Migration remains the dominant factor in Luxembourg's population growth, which consisted of 11.529 individuals over the course of the 2017.<sup>4</sup> Of the 590.667 inhabitants counted on 1 January 2017, 281.497 individuals are foreign nationals and 309.170 are of Luxembourgish nationality. Thus, foreigner's share of the total population increased to 47,7% on 1 January 2017 from 46,7% the preceding year.

The large majority of the foreign population present in Luxembourg are of EU nationality (40,7% of the total population). 41.207 individuals, 7% of the overall population, are third-country nationals.<sup>5</sup>

While the migratory balance diminished by 15,3% when compared to the previous year, the country's population continues to grow in absolute terms. This growth is a result of the positive natural balance (births – deaths) of 2.083 and of positive migratory balance (births – deaths) of 9.446 individuals (22.888 arrivals and 13.442 departures), even though this constitutes the weakest migratory balance observed over the last years. It should also be noted that the migratory balance of Luxembourg nationals is negative, with 1.331 arrivals and 2.106 departures.

Like the previous year, French nationals contribute the most to net migration (21,4% of all net migration), followed by Portuguese nationals with 12,6%, who nonetheless remain the foreign community with the largest presence in Luxembourg.

## **2. LUXEMBOURG'S 12<sup>TH</sup> PRESIDENCY OF THE EUROPEAN COUNCIL**

Luxembourg's 12<sup>th</sup> Presidency of the European Council stretched from 1 July to 31 December 2015 and took place in the context of the mounting flow of migrants to Europe. Already from the get-go, Luxembourg had decided that the management of migration in a way that allows for freedom, justice and security would be one of its seven priority work areas.<sup>6</sup>

The Luxembourgish Presidency implemented the European Agenda on Migration and tackled the management of the increased inflow of migrants in a comprehensive and horizontal manner. Thus, it devised emergency measures while also elaborating plans addressing the fundamental causes of these migratory movements, and targeted these efforts within the borders of EU, at its external borders, as well as outside of the border of its territory.<sup>7</sup>

In the framework of the negotiations for the 2016 EU budget, under Luxembourgish leadership, the Council and Parliament agreed to reserve 2 billion € to answer to the increased influx of migrants, more specifically intended for humanitarian aid, emergency assistance to EU member states most affected as well as non-EU states that receive refugees.<sup>8</sup>

The plan to relocate 160.000 individuals from Greece and Italy to other EU member states was adopted by the European Ministers for Justice and Home Affairs (JHA) via Council conclusions in July and September 2015, alongside the commitment to resettle 22,504 refugees from outside the external borders of the EU to EU Member States.<sup>9</sup>

On 28 September 2015, the launch of the second phase of EUNAVFOR Med operation from 7 October 2015 onwards was agreed. The operation's aim is the disruption of the viability of human smuggling and trafficking as a business model, and as a consequence avoid further deaths at sea. In this second phase, decided to be renamed "Sophia", ships that are under suspicion of being involved in human smuggling or trafficking, can be boarded, searched, seized and/or diverted.<sup>10</sup>

Under Luxembourg's Presidency, the European Ministers for Labour and Social Affairs also reflected on the increased inflow of migrants during a lunchtime debate, more specifically discussing its effect

on the labour markets of Europe during an Employment, Social Policy, Health and Consumer Affairs Council held on 5 October 2015.<sup>11</sup>

On 8 October, the JHA Council furthermore agreed to an increase of €455,7 million of financial assistance stemming from the 2015 EU budget, of which €300 million would go to the European Neighbourhood Instrument supporting non-EU countries hosting Syrian refugees, € 100 million would cover emergency assistance for EU countries and € 55,7 would be humanitarian aid. Additionally, the budget amendment would also cover the creation of 120 new job posts in Frontex, the European Asylum Support office and Europol.<sup>12</sup>

Furthermore, on 8 October 2015 a High-Level Conference on the Eastern Mediterranean and Western Balkans route was held in Luxembourg, bringing together EU JHA ministers with those from Turkey, the Western Balkans, Jordan, Lebanon and the associated countries, in order to facilitate the management of the crisis, increase solidarity and engagement of and amongst all partners.<sup>13</sup>

On 9 November 2015, JHA ministers adopted conclusions treating the acceleration of the relocation process, the need to strengthen the European Union's external border, the fight against human trafficking and smuggling as well as return and readmission. Additionally, the Presidency's decision to fully activate the Integrated Political Crisis Response, the Council's mechanism for a coordinated crisis response, was supported by the Council.<sup>14</sup>

During the Home Affairs Council of 4 December 2015, the Ministers discussed the steps that had been taken in the context of EU measures on migration and the strengthening of the Schengen area.<sup>15</sup> Additionally, the ministers adopted conclusions on statelessness<sup>16</sup> and confirmed the agreement made with the European Parliament in trilogue on a proposal for a directive on the conditions of entry and residence of TCNs for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.<sup>17</sup>

The Council conclusions on enlargement and stabilisation and association process of 15 December 2015 underlined the link between increased cooperation with Turkey and the Western Balkans on the one hand, and the management of the migration crisis on the other, "in order to identify people in need of protection, to provide assistance, to secure the EU's external borders, to fight trafficking and smuggling of migrants, and to prevent irregular migration".<sup>18</sup>

### **3. LEGAL MIGRATION AND MOBILITY**

In 2016, the Directorate of Immigration issued a total of 4.210 first residence permits and renewed 5.931 residence permits, whereas in 2015, 3.711 first residence permits were issued. This represents an increase of 13,5 %. It is also worth noting that residence permits issued to family members come first, representing 1.209 of 4.210 residence permits issued, or 28,7% of all first deliveries in 2017. These categories are then followed by 'salaried worker', 'international protection' and 'European Blue Card'.

When the data is disaggregated by nationality, different profiles appear among the various nationalities regarding the reason for migrating to Luxembourg. Overall, one can note the great number of 'new migration' arrivals from China, India and Syria.

**Table 1: First residence permit issued in 2016**

Category	Permits issued <sup>1</sup>	Top-3 nationalities
European Blue Card	335	Indian (90), American (58), Russian (36)
Researcher	44	Indian (12), Iranian (5), Tunisian <sup>2</sup> (3)
Pupil	191	American (170), Chinese (9), Vietnamese (9)
Student	208	Chinese (34), Russian (23), Vietnamese (11)
Young Au pair	70	Philippine (20), Ukrainian (7), Cameroonian (5)
Family member	1.209	Chinese (165), Indian (152), American (103)
Athlete or trainer	32	American (23), Bosnian (3), Kazakh (2)
Intern	20	Ukrainian (3), Tunisian (3), Indian <sup>3</sup> (3)
Posted worker	15	Indian (9), Chinese (4), American <sup>4</sup> (1)
Employee of a Community Service Provider	1	Cameroonian (1)
Self-employed person	36	Chinese (8), Russian (5), Iranian <sup>5</sup> (2)
Salaried worker	739	Chinese (119), Indian (70), Montenegrin (40)
Transferred worker	140	Indian (50), Chinese (27), American (25)
Private reasons – 78 (1) a (sufficient resources) <sup>6</sup>	32	Chinese (51), Japanese (49), Kosovar (43)
Private reasons – 78 (1) b (autonomous basis)	-	-
Private reasons – 78 (1) c (family or personal ties)	318	Chinese (51), Japanese (49), Kosovar (43)
Private reasons – 78 (3) a (humanitarian reasons)	7	Chinese (51), Japanese (49), Kosovar (43)
Private reasons – other	78	Chinese (51), Japanese (49), Kosovar (43)
Volunteer	4	Russian (2), Turkish (1), Tunisian (1)
International protection – refugee status	716	Syrian (509), Iraqi (61), no recognised nationality (29)
International protection – subsidiary protection	15	Iraqi (5), Montenegrin (4), Eritrean (3)
<b>TOTAL</b>	<b>4.210</b>	

Source: Directorate of Immigration, 2017

Furthermore, 794 third-country nationals acquired the status of long-term resident in 2016. In addition to the 1.209 residence permits issued to family members of TCNs (third-country nationals) outlined in the table above, a total of 2.320 residence cards were issued to TCN family members of EU citizens.

**Table 2: Documents treated / issued to family members of EU citizens in 2016**

Category	Cards issued <sup>7</sup>
Residence cards for family member of an EU citizen	1.507
Permanent residence cards for family member of an EU citizen	813
<b>TOTAL</b>	<b>2.320</b>

Source: Directorate of Immigration, 2017

With regard to the free movement of EU citizens on the other hand (including nationals of assimilated countries), the Directorate of Immigration processed a total of 14.990 registration certificates in 2016 compared to 13.306 in 2015. The main countries of origin are Portugal and France followed by Italy and Belgium. The Directorate of Immigration also delivered 10.025 permanent residence certificates

<sup>1</sup> First deliveries of residence permits delivered for a validity of more than 3 months.

<sup>2</sup> Equal figure: Russian, Ukrainian.

<sup>3</sup> Equal figure: Moroccan.

<sup>4</sup> Equal figure: Brazilian.

<sup>5</sup> Equal figure: Canadian, Japanese, Montenegrin, Bosnian, South-Korean, Ukrainian, American, Indian.

<sup>6</sup> Nationality disaggregation applies to all categories of Private reasons cumulatively.

<sup>7</sup> First deliveries of residence permits delivered for a validity of more than 3 months.

to European Union citizens compared to 8.278 in 2015.<sup>19</sup>

The table below provides a statistical snapshot of the total number of valid residence permits of the categories outlined above that were in circulation on 31 December 2016, in order to give a better idea of the total number of TCNs in Luxembourg and their reasons for migration.

**Table 3: Snapshot of residence permits valid on 31 December 2016**

Category of residence permit	Permits valid <sup>8</sup>	% of total permits valid
European Blue Card	1.190	4,77%
Researcher	111	0,44%
Pupil	78	0,31%
Student	387	1,55%
Young Au pair	50	0,20%
Family member	7.253	29,06%
Athlete or trainer	41	0,16%
Intern	6	0,02%
Posted worker	29	0,12%
Employee of a Community Service Provider	2	0,01%
Self-employed person	179	0,72%
Salaried worker	3.960	15,87%
Transferred worker	309	1,24%
Private reasons <sup>9</sup>	1.497	6,00%
Volunteer	3	0,01%
International protection <sup>10</sup>	2.061	8,26%
Long-term resident	7.803	31,26%
<b>TOTAL</b>	<b>24.959</b>	<b>100%</b>

Source: Directorate of Immigration, 2017

Here, the importance of the ‘long-term resident’ and ‘family member’ categories becomes apparent, representing 31,26% and 29,06% of all residence permits valid on 31 December 2016 respectively.

**Table 4: Snapshot of residence cards and permanent residence cards valid on 31 December 2016**

Category	Cards valid <sup>11</sup>
Residence card – Family member of EU citizen	13.546
Residence card – family member of EU/EEA/Switzerland citizen (G Series)	125
<b>TOTAL</b>	<b>13.671</b>

Source: Directorate of Immigration, 2017

### 3.1. Economic migration

In 2016, 1.298 first residence permits were issued for economic reasons compared to 1.214 in 2015, which represents an increase of 7,7%. This increase is largely due to an increase of 139 permits in the salaried worker category, which increased from 600 to 739. The table below provides a comparison between all residence permits issued (first deliveries) for economic reasons in 2015 and 2016.

<sup>8</sup> Residence permits valid on 31 December 2016 (first issuance and renewals)

<sup>9</sup> Private reasons can be disaggregated into : 78 (1) a (sufficient resources): 95, 78 (1) a (sufficient resources) with WP: 33, 78 (1) b (autonomous basis): 2, 78 (1) c (family or personal links): 453, 78 (1) c (family or personal links) with WP: 14, 78 (3) a (humanitarian reasons): 23, 78 (3) a (humanitarian reasons) with WP: 1, other: 744, other with WP: 132

<sup>10</sup> Combining international protection, refugee status and subsidiary protection categories

<sup>11</sup> Residence cards and permanent residence cards valid on 31 December 2016 (First issuance and renewals)

**Table 5: Resident permits issued in 2016 (first deliveries)**

Category	2015	2016
Athlete or Trainer	38	32
Salaried worker	600	739
EU Blue Card	337	335
Transferred worker	181	140
Self-employed person	34	36
Posted worker	23	15
Employee of a Community Service Provider	1	1
<b>TOTAL</b>	<b>1.214</b>	<b>1.298</b>

Source: Directorate of Immigration, 2017, 2016

### 3.1.1. Bill n° 6992: enhancing economic competitiveness

With the introduction of bill n°6992, deposited in Parliament on 18 May 2016 and adopted by the Parliament on 8 February 2017<sup>20</sup>, the legislator adapted existing legislation in the domain of legal migration, and economic migration in particular. The bill transposed Directive 2014/36/EU on seasonal workers and Directive 2014/66/EU on intra-corporate transfers into national law, introducing an authorisation of stay for investors as well as a mechanism for continuation of activity, detailing the conditions under which a TCN corporate officer (*mandataire social*) can apply for an authorisation of stay and modifying dispositions regarding the change of status of students.

These developments can be framed within a wider context of economic diversification, encouragement of entrepreneurship and the repositioning of the financial centre. The measures included in the two EU directives intend to improve migration flows by reducing the administrative burden on businesses and by establishing transparent rules on the admission and residence of TCNs covered by the two directives.<sup>21</sup>

#### A. Intra-Corporate Transferees (ICTs)

Bill n°6992 proposed to introduce the notion of intra-corporate transferee into national law. The envisaged aim was to soften the rules for entry and stay of the targeted TCNs in the increasingly globalised context.<sup>22</sup> Eligible for an intra-corporate transfer are managers or specialists who have worked at the company or corporation for an uninterrupted period of three to twelve months directly preceding the application.

Also eligible are trainee employees, who have worked at the company for an uninterrupted period directly preceding the application of three to six months.<sup>23</sup> In case the application for intra-corporate transfer receives a favourable outcome, the TCN manager or specialist will be issued an authorisation of stay ‘ICT’ of at most three years, one year for trainee employees. A new application can only be admitted after six months have passed since the first intra-corporate transfer. The intention of this measure was to avoid that the transfer de facto becomes permanent.<sup>24</sup>

In accordance with the ICT Directive, the bill introduced the concept of short-term and long-term mobility for persons holding an ICT residence permit issued by another Member State. With regard to short-term mobility, the holder of an ‘ICT’ residence permit delivered by another member state will be authorised to work in Luxembourg for a duration of no more than 90 days within a period of 180 days under a number of conditions.<sup>25</sup> With regard to long-term mobility, the holder of an ‘ICT’ residence permit delivered by another member state will be authorised to work in Luxembourg for a duration that exceeds 90 days.<sup>26</sup> TCNs wishing to be authorised to live and work in Luxembourg in the context of long-term mobility must first be issued a “mobile ICT” residence permit.<sup>27</sup> In the context of short-term mobility, the procedure is limited to a notification of the minister.<sup>28</sup>

The Chamber of Commerce (CC), while highlighting the importance of this type of mobility for the Luxembourg economy, regretted that the legislator adopted the most restrictive provisions of the Directive. In the case of "long-term mobility" (more than 90 days per period of 180 days per second State), Directive 2014/66/EU left the second State the option of (i) applying the same formalities as for "short-term mobility", or (ii) requiring that the "long-term mobility" request is submitted to the second State for the purpose of obtaining a so-called "mobile ICT" residence permit. Luxembourg opted for the most restrictive formula, which the CC regretted. Waiving the requirement for a new application for a residence permit to obtain the "mobile ICT" residence permit would facilitate mobility and reduce administrative burdens of carrying out professional assignments in several EU Member States.<sup>29</sup>

The Chamber also opposed the provision that a new temporary intra-group transfer for the same person can only be requested after a period of six months has lapsed after the maximum duration of a temporary intra-group transfer. In the Chamber's opinion, this would not allow for a smooth functioning of the international business groups in which the Luxembourgish companies are embedded.<sup>30</sup>

## B. Seasonal Workers

Bill n°6992 also proposed to transpose Directive 2014/36/EU on the conditions of entry and stay of TCNs for the purpose of employment as seasonal workers and to introduce the notion of seasonal worker into national law. According to the bill, the TCN who legally resides in a third-country and who can produce a working contract for seasonal work, proof of appropriate accommodation and health insurance will be issued a work authorisation and, if needed, a short-term visa for seasonal work, for a maximum period of 90 days.<sup>31</sup> If the seasonal work exceeds 90 days, the worker will be issued an authorisation of stay 'seasonal worker' under the same conditions.<sup>32</sup> By derogation from the principle that the application for a residence permit must be lodged by the TCN, the seasonal worker's application can also be lodged by the employer.<sup>33</sup> This measure was motivated by administrative simplification and acceleration of the proceedings.<sup>34</sup> However, the State Council wondered what the advantage of the employer introducing the application would be, and wondered who would receive the refusal or acceptance – the employer or the worker?<sup>35</sup>

The bill stipulated that the duration of seasonal work cannot exceed five months in a period of 12 months.<sup>36</sup> The 'seasonal worker' authorisation of stay can be renewed multiple times if the worker's contract with the same employer is prolonged and can be renewed once if the worker finds seasonal work with another employer.<sup>37</sup>

Furthermore, the bill intended to give seasonal workers the right to recognition of their diplomas and the right to education or professional training if directly linked to their professional activity. According to the bill, they do not have the right to scholarships, student loans or other benefits.<sup>38</sup> Seasonal workers do not have the right to change their status to 'salaried worker'.<sup>39</sup>

The bill also introduced new grounds for refusal of an application for seasonal work, most of which are linked to the employer's conduct, such as not having fulfilled social security, fiscal, labour law, labour condition or work contract obligations.<sup>40</sup>

Furthermore it foresaw the refusal of an application for an authorisation of stay for seasonal work or the withdrawal of the work permit and the residence permit "seasonal worker" in the case the employer creates a vacancy by cutting an existing full-time job, in order to hire a 'seasonal worker' (within twelve months of the job being cut).<sup>41</sup>

Furthermore, the bill stipulated that if the seasonal worker's work authorisation or visa were to be withdrawn for reasons related to the employer's conduct, the employer would have to pay the worker

a compensation that is equal to the salary for the duration foreseen in the contract.<sup>42</sup> The bill excluded the possibility for the seasonal worker to change status during his or her stay.<sup>43</sup>

The CC noted that in certain cases, the authors of the bill were applying the minimum rules laid down in the directive, whereas for other articles the legislator went beyond these rules.

Thus, they questioned the reasons for legislator's choice to fix the maximum duration of a stay at five months while the directive provides for a range of five to nine months, uninterrupted and over a period of 12 months.

As regards the renewal of the residence permit, the legislator went beyond the directive, providing for several possible renewals of the seasonal worker's residence permit with the same employer up to a maximum of five months. The directive only provided for one renewal. In the case of a request for change of employer, the bill provided for only one renewal.

The legislator set out the administrative and financial penalties that would apply in the event of non-compliance with the provisions concerning seasonal work and the Labour Code, but went beyond the minimum rules. In the event that the wrongful employer would be a subcontractor, the legislator provided for solidary liability of the latter's contractor to pay this penalty and any arrears of wages owed.<sup>44</sup>

Finally, the CC deplored the lack of precision around the notion of "*activities subject to the rhythm of the seasons*" and the list of employment sectors contained in two Grand ducal regulations. It asked for a precise reference to the Grand ducal regulations as well as a definition of the above-mentioned notion.<sup>45</sup>

### C. 'Investors'

Part of the push towards the diversification of Luxembourg's economy and boosting entrepreneurship, bill n°6992 introduced an authorisation of stay for investors, which aimed to attract qualitative TCN investors to the country.<sup>46</sup> In order to be eligible for this authorisation of stay, the TCN would have to fulfil one of the following four conditions:

- a. Invest at least €500.000 in an existing commercial, artisanal or industrial company based in Luxembourg and commit to maintain the investment and the level of employment for at least five years.<sup>47</sup>
- b. Invest at least €500.000 in a commercial, artisanal or industrial company yet to be created, this including the creation of five jobs within three years of having founded the company.<sup>48</sup>
- c. Invest at least €3 million in an investment structure that is already in existence or yet to be created in Luxembourg<sup>49</sup>, which has an appropriate substance (targeting 'family office' structures)<sup>50</sup>.
- d. Invest at least €20 million as a deposit in a financial institution established in Luxembourg, committing to maintain this investment for at least five years<sup>51</sup> (targeting 'high net worth individuals')<sup>52</sup>.

Bill n°6992 proposed that no investments can be made in real estate (renting or buying), so not to worsen the already difficult real estate situation in Luxembourg.<sup>53</sup> Furthermore, 75% the investments described under a), b) and c) will have to be made from own funds, 25% can be borrowed over a duration of at least three years.<sup>54</sup> The investment described under d) will have to stem completely from own funds<sup>55</sup> and will have to be deposited at one single financial institute<sup>56</sup>.



According to the bill, before being able to introduce the application for a residence permit, the applicant will have to submit the project to the Minister of Economy (for commercial, artisanal or industrial projects) or to the Minister of Finance (for financial investments), who will then verify its viability and will provide their opinion to the Minister in charge of immigration.<sup>57</sup>

The ‘investor’ residence permit introduced by the bill is valid for three years and is renewable for three years if the conditions remain fulfilled, and the opinion of the minister having initially provided an opinion remains positive.<sup>58</sup>

Acknowledging that the planned changes concerning the new ‘investors’ residence permit are a political choice, the assessment of which belongs to the legislative power, the State Council nevertheless, questioned “*whether it is really in the interest of Luxembourg and its population to grant a right to a quasi-automatic authorisation of stay to any wealthy person from a third country without any condition of habitual and legal residence.*”<sup>59</sup> In the view of the State Council, “*financial considerations alone cannot constitute sufficient grounds for attracting wealthy persons from third countries to Luxembourg by promising to grant them a right of residence without an efficient prior checking of the origin of the funds at the level of the competent administration.*”<sup>60</sup>

Although the State Council did not issue a formal objection, it further questioned the introduction of the new ‘investor’ authorisation of stay as well as residence permit on various other grounds<sup>61</sup>:

First, it noted that several notions such as ‘*entreprise*’, ‘*structure d’investissement et de gestion existante ou à créer*’, or ‘*structure d’investissement*’ lack a precise normative nature.<sup>62</sup> It also noted other extremely vague concepts such as the article in the bill « *which allows those who invest 3 million euros in an investment and management structure and who maintain an "appropriate substance" at this structure to obtain an authorisation of stay "investor"*, arguing that it “*is vague and difficult to verify.*”<sup>63</sup>

It questioned the real effectiveness of the means of control and investigation at the disposal of the Minister having the Economy in his/her attributions or of the Minister having Finances in his/her attributions, who are supposed to provide detailed opinions to the Minister with Immigration in his/her attributions before issuing the residence permit. Given the complexity of the structures that have been built up by qualified investors and the rapid changes in the instruments and investment projects, the Council of State argued that any control measure would be random.

Finally, it wondered what the margin of appreciation of the Minister would be when considering the respectability of investors.

The CC welcomed the introduction of a residence permit for investors. However, it regretted the absence of a comparative table of the regimes existing abroad in order to better assess the relevance of the proposed measures.

It believed that the minimum amount of investment, namely €500.000, in a commercial, craft or industrial activity, would be likely to ensure a certain attractiveness of Luxembourg. The Chamber found it more difficult to comment on the relevance of the minimum amounts to be invested in an investment and management structure and argued that the substance of the activity should be clarified in consultation with the concerned sectors.

Regarding investment in the form of a deposit with a financial institution (‘high net worth’ individuals), the Chamber asked for further explanations in order to be able to better assess the advantages.<sup>64</sup>

#### D. Highly qualified workers

Bill n°6992 proposed to increase the period of validity of the "European Blue Card" residence permit from two to four years (maximum duration allowed by the directive). The aim of the increase is to increase Luxembourg's attractiveness to this category of people, as well as to achieve administrative simplification.<sup>65</sup> Sectoral restrictions on access to the labour market remain limited to the first two years.

In 2016, the salary thresholds for applying as a highly qualified worker were set to:<sup>66</sup>

- at least 1.5 times the average gross salary in Luxembourg (48.864 x 1,5 = 73.296 euros in 2016)
- at least equivalent to 1,2 times the average gross annual salary in Luxembourg (48.864 x 1,2 = 58.636,80 euros in 2016) for jobs in occupations belonging to groups 1 and 2 of the International Standard Classification of Occupations (ISCO) for which a particular need for workers from third countries is recognised by the Government. The list establishes the following professions in which the Government considers there to be a shortage of qualified workforce in the telecommunications and information sectors such as:
  - Mathematicians, actuaries and statisticians (2120)
  - Systems analysts (2511)
  - Software developers (2512)
  - Web and multimedia developers (2513)
  - Applications programmers (2514)
  - Software and applications developers and analysts not elsewhere classified (2519).<sup>67</sup>

#### E. Mechanism for continuation of activity

Bill n°6992 introduced a mechanism for continuation of activity, which allows registered entities situated in a third country to continue their activities on Luxembourgish territory if a major incident (geopolitical incident, data processing incident or natural disaster) occurred in the country of origin. While the site for continuation of activity functions as a backup centre during normal times, in times of crisis it is intended to become an operational centre from which the company's key employees will work.<sup>68</sup> In order to be registered in the registry of agreed entities<sup>69</sup>, the entity must have been "precleared", submitting a complete file. This file includes amongst other things a plan for continuation of activity<sup>70</sup> and the identity and work description of the workers to be transferred in case of a major incident<sup>71</sup> and is submitted to a consultative commission. Based on the opinion of the consultative commission, the Minister decides whether to register the entity. In case of a major incident, the TCN workers of the registered entity will receive a residence permit of the category "salaried worker"<sup>72</sup>, valid for one year at most and renewable for one year upon request, if they can prove that they have health insurance and appropriate accommodation<sup>73</sup>. If the entity establishes itself permanently in Luxembourg, the TCN can apply for a "salaried worker" or "highly qualified worker" authorisation of stay.<sup>74</sup> The authorisation of stay could be withdrawn once the situation in the country of origin has normalised and the continuation of activity from Luxembourg is no longer required.<sup>75</sup>

The State Council noted that the legal definition of the concept of "site for continuation of activity" (*site de continuité d'activité*) was unclear. They questioned the necessity of such entities, their purpose being to remain entities solely used in the event of transfer to the disposal of "public or private entities" not otherwise defined.<sup>76</sup> The State Council also wondered whether the Ministry of Foreign and European Affairs is equipped to effectively manage a register of such authorised entities and to ensure its daily update.<sup>77</sup>

As regards the creation of the new register of authorised entities in the context of 'continuation of activity', the National Commission for Data Protection (*Commission nationale pour la protection des*

*données* - CNPD) argued for more specifications, namely with regard to the procedures for obtaining and using data and the conditions of access to and transmission of data . More generally, the terms and conditions for the transmission of data between the Minister in charge of Immigration and other bodies should be specified. Finally, the CNPD considered that if the Minister with the authorisations of establishment in his attributions should have access to the file of foreigners, the Grand ducal regulation should enumerate the data to which the minister may have access precisely.<sup>78</sup>

#### F. Corporate officer (mandataire social)

The bill furthermore detailed the conditions under which a TCN corporate officer (*mandataire social*) of a company for which s/he can hold a business permit or ministerial approval and with which s/he has a working contact, has the right to apply for an authorisation of stay. In fact, if the corporate officer has a subordinate relationship to his or her employer, s/he has the right to apply for a “salaried worker” or “European Blue Card” authorisation of stay (“ICT” excluded).<sup>79</sup> If such a link of subordination cannot be established, the TCN’s eligibility for an ‘independent worker’ authorisation of stay will be considered.<sup>80</sup> For the corporate officer to be eligible for any of the mentioned categories, the company must also fulfil a number of conditions.<sup>81</sup>

#### G. Other considerations with regard to bill n°6992

It should also be noted that neither the Chamber of Salaried Workers (*Chambre des Salariés Luxembourg* – CSL), nor the Chamber of Trade forwarded any particular observations in their respective opinions to the bill.

In view of the increase in personal data processed in the database of foreigners (*fichiers des étrangers*) by the Minister in charge of Immigration following the creation of new residence permits and considering the sensitivity of some of its data, the CNPD(CNPD)<sup>82</sup> recalled one of its previous recommendations, namely to list in the Grand ducal Regulation of 28 September 2008 on the processing of personal data, the data which are directly collected from applicants for a residence permit for all categories of authorisations of stay.

The first amendments adopted by the parliamentary committee supplemented the bill in order to take into account the CNPD's concerns regarding the increase and the conditions for the processing of personal data. Another amendment increased the margin of manoeuvre for the Minister of Immigration for investments in Luxembourg by granting the Minister a discretionary power to grant an authorisation of stay as well as the sectors eligible for investors, according to the needs of the economy, which will be determined by Grand ducal regulation.<sup>83</sup>

Taking into account the State Council’s concerns, the committee also specified a number of criteria and conditions to be fulfilled concerning certain types of investment.<sup>84</sup>

#### 3.1.2. Satisfying labour market needs

##### A. Digital Luxembourg

The Government launched in October 2014 the so-called “Digital Luxembourg” initiative with the aim of strengthening and consolidating the long-term positioning of Luxembourg in the field of ICT and to place the country as a “high tech” centre of excellence.

One major pillar within the frame of this initiative, which is coordinated by the Ministry of Economy, concerns the promotion of a dynamic and ultra-connected Luxembourg abroad.

The initiative is grounded in Luxembourg's shortage of highly trained personnel in the ICT sector. Not only is there a need to develop and train future ICT specialists, but also to attract talents from abroad. Thus, several new projects or events were launched and organised in 2016:<sup>85</sup>

- In the frame of the development of digital skills, Luxembourg continues to raise young people's awareness of the attractiveness of ICT professions.
- As a response to the changing nature of jobs in the digital economy, an ICT competence centre will be created, in order to offer continuing vocational training adapted to the ICT know-how needs of enterprises and their employees. The aim is also to cooperate with the ADEM by proposing vocational retraining measures for jobseekers.
- An evaluation of the best way to promote the idea of a “Digital Luxembourg” abroad and to optimise efforts to promote and welcome investors and entrepreneurs in Luxembourg was carried out.
- In November 2016, the event “Digital Plug&Work 2016”, dedicated to the recruitment of graduated ICT specialists, was organised in Luxembourg. The aim was to help to fill the shortage of ICT specialists and support the companies in finding ICT specialists outside of Luxembourg. Besides the effort of attracting potential candidates, such events increase the visibility of Luxembourg as a “digital nation” abroad.
- In early 2016, a new blog in French, German and English (<http://digital-luxembourg.lu/>) as well as social media accounts on Twitter and Facebook were set up.

In this context, and with a view of facilitating ICT talents' entry into the Luxembourgish market as well as their retention, Luxembourg undertook the revision of the legal framework for the reception of highly qualified workers over the course of 2016. This process, which started in 2015, also involved the softening of the criteria for obtaining a European Blue Card for ICT professionals, by lowering the threshold of the minimum level of remuneration required for an ICT specialist to apply as a highly qualified worker. In that same spirit, bill n°6992 tries to make Luxembourg attractive for skilled workers in sectors where there is a shortage.

## B. Recognition of professional qualifications

On 18 November 2016, the law of 28 October 2016 on the recognition of professional qualifications, which transposes among others Directive 2013/55/EU, entered into force.<sup>86</sup> The legislator also took the opportunity to amend several national provisions with this law. It recasts the legislation in the field of recognition of diplomas, combining all applicable provisions in one single legislative text. Important innovations foremost concern the simplification of the procedure for the recognition of professional qualifications, as well as the creation of a register for professional titles and a register for qualification titles.<sup>87</sup>

Further innovations concern the clarification that “professional experience” includes full- and part-time occupation and the clarification that “aptitude test” designates the assessment of skills, knowledge and qualifications of the applicant, thus going beyond a simple “knowledge” assessment.<sup>88</sup>

The new law enlarges the scope of the general system of recognition of qualifications to nationals of a Member State and assimilated nationals who hold professional qualifications in a third country, except for several professions with specific provisions. In addition to overcoming existing legal uncertainty and enabling qualified persons to practice their profession, the enlargement is likely to strengthen the labour force available in certain areas of the national labour market, which is predicted to experience a lack of personnel in the near future. Moreover, the advocated measure should allow immigrants present on Luxembourgish territory to integrate further into Luxembourgish society by means of work.<sup>89</sup>

One should note that non-assimilated TCNs do not fall within the scope of the law and will not benefit from the recognition principles regardless of whether they have qualifications obtained in a third country (even if they are equivalent) or have qualifications obtained in an EU Member State. However, this does not prevent the different competent authorities from applying or adapting their own laws to address these requests according to need. By limiting the scope of application, Luxembourg intends to minimise the risk of “forum shopping”, that is to say any practice whereby TCNs, non-residents, without any economic link with Luxembourg, would apply for a recognition in Luxembourg, in order to facilitate their access to another European market.<sup>90</sup>

However, the law applies to the TCN:

- who applied for an authorisation of stay under the amended law of 29 August 2008 on the free movement of people and immigration and for which the Minister in charge of Immigration confirms to the competent authority that the applicant fulfils all the conditions for obtaining the requested authorisation subject to the recognition of professional qualifications for the pursuit of the activity concerned;
- who has a valid residence permit;
- who is a beneficiary of international protection.<sup>91</sup>

### C. Work & Travel

In September 2016, the Minister of Foreign and European Affairs signed agreements with the authorities of New Zealand as well as Australia enabling young residents of both countries aged between 18 and 30 to travel while working or studying in the partner country. The agreement with New Zealand is limited to 50 residents per state and is foreseen to enter into force in April 2017, while the agreement with Australia entered into force on 1 January 2017 and is limited to 100 persons per state.<sup>92</sup> The National Youth Service (SNJ) will accompany the youngsters; a website on the subject has been launched by the SNJ.<sup>93</sup>

### D. Au pairs

The National Youth Service (*Service National de la Jeunesse* – SNJ), which is the national coordination, management and control body for the reception of young au pairs, continues to actively promote their reception scheme through the provision of information to young au pairs, respectively hosting families. In 2016, their website for the promotion of the reception scheme counted 6.000 visits for the first 8 months of the year (compared to 7.000 visits for the whole year 2015). In addition, their scheme is promoted through posters and brochures sent to several facilities which are in contact with parents (municipal services, maternity, nurseries etc.) as well as through the national media (press releases, interviews) in order to reach the general public.<sup>94</sup>

The Minister of National Education, Childhood and Youth noted an increase of the number of young au pairs for 2016 (174 approvals for 2016, compared to 106 for 2015).<sup>95</sup>

### 3.2. Efforts to avoid ‘social dumping’<sup>96</sup> and labour exploitation of TCNs

With regard to social dumping and labour exploitation, legislative changes were introduced in 2016 with bill n°6992, while the government also expressed its willingness to enhance control and cooperation.

Bill n°6992 proposed the refusal of an application for:

- a temporary intra-corporate transfer, the refusal to renew an ICT residence permit or its withdrawal in case the employer has been sanctioned for violations of the provisions of the Labour Code on the prohibition of illegal employment of irregular staying TCNs or if s/he has

failed to fulfil his legal obligations in the field of social security, taxation, labour rights or working conditions.<sup>97</sup>

- an authorisation of stay for seasonal work or the withdrawal of the work permit and the residence permit "seasonal worker" in case the employer has been penalised for infringements of the provisions of the Labour Code on the prohibition of illegal employment and employment of illegally staying TCNs or if s/he has failed to fulfil his or her legal obligations in the field of social security, taxation, labour rights or working conditions.<sup>98</sup>

The Minister of Labour, Employment, Social Economy and Economic Solidarity and the Minister of Finances considered the necessity for the Labour and Mines Inspectorate (*Inspection du Travail et des Mines* - ITM) to recruit a considerable number of additional agents in the coming years, in order to address future challenges and ensure a sustainable development of their “core business”.<sup>99</sup>

At the beginning of 2016, the Customs and Excise Administration (*Administration des douanes et accises* - ADA) and the Labour and Mines Inspectorate agreed to strengthen their cooperation. The aim was to intensify controls, in particular with regard to the posting of employees, mainly in the construction sector, in order to be able to more effectively combat social dumping.<sup>100</sup>

### 3.3. Students and researchers

In 2016, 191 first residence permits were delivered to pupils, 208 to students and 44 to researchers. With a total of 443 first deliveries, 2016 marked a decrease when compared to the total of 506 first deliveries counted for these categories in 2015. The number of first deliveries and renewals issued over those two years is indicated in the table below.

**Table 6: Students and researchers (first deliveries)**

Category	2015	2016	Top-3 nationalities in 2016
Researcher	48	44	Indian (12), Iranian (5), Tunisian <sup>12</sup> (3)
Pupil	241	191	US American (170), Chinese (9), Vietnamese (9)
Student	217	208	Chinese (34), Russian (23), Vietnamese (11)
<b>TOTAL</b>	<b>506</b>	<b>443</b>	

Source: Directorate of Immigration, 2017, 2016

#### A. Reform of conditions of students’ access to the labour market

Bill n°6992 proposed to allow TCNs authorised to stay in Luxembourg as ‘students’ to change their status to ‘salaried worker’ or ‘independent worker’ under a number of conditions and thus to integrate into the labour market permanently.<sup>101</sup> For instance, students wishing to change their status must have successfully completed the last year of a five-year university degree in Luxembourg, having resulted in a diploma of higher education or have successfully defended their doctoral thesis in Luxembourg.<sup>102</sup> The salaried work they intend to exercise must be related to their diploma.<sup>103</sup> Until the entry-into-force of the changes introduced by the law of 8 March 2017 modifying the law of 29 August 2008 on the free movement of people and immigration, students were not allowed to change status and would at most be granted an authorisation to stay for ‘salaried worker’ which was valid for a maximum of two years and not renewable.

<sup>12</sup> Equal figure : Russian, Ukrainian.

## B. Law of 23 July 2016 on financial state aid for higher education

The law of 23 July 2016 amended the law of 24 July 2014 on financial state aid for higher education.<sup>104</sup> The law will exert a budgetary impact on the following points<sup>105</sup>:

- An increase of the semester amount for mobility grants from €1.000 to €1.225, which will have an annual impact based on academic year 2014-2015 figures of €4,79 million.
- An increase of the semester amounts of bursaries based on social criteria of an average of 20,8%, resulting in an annual impact of €56,38 million.
- Students who are pursuing studies outside of the Member State that recognises the academic programme as covered by its higher education system will from now on be eligible for financial aid. The definition of eligibility of programmes for financial aid is fitted to that used for registering for a grade, diploma or certificate in the registry of higher education qualifications as recommended in bill n°6893 relating to recognition of professional qualifications. In this way, students cannot register diplomas or certificates in the above-mentioned registry if they were refused a financial aid grant from the State.
- Furthermore, students with acknowledged disabilities may now obtain bursaries or loans for a maximum number of two additional semesters per cycle with relation to current regulations for first cycle, second cycle and the research training cycle, for a maximum number of four additional semesters compared to current regulations allowing only studies of a single cycle.
- Beginning with the academic year 2017/2018, the amounts of the various bursaries, i.e. basic bursary, mobility grants, social bursary and family-based bursary, will vary proportionately to changes in the threshold for sliding wage scales as calculated by STATEC.

## C. Jurisprudence

On 14 December 2016, the Court of Justice of the European Union (CJEU) ruled<sup>106</sup> that the law of 24 July 2014 on financial state aid for higher education and its provision that the granting of financial aid for higher education to students who do not reside in Luxembourg is conditional on being the children of workers who have been employed or have pursued their professional activity in Luxembourg for an uninterrupted period of at least five years at the time when the aid is applied for, is not compatible with EU law. However, the ruling does not apply to the law of 23 July 2016 amending the law of 24 July 2014, which is currently in force, but relates to the previous legislation on financial state aid for higher education, which was applicable only for the academic year 2013/2014. Under current legislation, the five-year continuous working condition in Luxembourg has been replaced by a period of work of at least five years over a seven-year reference period.<sup>107</sup>

On 15 December 2016, the CJEU ruled that the required filiation link is to be understood in its economic sense and not its legal sense. Thus, a child depending on a newly-formed household in which the spouse or registered partner of the parent is a cross-border worker has the right to financial aid for higher education (see cases C-401/15 to C-403/15).<sup>108</sup> The ruling of the CJEU does however not apply to the law of 23 July 2016 amending the law of 24 July 2014, which is currently in force, but to the previous legislation on financial state aid.

## D. Recognition of academic qualifications

As reported in the Annual Report on Migration and Asylum of the previous year, the University of Luxembourg established in the beginning of 2016 a 'recognition of academic qualifications' working group that reunites academic staff of all the faculties, as well as representatives of the Ministry of National Education, Childhood and Youth, the Ministry of Higher Education and Research and the OLAI. The group works on adapting the linguistic regime of university programmes, evaluating academic qualifications if documentation is lacking and integrating BIPs into the university

community. On 18 May 2016, the policy was approved by the University Council, except the procedure of language testing for refugees, which is awaiting approval.<sup>109</sup>

The University of Luxembourg has furthermore created an 'integration office' as a further step to facilitate the entry into university of AIPs and BIPs. If an AIP wishes to join the university, the candidate will take part in an individualised interview during which s/he will receive and outline of the university's offer, an overview of candidate's skills will be established and the university will offer orientation support to the candidate. AIPs will only be allowed to register in a study programme once they have received the status of BIP. While the candidate is still in the application procedure, s/he can follow courses as a free auditor. Free auditors are students who cannot participate in exams and do not validate ECTS (European Credit Transfer System) credits. Free auditors can apply all year long without having to show proof of diploma, can take part in 16 trainings open to free auditors and thereby specify their choice of study programme later on, can get to know the university, having access to all its services for free, and already get involved in the university community. Over the course of 2016, the University of Luxembourg waived the €50 fee for university lectures and courses for AIPs.<sup>110</sup>

In order to improve the candidates' ability to integrate, the university dispenses free intensive language courses with the support of the National Language Institute but also through a number of student associations. On 1 January 2017, 51 AIPs were registered at the University of Luxembourg as free auditors.<sup>111</sup>

### **3.4. Change of status**

Bill n°6992 proposed the introduction a new article to the amended law of 29 August 2008 on free movement of people and immigration, which details the categories of TCNs that are not authorised to change their status during their stay. Thereby, it is rendered explicit that individuals holding a residence permit for medical treatment are not authorised to change status, which was not the case previously. Likewise, people with a residence permit in the categories 'pupil', 'trainee', 'volunteer', 'au pair' and the new category of 'seasonal worker' are not authorised to change status during stay.<sup>112</sup>

The legislator wanted to avoid a circumvention of the conditions for the admission of "regular" salaried workers, specifying that the salaried activity carried out in the context of a temporary intra-corporate transfer or in the context of seasonal work does not confer a right to obtain the residence permit "salaried worker".<sup>113</sup>

Additionally, bill n°6992 proposed to enable students to change their status to 'salaried worker' or 'independent worker' under a number of conditions (see section 3.3 above).

### **3.5. Facilitating family reunification**

In 2016, 1.507 first issuance residence cards were delivered to TCN family members of EU citizens. The tables below provide an overview of cards issued and nationalities with the largest number of cards issued in 2016 in this category. Additionally, 230 renewals and 260 replacements were issued over the course of the year.<sup>114</sup>



**Table 7: Documents treated / issued to family members of EU citizens in 2016**

Category	Cards issued <sup>13</sup>
Residence cards for family member of an EU citizen	1.507
Permanent residence cards for family member of an EU citizen	813
<b>TOTAL</b>	<b>2.320</b>

Source: Directorate of Immigration, 2017

**Table 8: Top-10 nationalities of TCN family members of EU citizens issued residence cards in 2016 (first delivery)**

Nationality	Amount
Brazilian	150
Cape Verdean	117
Montenegrin	98
Serbian	71
Moroccan	59
Guinea-Bissauan	57
US American	56
Bosnia Herzegovinian	55
Russian	51
Senegalese	44
Guinean	44
others	705
<b>TOTAL</b>	<b>1.507</b>

Source: Directorate of Immigration, 2017

With regard to family members of TCNs, 1.209 residence permits (first deliveries) were issued in 2016, Chinese (165), Indian (152) and American (103) being the principal nationalities<sup>115</sup>, compared to 1.315 in 2015<sup>116</sup>. Adding residence permits of the category ‘private reasons – family ties’, the total further climbs to 1.527, covering a share of 36,3% of all first residence permits delivered to TCNs. Looking thus at the scale of residence permits and cards issued for family reasons, it becomes apparent that, next to work, family reunification is one of the main causes for emigration to Luxembourg.

With regard to legislative changes, bill n°6992 proposed to abolish the one-year waiting period that previously applied to TCN sponsors wishing to apply for family reunification.<sup>117</sup> According to the proposed amendment, the sponsor’s spouse, registered partner or minor child could accompany the sponsor or join the sponsor directly after the granting of his/her residence permit. Thereby, the right to immediate family reunification that was previously limited to some categories (such as “European Blue Card” holders) is extended to all sponsors that fulfil the conditions of appropriate accommodation, health insurance and sufficient, regular and stable resources fixed in Article 69(1) of the modified law of 29 August 2008 on the free movement of people and immigration.<sup>118</sup> The sponsors’ family reunification with their or their partner’s first-degree relatives in the direct ascending line or with their or their partner’s adult children remains subject to the one-year period.<sup>119</sup> The family reunification of UAM BIPs with a tutor or any other family member also remains subject to the one-year period.<sup>120</sup>

While the Minister must take a decision on applications for family reunification no later than nine months after the filing of the application, bill n°6992 provided for a faster processing for family members of European Blue Card holders (six months) and family members holders of an ICT or mobile ICT residence permit (90 days).<sup>121</sup> The CC welcomed these provisions, judging they would facilitate family reunification.<sup>122</sup>

<sup>13</sup> First deliveries of residence permits delivered for a validity of more than 3 months.

### 3.6. Recognition of marriages

The law of 23 May 2016 on the recognition of marriage in Luxembourg has redressed the imbalance between the marriages celebrated in Luxembourg and the recognition of marriages celebrated abroad, the latter benefitting from less favourable conditions.<sup>123</sup> The new article 170-1 introduced to the Civil Code aligns the conditions for the recognition of marriages to the conditions for the celebration of marriage. It stipulates that: "*The marriage contracted in a foreign country, between foreigners, shall be valid in the Grand Duchy of Luxembourg if it has been celebrated in the forms customary in the country and if both spouses fulfil either the substantive conditions required by the law applicable to their personal status subject to respect of international public policy, or if both spouses satisfy the substantive requirements of Luxembourgish law.*"<sup>124</sup>

The reference to international public policy allows to disregard the application of the foreign law in question, which might for instance permit bigamy, polygamy or the marriage of a minor child, and to substitute the Luxembourgish law for it.<sup>125</sup>

The substantive conditions to be fulfilled by foreigners for the recognition of their marriage contracted abroad are therefore assessed in relation to their national law or in relation to Luxembourg law at the time of recognition of their marriage in Luxembourg, but must in any case not offend Luxembourg's international public order. The possible absence of the consent of one of the spouses (minor or not) to the celebration of the marriage is also considered a violation of Luxembourg's international public order and the marriage of a minor who has been forced and whose consent was not granted, would not be recognised.<sup>126</sup>

Moreover, the aforementioned law allows for the Luxembourg's recognition of same-sex marriages celebrated abroad at a time when such marriages - introduced by the law of 4 July 2014 reforming the marriage and which entered into force on 1 January 2015 - were not yet authorised in Luxembourg. The same applies to the recognition of the adoption of children by a same-sex couple.<sup>127</sup>

### 3.7. Visa policy

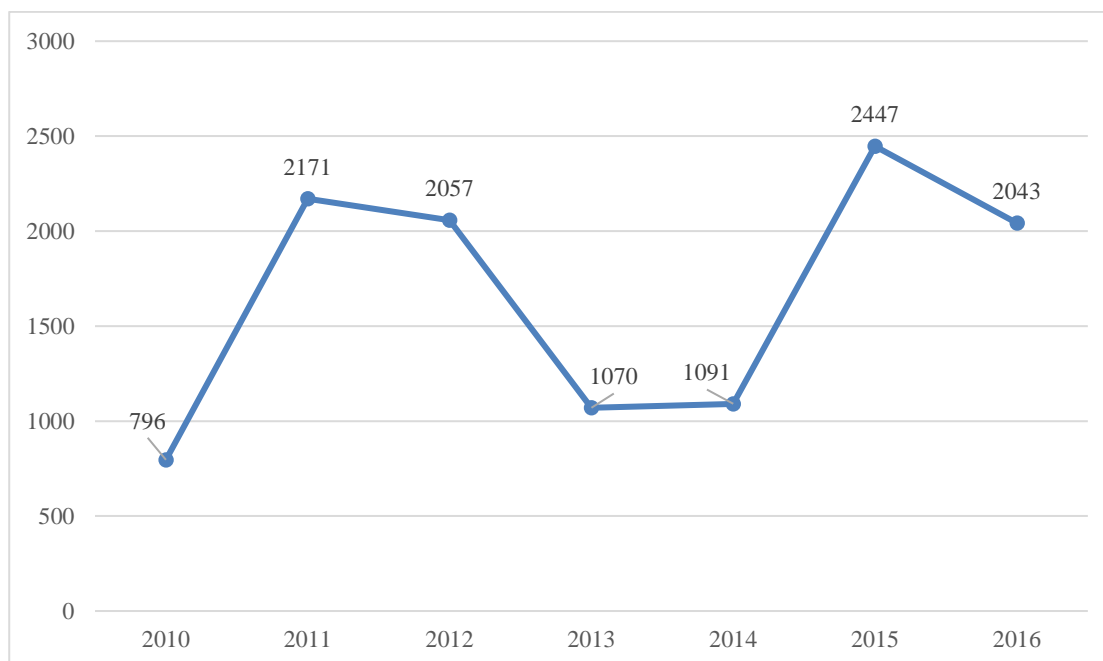
The VIS roll-out was completed in February 2016 and all stations connected to the VIS are operational. Certain categories of applicants have to provide their fingerprints when they hand over their visa request. An offline procedure was developed in view of enrolling applications in case of a temporary disconnection to the main server. Luxembourg is collaborating with VFS in Turkey and India.

The Visa Code is in force since 2009 and no amendments have been added to the regulation yet. Discussions are currently ongoing concerning the new Visa Code, which will facilitate the whole application procedure.<sup>128</sup>

## 4. INTERNATIONAL PROTECTION

The influx of AIPs to Luxembourg decelerated in 2016 after the increase of the year before. With 2.043 applications registered by the Ministry for Foreign and European Affairs in 2016, the levels recorded remain below the 2.447 recorded in 2015. Nonetheless, both the Directorate of Immigration of the Ministry of Foreign and European Affairs<sup>129</sup> and the OLAI<sup>130</sup> consider it a significant number.

**Figure 1: Applications for international protection 2010-2016**



Source: Directorate of Immigration, 2017

In 2015, a shift in profile of AIPs was noted when compared to the previous year, with a large increase in the share of applications by nationals from Syria, Iraq and Afghanistan. 2016 marked another change in profiles, with a drop of 57% for applications from Syrians and a 70,1% drop for applications from Iraqis.

At the same time, one can notice an increase in the number of applicants from the Western Balkans. Although, Syrian nationals remained the largest group with 14,2% of all applications made, they were followed by nationals from the Western Balkan in 2016.

**Table 9: Country of origin of AIPs in 2015 and 2016**

Country of origin	Number of persons 2015	% of total applications in 2015	Number of persons 2016	% of total applications in 2016
Syria	669	27,3 %	289	14,2 %
Albania	153	6,3 %	226	11,1%
Kosovo	239	9,8 %	208	10,2 %
Iraq	539	22 %	161	7,9 %
Serbia	56	2,3 %	153	7,5 %
Eritrea	38	1,6 %	106	5,2 %
Bosnia-Herzegovina	68	2,8 %	82	4 %
Algeria	22	0,9 %	75	3,7 %
Morocco	Accounted for in "others"	Accounted for in "others"	75	3,7 %
Georgia	23	0,9 %	64	3,1 %
Others	640	26,11%	596	29,3 %
<b>TOTAL</b>	<b>2.447</b>	<b>100 %</b>	<b>2.035</b>	<b>100 %</b>

Source: Directorate of Immigration, 2016, 2017

The number of persons who were granted refugee status in 2016 increased considerably compared to the previous year, from 200 in 2015 to 764 in 2016. The Directorate of Immigration attributed the increase in decisions taken (2.319 in 2016, compared to 1.087 in 2015) to the reorganisation of the Refugee Service and the hiring of more personnel. Furthermore, it is argued that the growth in the

number of persons being granted a protection status in general, is linked to the profile of applicants – as 538 of the total of 764 beneficiaries in 2016 were of Syrian origin. Additionally, 26 persons were granted subsidiary protection in 2016.<sup>131</sup>

Thus, in 2016, Luxembourg had a record recognition rate<sup>132</sup> of 60,3%. Out of 1.310 decisions, 790 were positive and 520 negative.

Including persons who were resettled in 2016 who automatically obtained refugee status upon arrival in Luxembourg, the total number of BIPs amounts to 842. Including these, the overall number of decisions increases to 1.362 with an overall recognition rate of 61,8%.

The following tables show that the high recognition rate can be explained by the profile of the AIPs: 538 new BIPs are from Syria (68,1%) and 101 from Iraq (12,8%).

**Table 10: Number and origin of persons who were granted international protection in 2016**

Country of origin	Refugee status	Subsidiary protection	% of total granted intl. protection
Syria	538	0	68,1 %
Iraq	93	8	12,8%
Eritrea	23	3	3,3%
Undefined (Palestine)	19	0	2,4%
Iran	15	3	2,3%
Afghanistan	8	3	1,4%
Somalia	7	1	1%
Dem. Rep. of Congo	7	0	0,9%
Dem. People's Rep. of Korea	6	0	0,8%
Ethiopia	5	0	0,6%
Mexico	5	0	0,6%
Nigeria	4	1	0,6%
Armenia	4	0	0,5%
Montenegro	0	4	0,5%
Gabon	4	0	0,5%
Turkey	2	2	0,5%
Azerbaijan	3	0	0,4%
Togo	3	0	0,4%
Albania	2	0	0,3%
Burundi	2	0	0,3%
Cameroon	2	0	0,3%
Gambia	2	0	0,3%
Kosovo	2	0	0,3%
Sudan	2	0	0,3%
Algeria	1	0	0,1%
Belarus	0	1	0,1%
Egypt	1	0	0,1%
Jordan	1	0	0,1%
Uganda	1	0	0,1%
Russia	1	0	0,1%
Senegal	1	0	0,1%
<b>TOTAL</b>	<b>764</b>	<b>26</b>	<b>100%</b>

Source: Directorate of Immigration, 2017

Another specificity of 2016 was the high number of decisions declining competence (*décisions d'incompétence*) based on the application of the Dublin III regulation. In 2016, Luxembourg took 617 of these decisions compared to 284 in 2015, representing an increase of 117,3%.<sup>133</sup>

In the report of the Ombudsman, the threefold multiplication of complaints linked to issues regarding international protection and reception of applicants and beneficiaries is noted; while in 2015, 78 complaints were registered, in 2016, the Ombudsman registered 235 complaints. Generally speaking, it was observed that these complaints related to problems applicants or beneficiaries encountered in their relations with the Administration.<sup>134</sup> The observations of the Ombudsman will be further outlined in the relevant subchapters (see 3.1.1.2, 3.1.2., 3.1.3, 3.2.2 and 4.1).

#### **4.1. Reception, support and integration measures**

##### 4.1.1. Changes at the OLAI

###### 4.1.1.1. New governance

The restructuring and reorganisation of the Luxembourgish Reception and Integration Office (OLAI), the main lines of which were decided and initiated in 2015, were continued in 2016.

A new organisational structure, divided into several divisions, was set up following the recruitment of new staff. A new decision-making body composed of the Director and two substitutes was added to the Coordinating Committee (*comité de coordination*). Both will meet regularly, at least twice a month, in order to adopt regulatory proceedings to transpose political decisions regarding reception and integration.

The direction unit (*cellule de direction*), responsible for the internal and external communication of the OLAI, as well as for the follow-up of the direction's files, was reinforced by two new staff members. The reorganisation will ensure a better internal follow-up of files and will support the various divisions to improve communication with the external partners of the OLAI, namely ministerial partners, associations and municipalities. The direction unit assumed a coordinating role by linking the different divisions, establishing new partnerships with local associations and by responding to the growing need for information among the general public, following the emergence of a large number new initiatives that support applicants for and BIPs, including the call for projects of the *Oeuvre* (see 4.1.4.2), which brought volunteers to the focus of the media.<sup>135</sup>

###### 4.1.1.2. Personnel

Following the government's decision in 2015 to increase the OLAI's staff, the ratio of the social support staff was increased to one full-time employment (FTE) for 160 AIPs (previously 1 FTE for 190 AIPs) in 2016.

Given the fact that the ratio the OLAI had agreed upon in its collaboration agreements with its management partners for durable reception facilities was 1 FTE for 30-50 AIP, it was decided to further increase the ratio to 1 FTE for 50 AIP. In addition, it was decided to reinforce the team of reception agents. All AIP accommodated within the OLAI facilities must present themselves monthly to the reception agents at the OLAI counters in order to obtain vouchers, which give access to medical examinations, public transport tickets or any other purchases.<sup>136</sup>

The lack of staff ensuring a better reception was a point addressed by both the Ombudsman and associations working in the field of reception and integration of migrants. The Ombudsman noted the difficulty of ensuring the social follow-up of several hundred AIPs simultaneously and therefore underlined the urgency to strengthen the team of social workers.<sup>137</sup> Similarly, ASTI asbl in their assessment on the integration of refugees in Luxembourg, called for a rapid reinforcement of OLAI's team of social workers.<sup>138</sup>

#### 4.1.1.3. Financial aspects

The OLAI's expenses for AIP reception more than doubled in 2016 (€54,4 million) compared to the previous year (€26,2 million) after having already increased by 20% in 2015.

In addition to the expenses incurred due to the arrival of AIPs, the increase in costs is mainly the result of social support, namely collaboration agreements with the Red Cross, Caritas and ASTI, but also increased security (*gardiennage*). OLAI has used external service providers to coordinate certain tasks (security, catering, cleaning, technical maintenance) within the newly opened reception facilities.<sup>139</sup>

#### 4.1.1.4. Pilot projects

Faced with an increase in arrivals of AIPs, the Integration Division of the OLAI established a number of pilot projects to determine the extent to which the existing framework can be adapted and what synergies can be created.

On the one hand, the OLAI has launched a pilot project to explore how the Welcome and Integration Contract, open to all legally resident foreigners, can be adapted to BIPs. This was considered with the help of a focus group of recently resettled refugees (see 6.3).

On the other hand, the OLAI, the Ministry of Equal Opportunities and the Ministry of National Education, Childhood and Youth implemented the pilot project "Welcome to Luxembourg" in 2016. Through a number of interactive workshops, participants were familiarised with the core message of the project: "*In Luxembourg, women and men are equal in rights, in duties, in treatment, opportunity and value*". 18 instructors were trained during 10 hours, treating questions regarding equal opportunity, adult learning, were given information regarding the context of applicants of international protection and the process of their arrival in Luxembourg. The pedagogical approach and content of their training had been determined in advance.

From May to mid-July, 2016, a duo of instructors gave a total of 18 courses in four reception centres (*Logopédie, Monopol, Weilerbach* and *Millebaach*) to 113 resettled BIPs (78 men and 35 women) who had signed up voluntarily.

One of the conclusions drawn from this pilot concerns the need for integration to be at the heart of the first few weeks after the arrival of AIPs, and to accompany and support applicants who strive towards integration.<sup>140</sup>

#### 4.1.2. Accommodation and access to housing

The issue of accommodation for AIPs and BIPs was raised throughout 2016 and proved to be particularly complex. It has been highly mediatised and was commented on by various stakeholders.<sup>141</sup>

In 2016, the accommodation system of AIPs depended on different phases (phase 1, 2 and 3).<sup>142</sup> The total hosting capacity was spread over 93 different sites.<sup>143</sup>

The continued inflow registered in 2016 led to a growing concern regarding the number of beds available for AIPs in Luxembourg. In fact, at the end of 2016, the OLAI, in phase 3, housed 3.095 individuals. The average occupation rate of beds in its permanent (phase 3) reception facilities was 76%.<sup>144</sup>

In a number of interviews over the course of the year, the director of the OLAI noted that, in order to be able to provide housing for continued arrivals, new beds would urgently have to be made available.<sup>145</sup>

However, while the construction of four temporary reception facilities (also known in national public- and media debate as ‘container villages’) aimed at accommodating AIPs was announced at the end of 2015, only one such facility came to fruition in 2016.

#### A. Impediments to the establishment of container villages for AIP

The Council of Government of 23 October 2015 decided to draw up four land-use plans (*plans d’occupation du sol* - POS)<sup>146</sup> with the aim of establishing temporary reception facilities for AIPs, rejected AIPs and BIPs. Four sites were selected: Steinfort, Diekirch, Mamer and Junglinster. The projects were sent to the respective municipalities in autumn 2015 and the respective municipal councils all gave a favourable opinion<sup>147</sup> after their deliberations, taking into account certain grievances and observations introduced by citizens.

In its unanimous opinion of 29 January 2016, the Municipal Council of the municipality of Junglinster took into account the observations of the local residents who pointed out the reception facility’s proximity to the local high school and residential areas. They considered it essential to delimit the different sites to guarantee social peace and to prevent conflicts and tensions between AIPs and the local population. The Municipal Council therefore required a sufficient number of staff and proposed not to accommodate different ethnic groups in the same premises. It also called for a reinforcement of their local police staff, needed firstly because of Junglinster’s general increase in population and secondly considering the arrival of 300 AIPs. Furthermore, the Municipal Council insisted that once AIPs should be relocated throughout the national territory once they have been granted international protection.

As for the observations made by the Municipal Council of the Mamer municipality, one should note its request that the schooling of AIP children should take place in reception classes to be set up within the reception facility.

The Municipal Council of Steinfort, gave a unanimous positive opinion to the POS, despite 157 observations being sent to the local authorities and despite the introduction of a petition against the project. This petition was launched by the citizens’ initiative ‘*Keen Containerduerf am Duerf*’ (‘No container village in the village’) and collected 550 signatures. Nevertheless, the Municipal Council conditioned its signature of an agreement with the State to a maximum capacity of 100 AIPs for the reception facility. It further requested that the container village be limited to a maximum duration of 5 years, that a monthly meeting with all the organisations involved will take place, and that AIP children be enrolled in municipal schools.<sup>148</sup>

When adopting the draft Grand ducal regulation declaring the land-use plan of the temporary emergency reception facility in Diekirch, the Council of Government decided in its meeting of 17 February 2016 to limit the maximum capacity of first arrival reception centres to 300 (previously 600). In case of absolute emergency, the government may nevertheless decide to temporarily increase the reception capacity.<sup>149</sup>

The Grand ducal regulations declaring the land-use plan of the temporary emergency reception facilities were adopted in 2016<sup>150</sup>.

Thus of the four planned ‘container villages’, only one came to fruition in 2016. A structure with 150 bedrooms and a maximum capacity of 300 persons opened its doors to the first AIPs in Diekirch on 29 November 2016. The advancement of the planned project in Steinfort was halted after the administrative court confirmed an annulment appeal of the citizens’ initiative ‘*Keen Containerduerf am Duerf*’ on the grounds that an environmental impact study should have been carried out. The Council of Government announced on 15 September 2016 that it would appeal the judgement.<sup>151</sup> The advancement of the two other projects in Mamer and Junglinster were similarly halted as appeals had been introduced to the administrative courts. In the meantime, the government launched the

procedures for the construction of a modular housing structure in Marnach<sup>152</sup> and Esch-sur-Alzette<sup>153</sup> respectively.<sup>154</sup>

## B. Finding appropriate accommodation

However, the opening of a new structure does not always signify a marked increase in available beds. In fact, the OLAI noted that the closure of existing structures due to expiry of contracts, sanitary requirements or risk control is a big challenge.<sup>155</sup>

The strain that the closure of existing structures puts on the stock of available beds is made worse by the considerable number of returnees and beneficiaries living in reception structures. BIPs frequently struggle to find appropriate accommodation in Luxembourg and are thus unable to vacate the housing provided to them as applicants. In fact, by the end of 2016, 23% of those housed in the structures of the OLAI were individuals benefitting from international or subsidiary protection. Additionally, 14% of those housed in reception facilities at that time were rejected AIPs who were awaiting their return to their country of origin.<sup>156</sup>

The director of OLAI projected in December that more housing facilities would urgently be required in 2017, considering the sluggish process of construction of new sites and considering the increasing tendency of refugees and rejected AIPs to be housed in facilities intended for AIPs.<sup>157</sup>

Over the course of 2016, the Ombudsman received a number of complaints concerning the conditions in reception centres run by the OLAI and its partners, most frequently focused on the quality of meals.<sup>158</sup> The issue was also raised by the Luxembourgish Refugee Council (LFR) at its press conference on the World Refugee Day.<sup>159</sup> The Ombudsman noted that most facilities do not have a kitchen, which does not allow AIPs to prepare their meals. Furthermore, the LFR and the ASTI noted that a large number of structures do not dispose of internet, or that the internet is restricted to common areas, thereby hindering residents' possibilities to communicate with family, lawyers etc., and called for the installation of internet points in common as well as private areas.<sup>160</sup>

Questioned on the need for separate centres for LGBTI AIPs and BIPs, the Prime Minister of Luxembourg doubted whether the categorisation of reception facilities along religious, political or sexual orientation would not lead to further stigmatisation of its residents.<sup>161</sup>

It should also be noted that the Minister of Interior Security, in his answer to a parliamentary question regarding among other things the number of police interventions made in reception facilities, indicated that there were 358 interventions between 1 July 2015 and 30 September 2016. Most of the incidents regarded disputes.<sup>162</sup> However, according to the police the number of interventions is not a cause for concern, although fights between AIPs inspire heated reactions on social media.<sup>163</sup>

## C. Housing for beneficiaries of international protection

Since early 2016, the social housing agency "*Agence immobilière sociale*" (AIS), which is financed by the Ministry of Family, Integration and the Greater Region, started to take over the stewardship of the housing stock of the "second phase housing".<sup>164</sup> The latter concerned housing (studios, apartments, houses) made available by OLAI to BIPs during a maximum duration of three years. OLAI assumed the expenses of the daily and accounting management, the house cleaning, as well as the legal and litigation follow-up.<sup>165</sup> The AIS, which provides housing to persons with modest incomes in general, also provides social guidance in collaboration with social offices and other social services to all tenants, irrespective of their status. Renting contracts are initially signed for a duration of three years (renewable) with the long-term objective of integrating residents in the private housing market.<sup>166</sup>

Several projects relating to housing were financially supported by the *Oeuvre* (see 3.1.4.2). Among them are the projects "Habitat et échanges intergénérationnels" of Cohabit'Age asbl as well as "Residential cooperative" of Adhoc Habitat participatif s.c., both of which promote the cohabitation



of local residents and refugees in houses with common areas, thus encouraging exchange. The project “Neien Ufank” of Fondation Caritas Luxembourg aims to establish an integration programme to assist 120 households and, in relevant cases, their families once they leave the reception facility. The individual integration processes are supported, documented and studied in order to create a wide-ranging expertise so as to reproduce the programme on a larger scale.<sup>167</sup>

The project “Babel” of Cohabit’Age asbl, financially supported under the Asylum, Migration and Integration Fund (AMIF), facilitates legally-residing TCNs’ access to solidary housing through a project of intergenerational and cross-cultural living.<sup>168</sup>

ECRI also explicitly recommended to the national authorities to develop measures in the field of social housing, considering that this would not only contribute to the integration of workers with a migrant background but that it would also benefit low-paid Luxembourg national workers.<sup>169</sup> To this end, one can also point out the project “Transformation- refurbishment of five houses” by the Fondation pour l’Accès au Logement, again financially supported by the *Oeuvre*, which consists in renovating small houses in order to create social housing for BIPs, but also any other low-income households.<sup>170</sup>

Additionally, one should note that the newly created ‘LISKO’ plays a significant role in facilitating access to housing for BIPs (see 4.1.4.1).

#### 4.1.3. Access to the labour market

##### A. Applicants for international protection

AIPs have access to the labour market after six months of submitting their application, under a number of conditions. In 2016, two AIPs were issued temporary occupation authorisations (*autorisation d’occupation temporaire- AOT*), while three applicants saw their authorisation renewed.<sup>171</sup>

Recognising the importance work plays in the successful integration of BIPs and cognisant of the high recognition rate of AIPs, the LFR pled for procedural simplification of the application for AOTs in order to facilitate applicants’ access to the labour market.<sup>172</sup> This plea was echoed by the ASTI, which noted the very low number of AIPs being issued an AOT and proposed simplifying existing procedures, for instance by allowing AIPs to apply for the AOT themselves instead of passing through the employer.<sup>173</sup>

The LFR furthermore argued in favour of the introduction of the ‘accompagnement project’<sup>174</sup> which had previously been proposed in the context of the bill on the reception of AIPs in Luxembourg and which had the aim of increasing the responsibility and autonomy of AIPs but had been removed from the final text.<sup>175</sup> The evaluation and potentially the simplification of the mechanism for recognition of refugees’ academic and professional qualifications, as well as of the written proof required by the authorities was also noted by the LFR as a way of increasing applicants’ access to the labour market.<sup>176</sup>

It should be noted that both the Directorate for Immigration<sup>177</sup> and the OLAI collect information regarding the applicants’ level of qualification and linguistic skills, which will later be used by the Agency for Development of Employment (*Agence du développement de l’emploi – ADEM*) and the National Service for Social Action (*Service national d’action sociale – SNAS*) when they accompany recognised refugees. Furthermore, a collaboration between ADEM, the Business Federation Luxembourg and the University of Luxembourg’s Centre for Systems Biomedicine has the aim to develop an evaluation system permitting to test theoretical and technical competences. This would enable ADEM to provide a more appropriate professional orientation and, if needed, point recognised refugees towards training other existing measures, in a more focused way.<sup>178</sup>

While many newly arrived individuals have completed their studies and have work experience, the integration into the labour market remains difficult, according to the Ombudsman. She views Luxembourg's linguistic regime as one of the main causes for this difficulty and argues that learning the Latin alphabet and/or the languages required for full participation in Luxembourg's labour market presents a big hurdle.<sup>179</sup>

The *Oeuvre* (see 4.1.4.2) financially supported a new project that specifically targets AIPs. "Work and integration portfolio" by Reech eng Hand (Archevêché) encourages AIPs to make positive use of the time required for the examination of asylum applications by creating personal folders (individual's formal qualifications but also their uncertified skills). On the basis of the individuals' profile, the aim is to offer them meetings and internships with business people operating in Luxembourg to discuss the work situation and whether their skill sets match the requirements in Luxembourg. Together with the trade union LCGB (*Lëtzebuurger Chrëschtliche Gewerkschaftsbond* - Luxembourgish Christian trade union), the project will also offer asylum seekers the chance to gather information on the reality of the job market in Luxembourg, both general and relating to specific domains<sup>180</sup>

A number of other projects financially supported by the *Oeuvre* that aim to facilitate access to the labour market target AIPs and BIPs<sup>181</sup>:

"Connections" by ASTI asbl has the aim of facilitating the social integration of AIPs and BIPs into their host society and, in particular, of preparing the target public for their entry into the job market. A series of varied and complementary fields is addressed by a range of activities and interactive workshops.

The project "Sleeves Up" by TouchPoints asbl enables Luxembourg's newcomers to transform their talents into a means of self-employment through training courses, individualised mentoring, and personalised follow-up. The project taps into Luxembourg's myriad institutions, associations and training programs to provide them with the means to launch their own projects.

Finally, Léieren & Savoir organises educational visits to companies to introduce refugees to the reality of fields of expertise that interest them and to help them find their way into the workplace.

## B. Beneficiaries of international protection

While BIPs benefit from equivalent access to the labour market as Luxembourgish nationals (with the exception of civil servant jobs). Their effective access remains a significant challenge for their full integration in Luxembourgish society.<sup>182</sup>

Being confronted with BIPs receiving guaranteed minimum income (RMG) and eligible for an insertion allowance, the SNAS-reception service developed a specific procedure for this largely Arabic-speaking public. Thus, between January and July 2016, concerned persons received an invitation (in French joined by an explicative note in Arabic) to an information meeting with Arabic translation, as well as a first interview with the Regional Service for Social Action with Arabic translation.

Later in July, in coordination with the newly established LSKO as well as the ADEM, the SNAS devised a new procedure to welcome and orient BIPs and facilitate their entry into the labour market as much as possible.

In accordance with this new procedure, the SNAS, in the context of a reception and information session with interpretation in Arabic, makes a division between those BIPs speaking either English, French or German and those who do not speak any of the languages commonly used in Luxembourg. Depending on their linguistic capacities, people are granted either an integration contract with the obligation to collaborate regularly with the ADEM, or an integration contract requiring them to

collaborate regularly with LSKO (see 4.1.4.1) and to participate in French language courses. All persons signing a “LSKO insertion contract” receive a voucher from SNAS to participate in a French language course for a reduced fee.

From July to December 2016, 203 people participated in such a session, 116 people signed a "LSKO" contract and 87 people signed a contract to move towards the ADEM.<sup>183</sup>

Furthermore, two projects aiming to facilitate the access of TCNs, including BIPs, to the labour market were financially supported under the AMIF:

“*InSitu Jobs*” by CLAE asbl provides personalised interviews, during which participants’ competencies are reviewed. Participants are given support in drafting a CV and motivation letters, gain recognition of diplomas, are given professionalisation workshops and are put in contact with relevant professional networks.<sup>184</sup>

“TCN Jobs – guidelines for employers” by IMS intends to draw up a guide for employers wishing to employ TCNs, providing information on procedures, advantages and drawbacks and provide best practices with regards to hiring and integration of TCN workers.<sup>185</sup>

#### 4.1.4. Other support and integration measures

##### 4.1.4.1. Luxembourgish Centre for Integration and Social Cohesion (LSKO)

The Luxembourgish Centre for Integration and Social Cohesion (*Lëtzebuenger Integratiouns- a Sozialkohäsiounscenter* - LSKO) opened its doors in April 2016 and was officially inaugurated on 13 June 2016 by the Luxembourgish Minister for Family and Integration. Part of the Luxembourgish Red Cross, and financially supported by convention to the Ministry for Family and Integration, LSKO aims to catalyse the integration of BIPs into Luxembourgish society and thereby to promote social cohesion in general.

Prioritising the most vulnerable families and individuals, LSKO’s mission is twofold:

1. Empower refugees and increase their autonomy by providing personalised support based on intercultural understanding and translation if needed.
2. Insert refugees in local integrative measures by establishing links to social services and associations.

LSKO’s personalised approach allows it to uncover needs on the ground and to communicate them to local authorities, who may address these needs in their Communal Integration Plan (see 6.7.1).

The focus of LSKO’s work lies in facilitating access to housing for beneficiaries. LSKO works in close collaboration with the AIS and made a call to private homeowners willing to rent their property to refugees either through direct rental contracts or via the social accommodation agency or the non-profit organisation *Wunnéngshëllef*.<sup>186</sup> LSKO has furthermore stated its intent to institute a Luxembourgish Red Cross guarantee; refugees renting accommodation will receive social follow-up and financial guidance in order to guarantee, amongst other things, the payment of rental fees to the owner.<sup>187</sup>

##### 4.1.4.2. Support of projects favouring the integration of applicants for and beneficiaries of international protection

The *Oeuvre*, a public institution subject to the supervision of the Ministry of State, launched a call for projects ‘*mateneen*’ (together) at the end of 2015 as a response to the increased influx of AIPs and the many public initiatives taken in solidarity. In 2016, 80 project holders were selected to receive funding for their projects promoting integration and contact between those who have arrived in Luxembourg recently and longer-term residents. The projects are thus not exclusively targeted at

newly-arrived people but the population of Luxembourg more generally.<sup>188</sup> An overall amount of € 12.606.855, to be disbursed over the course of three years, covers projects in nine different sectors: 5 in ‘information / coordination’ (€471.964), 3 in ‘sustainable development’ (€534.900), 7 in ‘material support’ (€611.476), 14 in ‘mingle and meet’ (€730.189), 6 in ‘employment’ (€846.419), 21 in ‘culture’ (€ 1.131.696), the largest amounts of money overall being disbursed for 12 projects ‘education/training’ (€ 2.468.852), 5 in ‘health / psychological support’ (€ 2.732.904) and 4 in ‘housing’ (€3.078.455).<sup>189</sup> Some of these projects are further elaborated upon throughout this report (See 3.1.2, 3.1.3, 4.2 and 5.4).

Furthermore, the Asylum, Migration and Integration Fund also supported projects relating to the support and integration of TCNs, including AIPs and BIPs, which are also further elaborated upon in this report (See 3.1.2, 3.1.3, 4.2, 5.4, 5.8, 6, 6.3, 9.2 and 9.4).

#### 4.1.4.3. Awareness raising on migration in the host society

OLAI launched an information kit in 2016 (*Kit Info Communes 2016*) aimed at municipalities, providing information on various aspects of the hosting of applicants for and BIPs, such as the asylum procedure, the role of the municipality, education, the rights of BIPs and modular housing structures.<sup>190</sup>

OLAI published an information note on volunteering with applicants and BIPs, which elaborates on requirements linked to volunteerism and the organisation of projects and on existing schemes and initiatives that currently give a framework to actions for volunteering.<sup>191</sup>

## 4.2. Asylum Procedures

### 4.2.1. Institutional changes and governance at the Directorate of Immigration

The influx and change in profile of AIPs, as well as the changes to the legislative framework have led the Directorate of Immigration to proceed to a number of changes. On 1 January 2016, a new section was created and incorporated into the Asylum Unit of the Directorate of Immigration. This section is responsible for all Country of Origin Information related work. Its research and reports are for internal use only.<sup>192</sup>

Furthermore, the Asylum Unit of the Directorate of Immigration has proceeded to the reorganisation of its structure by creating geographical sections for interviewers and decision-makers. The geographical sections are the following: Africa, North Africa, Western Balkan, Asia, and Middle East. Within these sections, each interviewer and decision-maker has a certain number of countries to address.<sup>193</sup>

Overall, in 2016, 16 new agents were hired at the Directorate of Immigration.<sup>194</sup>

### 4.2.2. Duration of procedure

With the entry into force of the new law of 18 December 2015 on international protection and temporary protection, the time limit within which a procedure for international protection must be completed was reduced from nine (former legislation) to six months. However, this time limit may be extended by further three months in case of complex legal and factual issues or if high numbers of TCNs or stateless people simultaneously apply for international protection. According to the Minister in charge of Immigration and Asylum, Luxembourg has been facing such a situation since September 2015.<sup>195</sup>

On 8 June 2016, one hundred Iraqi AIPs gathered in front of the Asylum authorities’ premises, protesting the delays of their application decisions compared to Syrians’ applications. The Minister

acknowledged that such discrepancies exist due to the disastrous situation in Syria, which does not require the collection of in-depth details during the asylum interview, and that the focus with regard to applications from Syrians is mainly on establishing identity and origin.<sup>196</sup> As a result, the Minister considered it to be normal that the processing periods for Syrian files are shorter. Additionally, the Directorate of Immigration specified that according to article 26(4) of the law of 18 December 2015 on international protection and temporary protection, “the Minister may give priority to decisions manifestly well-founded...”.<sup>197</sup>

Additionally, in 2016, Luxembourg saw an increase of applicants from the Western Balkan. In fact, 35% of the applicants having introduced an application for international protection were citizens from these countries.<sup>198</sup> The Directorate of Immigration’s Asylum Unit is working on an accelerated procedure for these applicants in order to decrease the average time for processing these applications (see 4.3).<sup>199</sup>

Among the 235 claims that the Ombudsman received in 2016 regarding issues related to international protection, several concerned applicants of international protection who were either awaiting a response to their application for several months or awaiting a first hearing following their application for international protection<sup>200</sup>. Several of these persons had received no further news regarding the advancement of their application upon request from the Directorate of Immigration, thus found themselves in a state of uncertainty. The Ombudsman furthermore noted that close to 10% of the decisions taken in 2016 concerned applications introduced before 1 January 2015, this signifying that the treatment of these applications took more than one year. This constituted a recurring complaint from AIPs, according to the Ombudsman.<sup>201</sup>

Aside from the psychological distress caused by the uncertainty noted by the Ombudsman, the LFR furthermore remarked that the different lengths in procedure can cause tensions amongst the various nationalities of applicants. The LFR called for a strengthening of ministerial human resources so that all applications can be treated within a reasonable timeline and suggested that the Directorate of Immigration takes a proactive and transparent approach when it comes to their communication regarding the progress of applicants’ procedure.<sup>202</sup>

### **4.3. Safe countries of origin**

The Minister in charge of Immigration and Asylum clarified the government’s current policy on applications for international protection from safe countries of origin. Thus, the latter are not processed automatically under an accelerated procedure. The designation of a country on the list of safe countries of origin does not exclude the individual examination of each application. In order for an application to be processed under the accelerated procedure, the applicant must not have submitted any valid reason to establish that the country of origin is unsafe because of his or her personal situation. This condition is assessed in the context of a case-by-case examination by the Refugee Service of Directorate of Immigration, taking into account the individual situation of the applicant. It is furthermore assessed by the administrative courts in the event of an appeal against a decision taken in the context of an accelerated procedure.<sup>203</sup>

The list of safe countries of origin is regularly reviewed by the Ministry in charge of Immigration and Asylum and currently lists the following countries: Republic of Albania, Republic of Bosnia and Herzegovina, Republic of Cape Verde, Republic of Croatia, Former Yugoslav Republic of Macedonia, Republic of Montenegro, Republic of Senegal, Republic of Kosovo and the Republic of Serbia. The Republic of Benin and the Republic of Ghana are solely considered as safe countries of origin for males.<sup>204</sup>

#### **4.4. Cooperation with EASO**

##### **A. Participation of Member States in EASO activities**

Four experts were deployed to Italy (1) and Greece (3) in the context of the Hotspot-Relocation Operating Plans to Italy and Greece and two junior experts participated in the “Induction Training - Pilot Project for Junior Experts”.<sup>205</sup> Six staff members of the Directorate of Immigration were deployed over the course of 2016 to EASO to support the implementation of the relocation schemes.<sup>206</sup>

Moreover, Luxembourg funded several interpreters under the EASO Hotspot Operating Plan in Greece.<sup>207</sup>

Trainings in inclusion, evidence assessment, interview techniques and exclusion were held in 2016 and two staff members were trained to become trainers themselves.<sup>208</sup>

#### **4.5. Relocation and resettlement**

The Minister in charge of Immigration and Asylum regularly called for increased international and intra-EU cooperation as well as solidarity among Member States in the field of relocation and resettlement.<sup>209</sup>

##### **A. Relocation**

Luxembourg is determined in making the relocation scheme a success and was the first Member State to relocate asylum seekers from Greece in November 2015. In 2016, 106 persons were relocated from Greece, more precisely 84 Syrians, 20 Iraqis, 1 Turkish and 1 Eritrean person.<sup>210</sup> This total is composed of a group of 41 (28 adults and 13 children) who arrived in Luxembourg on 2 June 2016<sup>211</sup> and a group of 33 which was relocated on 11 August 2016<sup>212</sup>. On 1 December 2016 an additional group of 32 persons (21 adults and 11 children) was transferred from Greece to Luxembourg.<sup>213</sup>

Furthermore, 61 persons were relocated from Italy in 2016. 20 Eritrean people arrived on 26 July 2016<sup>214</sup>, 20 people (15 adults and 5 children) on 13 October<sup>215</sup> and 21 individuals (19 adults and 2 children) on 14 December 2016.

##### **B. Resettlement**

In the context of the Council conclusions of 20 July 2015, Luxembourg pledged to resettle a total of 30 people and expects to meet this number in 2017.

Under the EU-Turkey agreement of 18th March 2016, Luxembourg pledged to resettle a total of 190 people. Up to the 1 January 2017, 52 persons have been resettled.<sup>216</sup> First, a group of 27 Syrian refugees (14 adults and 13 children) were resettled on 25 and 27 May 2016<sup>217</sup>, followed by 5 families (14 adults and 11 children) on 29 September 2016<sup>218</sup>.

At the Geneva Conference on 30 March 2016, Luxembourg pledged to the UNHCR to resettle 20 persons. This quota is foreseen to be fulfilled in 2017.<sup>219</sup>

## 5. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS<sup>220</sup>

### 5.1. Unaccompanied minors

The Directorate of Immigration noted a high number of absconding UAMs. Out of the 105 persons who registered as UAM, 54 absconded before having introduced an application for international protection.<sup>221</sup>

The Minister in charge of Immigration and Asylum stated that one possible explanation for this high number could be that Luxembourg is a country of transit.<sup>222</sup> The CCDH noted that some of these minors might potentially be victims of trafficking (see 9.5). The Minister also noted that the Dublin III Regulation does not apply to UAMs, allowing UAMs to travel regularly from one country to another.<sup>223</sup>

In her annual report, the Ombudsman noted that one part of UAMs live in good, even excellent conditions and are given adapted care. But this is not the case for all. The report furthermore suggested that a reflection should be initiated between the various actors involved in the reception, supervision and integration of UAMs on whether UAMs should be placed in separate accommodation structures, structures specific for families with children or in juvenile homes.<sup>224</sup> It should furthermore be noted that three reception centres for UAMs were opened over the course of 2016; MINA of Elisabeth in Troisvierges, Saint-Martin-Jeunes of the Fondation Maison de la Porte Ouverte in Luxembourg City and Villa Nia Domo of the Luxembourgish Red Cross in Strassen.<sup>225</sup>

In its Annual Report to the Government and Parliament<sup>226</sup>, the Ombuds Committee for the Rights of the Child (ORK) was of the opinion that several urgent improvements should be implemented in the area of UAMs.

According to the ORK, all minors should benefit from the same supervision and reception upon arrival. This could be accomplished either by applying a more appropriate treatment by the OLAI upon first reception or by giving the courts the means to eliminate the delays for the appointment of ad-hoc administrators, which can take several weeks, in some cases months. Also, it was argued that the psycho-social supervision of young persons accommodated within the reception facilities of the OLAI should be urgently strengthened, namely through increasing the allocation of staff (currently one educator for 30 children).

Concerning private guardianships, the ORK regretted that neither the OLAI nor the National Childhood Office (ONE) financially supports guardianships and that there is no training for host families available. Pointing to a specific case, the ORK furthermore considered it unacceptable to refuse guardianships because the minor would reach his/her majority shortly and that s/he would in any case be returned to his/her country of origin.

The ORK recalled its previous recommendations and required the government to reflect on a possible introduction of a special status for UAMs, which should establish an automatic guardianship. This status should also entitle the young person to the same benefits as BIPs, namely an unlimited right of residence in the country.

Finally, the ORK recommended that the government should urgently provide the OLAI, the Luxembourgish Red Cross and Caritas Luxembourg with more resources for their supervision of minors and more coordination among the ministries (Health, Education and Family) in this regard.<sup>227</sup>

### 5.2. Other vulnerable groups

A mechanism for identifying signs of persecution was put in place. A medical expert from the National Health Laboratory (*Laboratoire National de la Santé*) with knowledge concerning the

Istanbul protocol can be consulted in case of need. Furthermore, doctors can be consulted and will evaluate the special procedural guarantees that an applicant could need.<sup>228</sup>

More generally speaking, the OLAI noted the difficulties related to the provision of aid and support in the procedure, the care of persons with a physical or mental disability or chronic diseases as one of its challenges.<sup>229</sup>

Three projects relating to the specific vulnerability of AIPs and their mental health were financially supported under the AMIF. Two of these are by the Luxembourgish Red Cross. One provides training, tools and guidance for reception workers with regard to vulnerable people.<sup>230</sup> The other aims to improve the psychological and social care of AIPs, providing intercultural interpreters for psychological or psychiatric care; interpreters for accompaniment of women and children as well as awareness-raising of professional actors.<sup>231</sup> The last of these projects is run by Caritas Luxembourg, in close collaboration with the association Mosaiques asbl and aims to strengthen the care system of vulnerable AIPs in the reception facilities run by Caritas through the equipment and counselling of social workers.<sup>232</sup>

Other new projects in the field of health and psychological support for vulnerable migrants were financially supported by the *Oeuvre*.<sup>233</sup> Projects such as “Soutien psychologique aux réfugiés” by Omega 90 asbl, “Interprètes D’Ligue” by Ligue Luxembourgeoise d’Hygiène Mentale or “Healing & Empowerment by Living Zesummen asbl, all offer psychological, psychiatric and social consultations to BIPs, AIPs as well as rejected AIPs. The project “La musicothérapie au service des mineurs non-accompagnés” by Gesellschaft fir Musiktherapie zu Lëtzebuerg asbl provides group sessions of music therapy for young UAMs who live in reception facilities run by the Luxembourgish Red Cross.

The new impetus provided by the call for projects of the *Oeuvre* further led to the creation of the first recognised structure or network for professionals trained to work in cross-cultural clinics for migrants and exiles. The “Centre Ethnopsychiatrique de Soins pour Migrants et exilés (CESMI) by CESMI asbl is staffed by doctors, psychologists, therapists, social workers and other professionals. Its goal is to improve the mental health of migrants and exiles on the basis of a positive and multi-factorial model.<sup>234</sup>

## **6. INTEGRATION**

### **6.1. Multi-annual national action plan for integration and the fight against discriminations**

The drafting of the second multi-annual national action plan for integration and the fight against discriminations by the OLAI, intended to succeed the first national action plan for integration 2010-2014, was suspended following the so-called ‘migration crisis’ and influx of AIPs. According to the Government, the context of integration, including the integration of BIPs, has changed considerably. OLAI may thus integrate all new challenges into the future action plan.<sup>235</sup>

In its 5<sup>th</sup> monitoring report on Luxembourg, ECRI issued a specific recommendation regarding the swift implementation of such a new action plan, asking the Luxembourgish authorities to make it a priority. ECRI recommended that the action plan be provided with an appropriate budget and that the authorities commit to the achievement of all the objectives set out in the plan through the implementation of the activities included.<sup>236</sup>



## 6.2. Education

### 6.2.1. Measures to improve attainment in the education system

In Luxembourg, measures to improve attainment in the education system intend to formulate responses to the challenges created by the increasing heterogeneity of Luxembourg's population, by stimulating children's and youths' potential and catering to their diverse needs.

The extent of the diversity of pupils in Luxembourg's schools becomes apparent when looking at the statistics concerning the pupils' first language spoken at home. In the academic year 2015/2016, 36,5% of pupils in primary education spoke Luxembourgish as first language, while 28,5% spoke Portuguese and 13,3% French. In post-primary education 47,6% spoke Luxembourgish as first language, while 25,9% spoke Portuguese and 8,1% spoke French.<sup>237</sup> In fact, the share of pupils who speak Luxembourgish as a first language has been decreasing over the last ten years within both primary and post-primary education. In the academic year 2005/2006, the share of Luxembourgish-speakers was significantly larger with 54,4% of pupils in primary, and 65,8% in post-primary education.<sup>238</sup>

The University of Luxembourg also discussed this heterogeneity in its evaluation report on Luxembourg's sobering results in the PISA (Programme for International Student Assessment) study 2015 of the OECD. The University explained the country's below-average results in all subject matters by invoking its heterogeneity and the inadequate management of this heterogeneity. The report suggested that a comprehensive review of the language policy and the related linguistic requirements of Luxembourg's schools would have to be undertaken as one of the steps towards putting the country's educational system back on track.<sup>239</sup>

Over the course of 2016, the Ministry of National Education and Youth made efforts to diversify and broaden the post-primary school offer, to develop plurilingual education in nurseries and to develop non-formal education by reforming in-kind benefits, this with the aim of promoting integration and equal opportunity.<sup>240</sup> These efforts will be outlined below.

However, despite these efforts to improve attainment in schools, ECRI recommended that Luxembourg's national authorities should take the necessary steps to ensure that children of immigrant background are able to acquire the linguistic level required for a lasting success at school. Furthermore, ECRI suggested that the possibility of introducing a Francophone section within primary and general secondary education should be studied.<sup>241</sup>

#### 6.2.1.1. The reform of in-kind benefits 'care service vouchers' and the development of plurilingual education

##### A. The reform of in-kind benefits 'care service vouchers'

The law of 24 April 2016 modifying the modified law of 4 July 2008 on youth<sup>242</sup> put in place quality care in welcoming structures and reformed the in-kind-benefits 'care service vouchers' (*chèques-service accueil* - CSA).<sup>243</sup>

Parents must choose from official CSA service providers that fulfil a number of quality requirements and adhere to the mission statement of public service, namely strengthening the social mix and integration of children in the local Luxembourgish community.<sup>244</sup> The details of the control of pedagogical quality were laid down in the Grand ducal regulation of 27 June 2016<sup>245</sup>. Generally speaking, each establishment will be visited twice per year by regional agents assessing the quality of services provided.<sup>246</sup>

It should be noted that state aid is transferred to recognised CSA structures and not to individuals.

Furthermore, the law opened up access to ‘care service vouchers’ to cross-border workers from 5 September 2016 onwards.<sup>247</sup> These vouchers granting parents reduced prices for education and reception services in non-formal education were previously only available to Luxembourgish residents. From the academic year 2016/2017 onwards, establishments outside of Luxembourg can become official CSA service providers, if they meet the requirements.<sup>248</sup>

## B. Plurilingual education in nurseries

In order to stimulate children’s potential from earliest age onwards, the Government aims to implement a concept of plurilingual education in nurseries. A bill introducing a plurilingual education programme to early childhood care and education structures (for children aged 1-4) and modifying the CSA system was tabled at the Parliament in 2016.<sup>249</sup> Striving to mitigate social and cultural inequality and to provide a more equal start to all children, the programme will contribute to ensuring quality care through the CSA system at the level of non-formal education.

The plurilingual education programme is linked to the development of the quality of the non-formal education sector as defined by the law of 4 July 2008 on youth, more particularly regarding language, communication and media.<sup>250</sup> The programme aims to stimulate language development and communication skills, provide early individualised exposure to French and Luxembourgish and thereby enhance local integration.<sup>251</sup>

Before rolling out plurilingual education on a national scale, a test phase of the concept was undertaken in eight nurseries from March to December 2016, the results of which will be documented by the beginning of 2017. The concept intends to provide children with the opportunity to familiarise themselves with both Luxembourgish and French in a more playful way. Simultaneously nurseries will partner with parents to coherently develop the children’s mother tongues. In order to ensure the quality of the plurilingual education provided, each staff member will be responsible for a smaller number of children and will receive initial and continuous training in early childhood language learning.<sup>252</sup>

In order to benefit of state aid in the context of CSA and the support for plurilingual education for early childhood care, the service provider must be a recognised CSA service provider. In order to qualify for recognition, the service provider must fulfil a number of conditions, such as linguistic support. Furthermore, it must be guaranteed that the target languages of plurilingual education (Luxembourgish and French) can be used in daily interaction and according to the needs of the children.<sup>253</sup>

The bill furthermore introduced ‘plurilingual education support’ for CSA service provider welcoming children aged 1 to 4, by giving free of charge access to plurilingual education for a duration of 20 hours per week per calendar year.<sup>254</sup>

### 6.2.1.2. Diversification of the educational offer

#### A. Reform of post-primary education

On 29 July 2016, the Minister for National Education presented seven draft bills and two draft Grand ducal regulations intended to reform the system of post-primary education in Luxembourg. Trying to keep up with Luxembourg’s multilingual landscape, societal and socio-economic changes, Luxembourg’s schools are increasingly looking to diversify in order to be able to cater to the needs of their pupils and in order to support regional development.<sup>255</sup>

The Government believes that broadening the country’s educational offer will increase foreign pupils’ chances of success and will be a pull-factor for foreign investors, companies or scientists considering to settle down in Luxembourg.<sup>256</sup> It was furthermore noted that further expansion of the (English-

and French-speaking) school offer in Luxembourg is under consideration, as the Brexit will likely cause further need for international schools in Luxembourg.<sup>257</sup>

The presented proposals aim to cater to the diverse needs of the very heterogeneous groups of pupils that have different skills as well as social, linguistic and cultural backgrounds.<sup>258</sup> Amongst other goals, the reform aims to create “different schools for different pupils” (*ënnerschiddlech Schoule fir ënnerschiddlech Schüler*). It furthermore foresees the introduction of three national education mediators, who can be called upon by pupils, parents, teachers or staff. One of these mediators will be in charge of issues related to integration of migrant children who are confronted with the challenge of having to master Luxembourg’s three national languages in addition to English and their mother tongue.<sup>259</sup> The corresponding bill was introduced to Parliament on 19 October 2016.<sup>260</sup>

## B. Public international school Differdange

In the context of this drive towards diversification and with the aim of creating an educational system that provides all children with a chance to success<sup>261</sup>, a new public international school that provides a more flexible approach to languages than traditional Luxembourgish schools opened its doors in Differdange in September 2016.<sup>262</sup> Providing multilingual and multicultural education, the *École internationale de Differdange* (EIDD) works according to the European School system, to which it is linked by convention, but is public and free of charge in contrast to other European schools in Luxembourg.<sup>263</sup>

The international school contains a primary and secondary school, preparatory and reception classes.<sup>264</sup> Pupils first choose a lingua franca for the non-linguistic branches (French or English) as well as a language to be taught to the level of ‘first foreign language’ (French, German, English or Portuguese). In secondary school, pupils choose a second foreign language (French, German or English) and have the option to add a fourth one in the fourth year of secondary school. The oral communication in Luxembourgish is taught in primary and lower secondary, as well as preparatory and reception classes and is considered to be the integration language.<sup>265</sup>

The school received 110 inscriptions for the academic year 2016/2017, the pupils stemming from 20 different nationalities.<sup>266</sup> Following the high demand, the school announced that it would extend its offer for the academic year 2017/2018, also including nursery classes in the medium-term.<sup>267</sup>

## C. English-speaking educational offer at Lycée Michel Lucius

Of the pupils not following the official Luxembourgish curriculum during the academic year 2015/2016, 5.474 pupils attended an international school, 5.374 a private school and 449 a public school. In these three ‘types’ of school, 1.026, 2.125 and 376 pupils respectively followed English-speaking courses.<sup>268</sup>

Recognising the need for more English-speaking education in Luxembourg, a law broadening the English-speaking public educational offer at Lycée Michel Lucius was adopted. The law introduces the organisation of primary and post-primary international English-speaking classes to the secondary school, in the context of a steadily increasing number of registrations for English-speaking education over the last years.<sup>269</sup>

### 6.2.2. Measures aimed at newly arrived pupils and adults

#### 6.2.2.1. Integration of newly arrived foreign pupils

The integration of newly arrived foreign pupils is also perceived as a challenge, no matter whether it concerns children of migrants or AIPs. Frequently, these children speak none, or not all of the vehicular languages of Luxembourg, and are thus integrated into different types of classes.

## A. Primary education

With regard to primary education, newly arrived pupils are oriented into reception classes (*classes d'accueil*) that prepare them for the linguistic reality of the Luxembourgish education system. Of the 1.454 pupils of primary school age having arrived during the academic year 2015/2016, 384 were AIPs.<sup>270</sup> 24 reception classes had been organised on primary school level during this year. Furthermore, teaching staff had received more training in differentiated teaching in order to ensure the successful integration of pupils.<sup>271</sup>

## B. Secondary education

With regard to secondary education, pupils are welcomed and oriented by the *Cellule d'accueil scolaire pour élèves nouveaux arrivants* (CASNA - Reception desk for newly arrived pupils). The age bracket of the pupils cared for in this way by the CASNA was broadened to 12-24 years; previously covering the group of youngsters aged 12 to 17.<sup>272</sup>

The reception desk also recorded an increase of 41% in the number of pupils they took charge of in the academic year 2015/2016, this rise being attributed to the refugee crisis.<sup>273</sup> The profile of pupils arriving in Luxembourg in the aforementioned period of time changed as well, reflecting the influx of AIPs. In the academic year 2014/2015, the largest groups of youngsters welcomed and oriented by the CASNA were of Portuguese (29,9%), French (7,5%), Luxembourgish (6,8%, returning from abroad) and Italian (4,9%) nationality. In the following school year 2015/2016, the Portuguese remained the largest group (20,3%), however followed by Afghans (12%), Syrians (9,1%), Iraqis (8%), and returning Luxembourgish (6,6%).

The recent development in migratory inflow has been one of the factors taken into consideration in the analysis of strengths and weaknesses of reception and insertion classes which are being adapted.<sup>274</sup>

In the academic year 2015/2016, in secondary and vocational secondary education, 35 reception classes in 19 secondary schools were organised, welcoming 421 children aged 12 to 15, and 112 pupils in young adult reception classes (age 16 and 17) were organised. In these classes, pupils take intensive courses in French.<sup>275</sup>

45% of the students having joined a reception class during the first trimester of the academic year 2015/2016 were expected to join a regular class during the next academic year; of those having joined in the second trimester, 16% were expected to be able to enter regular classes.<sup>276</sup>

In the academic year 2015/2016, 1.209 pupils attended insertion classes, which are aimed at recently arrived pupils with a good educational level but with weaknesses in Luxembourg's vehicular languages. Furthermore, 742 pupils attended classes with a specific linguistic regime (*régime linguistique spécifique* – RLS). A pupil who lacks the level of German required to access a certain educational training can attend an RLS class and follow the training in French. These classes are open to all pupils, not only the recently arrived.<sup>277</sup>

## C. Applicants for and beneficiaries of international protection

Of the 1.454 children who arrived in Luxembourg during the academic year 2015/2016 and were oriented to a primary school, 384 were AIPs (26,4%). Of the 778 who were oriented to secondary and vocational secondary school, 566 were AIPs (34%).<sup>278</sup>

In January and March 2016, two classes targeted at 17 and 18 year-old AIPs and BIPs were launched at the National Centre for Lifelong Learning. With the aim of giving participants the toolkit to accomplish a certificate of professional capacity or a diploma of professional aptitude, the classes

provide participants with intensive French and Luxembourgish language classes and introduce them to the different trades.<sup>279</sup>

Furthermore, 27 pupils attended one of the two IPDM-i classes (*Initiation Professionnelle Divers Métiers* – professional initiation to various trades) that had been organised by the CNFPC.<sup>280</sup>

#### D. Professional training

With regard to professional training, a pilot project to provide youngsters welcomed by CASNA with apprenticeships in high-tech professions in the English language started development in 2016. The Minister of National Education, Childhood and Youth stated that it was determining the target economic sectors for the project in collaboration with the professional chambers and other relevant actors.<sup>281</sup>

##### 6.2.3. Adult learning

Luxembourg's offer in adult learning provides a wide spectrum of classes, from alphabetisation classes to highly advanced and specialised classes. The Service of adult learning (*Service de la formation des adultes* – SFA) offers courses in languages as well as the arts, trades, sciences, economics, environmental studies, socio-education and well-being, information and communication technologies, the civics courses in the context of the CAI and the acquisition of the Luxembourgish nationality.<sup>282</sup>

Language classes, which are the SFA's most popular offer (67,2% of total registrations), experienced a slight decrease compared to the previous academic year, from 14.488 registration in the academic year 2014/2015 to 14.402 in the following year. The SFA observed a steady increase of registrations for Luxembourgish classes over the course of the years; these classes are the most popular, with 6.569 (or 45,6%), having increased from 6.302 (43,5%). Uptake of French classes also increased from 5.099 (35,2%) to 5.156 (35,8%), while the popularity of English and German classes decreased (for English, 736 (5%) to 672 (4,7%) and for German from 590 (4,1%) to 531 (3,7%)).<sup>283</sup>

The SFA also dispenses basic education to adults who are illiterate, not literate in the Latin alphabet and individuals who have no formal education. The demand for this offer, which includes reading, writing and maths classes, grew considerably in the academic year 2015/2016 when compared to the previous year. The increase from 513 the previous academic year to 887 participants in the academic year has been attributed to the increase in AIPs in Luxembourg, which has occurred since 2015.<sup>284</sup>

Moreover, as a response to the influx of AIPs, the SFA launched the course 9+ *integration*. Between January and July 2016, 19 individuals attended intensive French, English and maths courses. In November, the number of attendants grew to 60.<sup>285</sup> Graduates of the programme are intended to be given access to vocational training or further adult education and an insertion project will be elaborated for them.<sup>286</sup>

The SFA, in collaboration with OLAI, is developing a coherent approach that ensures that adults, which the CASNA does not take care of, are guided and supported in their education from the moment they arrive in Luxembourg. The brochure 'Step by step towards education and adult training' was translated into Arabic in 2016.<sup>287</sup>

With regard to language classes more generally, 2016 marks the first in ten years in which the National Institute of Languages (*Institut National des Langues* – INL) did not register an increase in registrations; with 12.872 registrations, the INL logged a decrease of 1%. Of the offer of the INL, French and Luxembourgish are the most popular courses (representing 39% and 27% of the overall offer), both of which have seen growth compared to the previous year. Furthermore, the INL registered an increase of 21% in registrations for classes leading to national and international

language certifications (from 768 in 2015 to 929 in 2016). The certifications ‘International English Language Testing System’, the Diploma of French Language Studies – Advanced Diploma in French Language, Luxembourgish as a Foreign Language all saw a rise in popularity in 2016. Similarly, the registrations for the ‘language test Luxembourgish’ (*Sproochentest Lëtzebuergesch*), a test that is required before being able to acquire Luxembourgish nationality by naturalisation and in certain cases by declaration of option, also increased from 1.271 to 1.381, thus by 8,7% when compared to the previous year.<sup>288</sup>

#### 6.2.4. Intercultural mediation

Intercultural mediators can be called upon for free by parents, teachers or other education authorities in order to facilitate the communication between families and school staff, by providing for instance written translation of documents or oral translation in meetings.<sup>289</sup>

The pool of intercultural mediators was further strengthened in 2016, responding to the need for improving communication between the school personnel and the increasingly heterogeneous families of pupils. By the end of 2016, Luxembourg had 51 intercultural mediators who spoke 27 languages in total. Some of these mediators are on call in reception facilities to facilitate communication between AIPs and teaching staff.

Four full-time and ten freelance mediators speak Arabic, three full-time mediators speak Persian and four mediators support families from the Balkans.

The need for intercultural mediation has grown by 29% when compared to the previous year; during the academic year 2015/2016, 4.057 mediation requests were made; of these 1.253 were for Portuguese, 684 for Arabic and 641 for Bosnian-Croatian-Macedonian-Serbian.<sup>290</sup>

### 6.3. Welcome and Integration Contract

On 4 June 2016, 273 potential signatories of the contract attended a new edition of the orientation day, during which 23 institutional and associative partners presented opportunities for integration and cultural, political, economic and social participation to participants.<sup>291</sup>

Overall, 1.247 individuals signed the CAI in 2016, of which 611 were EU nationals and 637 were TCNs. Furthermore, 33 of signatories were BIPs. The tables below give an overview of the number and nationalities of BIPs as well as the overall and TCN top-10 nationalities who signed the CAI in 2016.<sup>292</sup> 511 signatories completed the CAI successfully in 2016.<sup>293</sup>

**Table 11: Top-10 nationalities having signed the CAI**

Nationality	Number	% of overall signatories
Portuguese	128	10,26 %
Italian	94	7,53 %
French	75	6,01 %
Chinese	61	4,89 %
Indian	56	4,49 %
Spanish	49	3,92 %
British	47	3,76 %
Russian	45	3,60 %
Romanian	43	3,44 %
Brazilian	40	3,20 %
Other	609	48,84%
<b>TOTAL</b>	<b>1.247</b>	<b>100%</b>

Source : Luxembourg Reception and Integration Agency, 2017

**Table 12: Top-10 TCN nationalities having signed the CAI**

Nationality	Number	% of TCN signatories
Chinese	61	9,58 %
Indian	56	8,79 %
Russian	45	7,06 %
Brazilian	40	6,28 %
Syrian	35	5,50 %
Ukrainian	34	5,34 %
Serbian	30	4,71 %
Turkish	20	3,14 %
Montenegrin	19	2,98 %
Moroccan	16	2,51 %
Other TCN	281	44,11 %
<b>TOTAL</b>	<b>637</b>	<b>100%</b>

Source : Luxembourg Reception and Integration Agency, 2017

**Table 13: BIPs having signed the CAI in 2016**

Nationality	Number of signatories
Syrian	13
Iraqi	6
Stateless	2
Iranian	2
Kosovar	2
Eritrean	1
Cameroonian	1
Congolese (Dem. Rep.)	1
Gabonese	1
Ivorian	1
Nigerian	1
Serbian	1
Togolese	1
<b>TOTAL</b>	<b>33</b>

Source : Luxembourg Reception and Integration Agency, 2017

In addition, 67 individuals subscribed to German, 633 to French and 604 to Luxembourgish language classes in the context of the CAI in 2016.<sup>294</sup>

Furthermore, in 2016 the OLAI undertook an analysis of the CAI's adaptability to BIPs. In the framework of pilot projects launched by the OLAI's Integration Division, the collective information session and the civic courses that are part of the CAI were offered to a group of BIPs who had recently been resettled and of whom many were illiterate. This focus group provided the Integration Division an idea of the specific needs of BIPs with regard to the CAI; these included, amongst other things, the need to adapt the communication of the CAI, for instance to develop audio support for the courses that are specially adapted to this target group.<sup>295</sup>

#### **6.4. Measures to enhance migrants' language skills**

Next to the language classes included in the CAI, a number of initiatives were supported in 2016 with the aim of enhancing migrants' language skills.

An elementary French-Arabic-Luxembourgish dictionary targeting AIPs as well as at volunteers and teachers working with them was presented on 15 November 2016. The dictionary containing 1.590 words was developed by ASTI with the financial support of the *Oeuvre* and the Ministry for National Education.<sup>296</sup>

Under the AMIF, the project "Mobile Assisted Language Tool – MALT" by the Pirate Party also benefitted from financial support. This project aims to develop a website that will allow Arabic-speaking persons to learn 500 words and 200 sentences in Luxembourgish. The website, optimised for mobile devices, will include a dictionary for direct translation, the possibility to listen to the pronunciation of words as well as knowledge testing tools.<sup>297</sup>

While currently no integration measures are obligatory for international protection seekers, the director of the OLAI noted that generally speaking, more male than female AIPs participate in voluntary language or citizenship training courses, and that, as a remedy to this situation, one could consider making a certain number of these courses compulsory.<sup>298</sup>

#### **6.5. Migrant access to social security**

Luxembourg continues to negotiate and sign bilateral agreements on social security with third countries. These agreements are inspired by coordination rules established in EU law: for example, the aggregation of the periods of insurance, the exportability of benefits and the principle of equal treatment.

On 15 April 2015, the Council of Government introduced a bill to Parliament bill proposing to regulate the coordination of social security systems between Albania and Luxembourg in favour of people who are bound by the laws of the two countries.<sup>299</sup> The bill was approved with the law of 5<sup>th</sup> April 2016.<sup>300</sup> It is the first international instrument to govern international relations with respect to social security of the two countries.<sup>301</sup>

On 14 September 2015, the Council of Government introduced a bill<sup>302</sup> on the approval of the Social Security Convention between the Grand Duchy of Luxembourg and the Philippines. The convention regulates the coordination of the social security systems between the Philippines and Luxembourg in favour of people who are bound by the laws of the two countries.<sup>303</sup> The bill was approved with the law of 19 November 2016.<sup>304</sup> It is the first time the two countries' relations with regard to social security have been regulated by an international instrument.<sup>305</sup>

In reaction to the Commission proposal of 13 December 2016 to update EU rules on social security coordination, Luxembourg's Minister of Labour expressed his opposition to the principle of a 12-month period of payment of unemployment benefits for cross-border workers by the country of



employment. He noted for instance the difficulty this would pose with regard to controlling the compliance of jobseekers.<sup>306</sup>

## 6.6. Access to citizenship and civic participation

In 2016, a total of 7.141 persons acquired the Luxembourgish nationality compared to 5.306 in 2015, constituting an increase of 34,6%. These numbers englobe all acquisitions of nationality; thus including procedures of naturalisation and recovery, of residents and non-residents.

It should also be noted that naturalisations based on the condition of 7 years of continuous residence in Luxembourg represent only 3.130 acquisitions of nationality, or 43,8%. On the other hand, the recovery of nationality by individuals who can prove that they have a direct Luxembourgish ancestor on 1 January 1900 (article 29 of the law on the Luxembourgish nationality), most of which are non-residents, come to a total 3.950, or 55,3% of acquisitions.

Among the 728 TCNs who acquired the Luxembourgish nationality, US Americans account by far for the greatest part (233), followed by Montenegrins (134) and Brazilians (100).

It should furthermore be noted that 92,7% of new Luxembourgish people of US American origin (216), 84% of those of Brazilian origin (84), 68,75% of those of Canadian origin (16) and 23,1% of those of Swiss origin (13) recovered their nationality based on article 29 of the law, while all other acquisitions of nationality by TCNs were naturalisations of residents.

**Table 14: Top-10 TCNs acquiring the Luxembourgish nationality in 2016**

Top-10 third country nationals		Acquisitions of nationality
1.	USA	233
2.	Montenegro	134
3.	Brazil	100
4.	Bosnia-Herzegovina	71
5.	Serbia	55
6.	Kosovo	47
7.	Cape Verde	33
8.	Chine	21
9.	Cameroon	18
10.	Canada	16
<b>Total third country acquisitions</b>		<b>989</b>
<b>Total EU acquisitions</b>		<b>6.152</b>
<b>TOTAL</b>		<b>7.141</b>

Source : Ministry of Justice, 2017

In absolute numbers of acquisitions of nationality, the French come first (2.262, of which 1.941 recoveries based on article 29), before the Belgians (1.836, of which 1.604 recoveries based on article 29), the Portuguese (1.089, of which only 1 recovery based on article 29), the Italians (304, of which 5 recoveries based on article 29) and the Germans (246, of which 69 recoveries based on article 29).

It should be furthermore noted that this data does not take into account minors who become Luxembourgish based on the acquisition of the Luxembourgish nationality by one of their parents, or because they were born in Luxembourg to a foreign parent who was born in Luxembourg as well (second-generation right of birthplace).

### 6.6.1. The reform of the law on Luxembourgish nationality

The debates surrounding nationality, conditions for acquisition of nationality and the ensuing reform of nationality, which had sprouted in 2015 from the debates and results of the referendum, continued over the course of 2016. Luxembourg's voting population had clearly rejected the idea of extending legislative voting rights to resident foreigners in the referendum of 2015. Perceiving the facilitation of acquisition of the Luxembourgish nationality as the only remaining possibility to reduce Luxembourg's democratic deficit<sup>307</sup>, the Minister of Justice presented a draft bill on nationality on 8 October 2015. This draft bill suggested substantial modifications to the conditions of acquisition of nationality (shortening the required duration of residence, softening language requirements and increasing the number of required civics courses), as well as the procedures. The context, campaign and results of the referendum, as well as the draft bill and reactions to it were addressed in detail in the Policy Report on Asylum and Migration 2015.

#### A. Bill on the law on Luxembourgish nationality

The government undertook political consultations with opposition parties based on the draft bill presented in 2015 and introduced the resulting bill n°6977 on the Luxembourgish nationality to the Chamber of Deputies on 24 March 2016. Laying out the particular demographic situation of Luxembourg, which is characterised by a significant increase in the total population and a decrease in the proportion of Luxembourgers in the total population<sup>308</sup>, the legislator aimed to “*promote the societal and political integration of non-Luxembourgish citizens in the Grand Duchy of Luxembourg and to strengthen cohesion within the national community*”<sup>309</sup>. The last reform of the law on nationality was a success; the introduction of the principle of plurinationality and second-generation right of birthplace led to a fourfold multiplication of acquisitions of the Luxembourgish nationality.<sup>310</sup> Yet despite the growth in naturalisations, the share of Luxembourgish nationals in the total population continues to decrease.

The most pertinent changes that the bill introduced when compared to the previous legislation are as follows:

- a. The length of the residence requirement to apply for naturalisation was decreased from 7 to 5 years and only the last year of residency prior to the application must be uninterrupted.
- b. Some adjustments were made to language requirements, they were however not lowered as was initially foreseen in the draft bill. In order to prevent language from becoming an insurmountable obstacle, a successful completion of the oral expression examination was considered sufficient to pass the language test, while an insufficient mark could be compensated with the score obtained in the oral comprehension test.
- c. The previous civic courses, which lasted 6 hours in total, were replaced by the course “*Vivre ensemble au Grand-Duché*” (“Living together in the Grand Duchy”) covering three modules with a total duration of 24 hours.
- d. The bill introduced the *jus soli* of the first generation whereas the previous law only provided the second-generation right of birthplace. Thus, according to the legislation, persons born in Luxembourg would automatically become Luxembourgish at the age of majority if they fulfill the double residence requirement: they must have uninterrupted period of residence during the 5 years preceding their majority and one of their foreign (adoptive) parents must have lawfully resided in Luxembourg during the 12 months immediately preceding the birth of the child. These persons would be exempted from language and civic courses. The double condition of residence aims to eliminate birth tourism.

e. The bill introduced a simplified way of acquiring Luxembourgish nationality by ‘option’, which was abandoned during the previous reform in 2008. The option concerns persons who have a particularly close connection to Luxembourg. While the procedure is always identical, the conditions for accessing Luxembourgish nationality differ according to the case. The length of residence required is not the same in the different situations and some applicants are exempted from the language requirement and the obligation to complete the civic course. Thus, ten different scenarios are provided for the option:

1. An adult whose parent or adoptive parent possesses or possessed Luxembourgish nationality and who was not granted that nationality.
2. A parent or adoptive parent of a Luxembourgish citizen who meets the five-year residence requirement in Luxembourg, whose last year prior to the declaration of option must be uninterrupted, who has passed the language test and has taken part in the civic course or passed the exam.
3. A person married to a Luxembourgish citizen, on proof of a joint living<sup>311</sup>, knowledge of the Luxembourgish language and participation in the civic courses or the passing of the exam. For the person not residing in Luxembourg, joint living for three years preceding the declaration of option must be proven. According to the legislator, marriages of convenience are more difficult to detect if the couple lives abroad.
4. A minor born in Luxembourg who is at least 12 years of age and who meets the double residence requirement (see above).
5. A person who has completed at least seven years of schooling, whether consecutive or not, in a Luxembourg public educational institution, provided that s/he has regularly resided in the country for 12 consecutive months directly preceding the declaration of option.
6. A person who has been habitually and legally resident in Luxembourg for at least 20 years, the last year before the declaration of option having been uninterrupted, provided that s/he has completed 24 hours of language classes at the National Institute of Languages (INL).
7. The person who completed the Welcome and Integration Contract, provided that s/he can prove a period of residence of 5 years of which the last year preceding the declaration was uninterrupted; s/he passed the Luxembourgish language test and has taken part in the civic course or passed the exam.
8. A person who immigrated to Luxembourg as a minor, who meets the five-year residence requirement in Luxembourg, the last year of which must be uninterrupted; s/he passed the Luxembourgish language test and has taken part in the civic course or passed the exam.
9. The beneficiary of a ‘stateless person’ or ‘international protection’ status, provided that s/he can prove a period of residence of five years of which the last year preceding the declaration must be uninterrupted; s/he passed the Luxembourgish language test and has taken part in the civic course or passed the exam.
10. The volunteer soldier of the Luxembourgish army who has completed at least one year of good and loyal service.

The bill introduced new scenarios to avoid cases of statelessness. Thus, the following persons are automatically considered Luxembourgish:

1. The child whose parent was a Luxembourgish national at the time of the birth of the child.
2. A minor who has been adopted by a stateless person having his/her habitual residence in the Grand Duchy of Luxembourg and who is legally resident there.
3. The minor adopted by persons of foreign nationality who are legally resident in Luxembourg, provided that s/he has lost her/his nationality by the adoption and that no foreign law entitles him/her to obtain the nationality of one of the adoptive, or that the granting of these nationalities is only possible in the case of residence in the countries concerned.
4. A minor born in Luxembourg of foreign parents whose granting of the nationality of his/her parents is only possible in the case of residence in the countries concerned.

The possibility of acquiring Luxembourgish nationality by way of recovery for the descendants of a Luxembourgish ancestor on the date of 1 January 1900 is limited in time. Thus, the request for certification as a descendant of a Luxembourgish ancestor must be submitted to the Ministry of Justice until 31 December 2018 and the declaration of recovery must be signed before the registrar until 31 December 2020.

#### B. Opinions on the bill on nationality

The opinions on the bill focused to large extents on the various conditions for access to nationality and the variations in these conditions for different candidates.

The Consultative Committee on Human Rights<sup>312</sup> (CCDH), the CSL<sup>313</sup>, the CC<sup>314</sup> and the Council of State<sup>315</sup> all noted their preference for lighter language requirements than proposed in the bill. In this context, the CC underlined the country's multilingual reality<sup>316</sup>, while the Council of State and the CSL stressed the importance of ensuring that the requirements would not become an obstacle to access to the Luxembourgish nationality.<sup>317</sup> The CCDH regretted the lack of value the bill attributed to the comprehension of the other two official administrative languages of Luxembourg (French and German)<sup>318</sup>.

The Chamber of Civil Servants and Public Employees (*Chambre des Fonctionnaires et Employés Publics* - CHFEP) on the other hand expressed its concern that the proposed language requirements would not be sufficient to enable people's effective participation in Luxembourg's civil and political life, arguing that the proposed compensatory measures would decrease their effective level of knowledge of the Luxembourgish language<sup>319</sup>, furthermore criticising the complete lack of language requirements for some groups.

Most opinions issued with regard to the bill criticised the inconsistency between the multiple requirements for various candidates for option, naturalisation and recovery and within the various categories of option. The CHFEP noted its concern regarding inconsistency of language requirements and demanded more pertinent, just and transparent criteria for the various cases of option.<sup>320</sup> The CCDH flagged that the complete lack of language, civic and residence requirements for persons who have a Luxembourgish ancestor and who wish to become Luxembourgish nationals results in the discrimination of people who have worked and lived in Luxembourg for many years but who are subjected to conditions.<sup>321</sup>

The extension of the duration of civic courses from 6 to 24 hours was welcomed by the CCDH<sup>322</sup> and the CSL<sup>323</sup>, while the Council of State<sup>324</sup> and the CC<sup>325</sup> expressed concern that it might have a dissuasive effect on candidates. The CCDH and the CSL proposed to extend the 24 hours of civic courses to all candidates for nationality (naturalisation, option and recovery).<sup>326</sup>

The CSL, as well as the Chamber of Trades and Crafts noted that in order to accommodate the high demand for language and/or civics courses, the offer would have to be increased considerably, as would the resources and personnel attributed to the tasks.<sup>327</sup>

The United Nations High Commissioner for Refugees (UNHCR) and the CCDH remarked that beneficiaries of international or subsidiary protection as well as stateless persons should be exempted from producing official documents from their country of origin, as this is often challenging.<sup>328</sup> The UNHCR also recommended for the procedure of option allowing adult stateless persons, beneficiaries of international or subsidiary protection to be extended to minors.<sup>329</sup> Furthermore, while welcoming the steps taken by the legislator in the fight against statelessness, it asked that minors can acquire the Luxembourgish nationality if the lack of effective implementation of foreign laws would render them stateless.<sup>330</sup>

The Council of State<sup>331</sup> and the CCDH<sup>332</sup> enquired why the procedure of option was open to people married to a Luxembourgish person, but not to people in a partnership with a Luxembourgish person, while the CC<sup>333</sup> took a critical stance regarding the double condition of residence for both the minor child and one of its parents.

The CNPD furthermore issued a number of remarks concerning security and confidentiality measures and lacking precisions regarding data transfer and storage.<sup>334</sup>

The CC broached the topic of cross-border workers, underlining the importance of their political participation and suggested establishing a Council of cross-border workers that would deal with problems faced by this important segment of Luxembourg's labour force.<sup>335</sup>

The bill also generated reactions from organisations outside of the legislative process. The initiative *Wee2015*, which had campaigned against the extension of legislative voting rights to foreign residents in 2015, expressed its disapproval of the softening of language conditions and reiterated its view that the acquisition of nationality ought to be the last step of integration, and not a step along the way.<sup>336</sup>

The LCGB and the CLAE issued a joint press statement, which regretted that the exemption from the language test for foreign residents who have resided in the country for at least 8 years and have participated in 100 hours of Luxembourgish language courses (present in the draft bill) was no longer included, believing that this would have been a way to facilitate the acquisition of nationality for those with lower levels of education. Stating that the required level of Luxembourgish is too restrictive, they furthermore insisted on the importance of trilingualism in Luxembourg and the role of French as the vehicular language in the job market.<sup>337</sup>

ASTI regretted that the bill was not adapted to the linguistic and social reality and did not reflect the history of Luxembourg during which multilingualism had always been an asset to its citizens.<sup>338</sup>

The legal committee of the Parliament introduced changes and made a number of remarks in a series of amendments introduced on 4 October, 17 November 2016, and 19 January 2017. These included:

- With regard to cases of acquisition of nationality by option:
  - The procedure of option was made available for the parent of Luxembourgish minors, if the parent fulfils the conditions of residence, language and civic classes. The parent of an adult Luxembourg national and adoptive parent were excluded.<sup>339</sup>
  - Joint living was no longer required if the candidate married to a Luxembourgish national lives in Luxembourg.<sup>340</sup>

- The committee clarified that the procedure of option would not be available for individuals in a partnership with a Luxembourgish national, as partnerships are easily made and unmade and a partner's access to the procedure might lead to a greater number of convenience partnerships. Furthermore, it was noted that this does not constitute discrimination as marriages and partnerships are subject to two different legal regimes.<sup>341</sup>
- An interim arrangement was introduced with regard to the jus soli of the first generation. The second condition of residence (1-year residence of the parent) would not be applied for candidates born before 1 July 2013.<sup>342</sup>
- The second condition of residence would also not be applied for children born in Luxembourg from the age of 12 onwards if they are both before 1 July 2013.<sup>343</sup>
- Clarifications were provided regarding the objective and organisation of courses for candidates of a procedure of option based on a 20-year residence in Luxembourg, as well as issues of data protection.<sup>344</sup>
- Not only foreign laws, but also their effective implementation were considered with regard to the acquisition of nationality for minors in the context of statelessness.<sup>345</sup>
- For stateless persons, the duration of residence was calculated from the moment of submission of the application for the status of stateless person.<sup>346</sup>

On 9 February 2017, the bill was approved by Parliament with 57 votes in favour and 3 votes against. The Minister of Justice noted that, following the government's talks with the opposition parties based on the draft bill, the presented bill constituted a good consensus. ADR (*Alternativ Demokratesch Reformpartei* - Alternative Democratic Reform Party), the party whose three parliamentarians voted against the bill, underlined that the new law would further diminish Luxembourgish language requirements for the acquisition of the nationality, requirements which they felt were already too low.<sup>347</sup> Déi Lénk, while viewing the bill as an important improvement compared to the previous legislation, regretted that the Luxembourgish language condition remains indispensable and thus a tool for exclusion.<sup>348</sup> The largest opposition party CSV (*Chrëschtlech-Sozial Vollekspartei* - Christian Social Party) noted that it could vote in favour of the bill, viewing it as a good balance between the protectionist identity debate on the one hand, and the more pragmatic approach leaning towards integration on the other.<sup>349</sup>

#### 6.6.2. *Sproocheproblematik* (language issue) and integration

As argued in our previous Policy Report on Migration and Asylum, the outcome of last year's referendum on the right for foreigners to vote in national elections led to a shift in the debate towards access to nationality and the language policy/ies. This trend continued throughout the post-referendum year.

From the different opinions and positions on the law on nationality (see 5.6.2. B.), we noted above all the disagreement between those who advocated for (more) strict criteria for Luxembourgish language proficiency, most often referring to the latter as a vector of identity, and those who argued in favour of less stringent criteria while recalling the potential for exclusion that this could eventually generate.

Yet, beyond the framework of the law on nationality, this cleavage resurfaced in several respects in 2016, culminating in a public debate in committee on two petitions with opposing objectives that

subsequently led to the Government's adoption of an 'Action Plan for the Luxembourgish language' (*Aktiounsplang fir d'Lëtzebuenger Sprooch*)<sup>350</sup>.

Petition n°698<sup>351</sup>, the main aim of which was to lay down in legislation Luxembourgish as the first official and national language for all residents, indeed enjoyed notable success. It exceeded the threshold of 4.500 signatures for a public debate within the Committee on Petitions and the relevant sectoral committee by far, with a total of 14.724 signatures. Although the author of the petition distanced himself from any “*racist, populist and xenophobic discourse*”<sup>352</sup> surrounding his petition, he also stated that the motivation behind it was to preserve the Luxembourgish language from extinction.<sup>353</sup>

In response to the latter, petition n°725<sup>354</sup>, which defends the multilingualism of the Grand Duchy by insisting on the need to maintain linguistic flexibility in view of immigrants' and foreign workers' contribution to the country's wealth, also exceeded the threshold of 4.500 signatures (5.182 in total).

Beyond the public debate, both petitions as well as the issue of linguistic diversity in Luxembourg were also widely relayed in the various traditional and social media of the country.

According to Peter Gilles, Professor in Linguistics at the Luxembourgish Linguistic and Literature Institute of the University of Luxembourg, the fear of extinction of the Luxembourgish language is misplaced from a scientific perspective, as demonstrated by his research:

*"When we look at the data from a scientific perspective, we know that Luxembourgish is in a very strong position, and indeed the number of speakers is actually increasing... What is often overlooked in this debate is the young people and children from foreign background learning Luxembourgish as a foreign language. When you look at this, there should be no reason to fear that Luxembourgish is in decline, since there are more children learning and studying the language."*<sup>355</sup>

Irrespective of the language issue (*Sproocheproblematik*) in its relation to 'identity', the new developments in the field of education (see 5.2.) reveal the extent to which the language issue continued, like in previous years, to structure policies and reforms in the field of education. Although this is a perennial issue in Luxembourg, Fernand Fehlen, sociologist and former lecturer for sociolinguistic and sociology at the Luxembourgish Linguistic and Literature Institute of the University of Luxembourg, noted that these recent examples of « *niche offers with atypical language profiles* »<sup>356</sup>, such as the creation of international and bilingual schools, all indicate that according to official policy, not all students have to master all languages equally well.

Still according to Fehlen, the school has become a « *language trap* » due to its unrealistic requirements, not least because Luxembourgish is used at school beyond its curricular role without being taught as a language. However, for migrants' children to climb the social ladder, the Luxembourgish language plays an essential role. He argues that the balance between the various languages taught in Luxembourg's schools needs to be re-evaluated, so that the school curriculum in terms of languages reflects the linguistic requirements of the labour market.<sup>357</sup>

### 6.6.3. Statelessness

On 23 March 2016, one day before the bill on the reform of Luxembourgish nationality was introduced, the bill approving three international conventions to reduce statelessness<sup>358</sup> was introduced to the Parliament. By adhering to these international conventions, Luxembourg expressed its intention to combat statelessness. The prevention of statelessness being strongly connected to the right of a person to a nationality, the bill was adopted on 9 February 2017, the same day as the law on Luxembourgish nationality.

Furthermore, it should be noted that in August 2016, Luxembourg adopted a procedure relating to applications for recognition of stateless status.<sup>359</sup>

#### 6.6.4. Encouraging participation in local elections

Foreign residents have the right to participate in local elections in Luxembourg, the next elections taking place on 8 October 2017. The Ministry of Family, Integration and the Greater Region, in collaboration with OLAI, launched an awareness-raising campaign amongst Luxembourg's foreign population in early 2017, providing information on the rights and procedures relating to local elections and encouraging registration on the electoral roll.<sup>360</sup>

In March 2016 at the annual Migration Festival, an early launch of the campaign was announced in order to raise awareness among foreigners' associations and political parties.<sup>361</sup> The awareness-raising campaign was launched in January 2017. In the framework of this campaign, OLAI provides interested municipalities, associations, professional chambers, local and national sports and leisure organisations, as well as the media with free and easily comprehensible promotional material, including a folder in ten languages, posters in five languages and information kits. Furthermore, a website available in five languages was launched in 2017, as well as a Facebook page. 'Multipliers' who will raise awareness regarding the importance of political participation amongst the foreign population started training in October 2016. OLAI supports CEFIS<sup>362</sup> in setting up such trainings. € 65.000 have been attributed to the communication aspect of the campaign.<sup>363</sup> It was also announced that an intermediate assessment of the registration on the electoral roll (one year before the elections) would be presented at the official launch of the campaign.

The OLAI furthermore launched multiple calls for projects since October 2016, which were aimed at non-profit organisations wishing to organise complementary actions or projects to this planned national campaign; more calls will be launched in 2017.<sup>364</sup>

Additionally, on 1 April 2016, the municipal register for physical persons entered into force through the amended law of 19 June 2013<sup>365</sup> regarding the identification of physical persons. The municipal register simplifies the procedure for verifying whether a person has habitually resided in Luxembourg for five years, a requirement for the foreign residents' registration on the electoral roll for municipal elections. Henceforth, a municipality has access to all residence information and the foreign resident must no longer provide residence certificates for all his or her past places of residence in Luxembourg.<sup>366</sup>

### 6.7. Local integration

#### 6.7.1. Communal Integration Plan

More generally and independently of the future election campaigns, the government financially supports municipalities in their setting up of a Communal Integration Plan (*Plan Communal d'Intégration* – PCI). The PCI is an action plan that aims to define and implement a policy of integration on a local territory. The objective of the PCI is to provide a framework and concrete measures for municipalities wishing to implement an integration policy on their territory. Since the inclusion of non-Luxembourgers on the electoral lists is part of the integration process, municipalities are free to include awareness-raising actions in their PCI.<sup>367</sup> There are currently 16 municipalities (14 municipalities of the Miselerland; Luxembourg City and Esch-sur-Alzette) that have implemented a PCI and nine municipalities are considering establishing a PCI.<sup>368</sup>

On 1 July 2016, the SYVICOL and the OLAI published a practical guide<sup>369</sup> that is intended as a tool to accompany municipal authorities in establishing a Communal Integration Plan that covers all domains of communal life. Proposing a systematic and participative approach of PCI development, this universal guide enables municipal authorities to develop integration policies that are sustainable,



transversal and specific to the local context. The tool provides information on the steps to take to initiate, elaborate and later implement the PCI, furthermore also cataloguing integration measures as possible avenues for action.<sup>370</sup>

On 22 March 2016 and 3 October 2016, OLAI launched two calls for projects within municipal administrations, offering co-financing of projects linked to the elaboration of a PCI in collaboration with SYVICOL. Each municipality can request co-financing once per year.<sup>371</sup>

At the same time, another call for projects was launched on the financial support of the municipalities which initiate actions that promote integration.<sup>372</sup>

## **6.8. Support for socio-economic integration projects**

Aside from the legislative changes and public measures promoting socio-economic integration that are outlined above, the AMIF supported several projects related to integration over the course of 2016. Those related to housing, health and language learning are treated in the relevant subsections. Other projects focus on the economic emancipation (*L'empowerment économique des ressortissants de pays tiers: deux outils pour l'intégration* by the American Chamber of Commerce in Luxembourg)<sup>373</sup> and empowerment (*Pont de l'entente* by 'Understanding without Borders')<sup>374</sup> of migrants, peer training for newly-arrived and resident youngsters (by 4 Motion)<sup>375</sup>, the provision of information regarding rights, duties and possibilities of integration (*Réussir sa migration* by ASTI) and a collaborative project focusing on the creation of shared images of Luxembourg (*Luxembourg: ton pays - mon pays: la construction d'images mutuelles du Luxembourg par la technologie participative (tecpart [[takepart]] by the multi-LEARN Institute for Interaction and Development in Diversity)*)<sup>376</sup>.

Furthermore, OLAI launched a third call for projects for the AMIF on 30 July 2016 with a deadline of 30 September 2016. Proposed projects should fall under one of the three main axis of the AMIF, these being the Common European Asylum System, legal migration / integration and returns.<sup>377</sup>

## **6.9. Non-discrimination**

### **6.9.1. Diversity Charter**

On 16 May 2016, 23 companies committed to take steps beyond the legal obligations with regard to non-discrimination by signing the Diversity Charter Luxembourg. This brought the total number of participating companies to 170 counting for 15% of the total Luxembourgish wage share. 75% of the participating companies are from the private sector, 15% belong to the associational network and 11% to the public sector.<sup>378</sup> 2016 saw furthermore multiple meetings of the Diversity Network, during which participating companies shared information and best practices on a wide range of subjects, such as how to promote objective recruitment<sup>379</sup>, how to attract and keep diverse talent<sup>380</sup>, how to integrate new colleagues<sup>381</sup> or how to run a diversity diagnostic<sup>382</sup>.

The Diversity Day 2016 took place on 12 May 2016; schools, companies, public organisations and associations organised talks, events or workshops that celebrated Luxembourg's diversity and promoted further inclusivity.<sup>383</sup>

On 29 November 2016, the second Barometer '*Diversité & Entreprise Lëtzebuerg*' was published, presenting the state of affairs regarding the actions taken by signatories of the Diversity Charter. According to the findings of the Barometer, 78% of signatories integrated their diversity management policies in the company's Corporate Social Responsibility, 48% have engaged in a diversity diagnostic of the company and 52% have implemented at least one action in favour of diversity since the signature. Furthermore, 85% of signatories followed the methodology presented in the 'Diversity Management' practical guide in order to establish the company's diversity policy. Companies'

diversity policies cover most popularly the topic of equality between men and women, followed by, in decreasing order of frequency, the language spoken, age, racial or ethnic origin, nationality, disability, maternity, the state of health or level of education. The barometer furthermore established that 60% of participating companies recognise that their image and reputation has improved as a result of their participation in the Diversity Charter.<sup>384</sup>

### 6.9.2. Centre of Equal Treatment

On 14 October 2016, the Council of Government adopted a bill<sup>385</sup>, which aims to engender two changes with regard to the functioning of the Centre of Equal Treatment (CET). Firstly, it aims to link the CET, currently organised under the auspices of the Ministry of Family, Integration and Greater Region, to the Parliament. This objective is to be framed within the government's aim to create a Human Rights House, which would bring together the services of the Ombudsman, the CCDH, the ORK and the CET. Secondly, the bill transposes Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers. In this context, the CET is handed the mission to lead or commission independent investigations and analyses on unjustified restrictions and obstacles to free movement or on discrimination of European Union workers and their families due to their nationality. The CET is the designated national contact point foreseen by the directive.<sup>386</sup>

### 6.9.3. Fight against racism and racial discrimination

In 2016, there were 54 new correctional cases for “racial hatred”, “incitement to hatred or violence” and “incitement to hatred and racial and ethnic violence”, comparing to 42 in 2015 and 28 in 2014.<sup>387</sup>

This increase in the opening of criminal proceedings for incitement to racial hatred was also noted in ECRI's 5<sup>th</sup> monitoring report on Luxembourg<sup>388</sup>. ECRI further pointed to a sharp increase in the number of internet-related reports of potentially racist content. According to ECRI, the debate surrounding the referendum<sup>389</sup> contributed to increased anonymous hate speech on the internet, social media in particular. Similarly, ECRI deplored the rise of hate speech linked to the reception of refugees and foreigners in general, as well as the rise of Islamophobia.

With regards to convictions, the Ministry of Justice noted 12 convictions for the above mentioned infractions, compared to one conviction the previous year and 4 in 2014.<sup>390</sup>

ECRI highlighted as an example of good practice the firm reaction of the prosecution and the court, organised by a public prosecutor specialised in the matter. Such convictions would enjoy significant media coverage, amplifying their general preventive effect and deterring other potential actors. These convictions were also accompanied by penalties and ancillary measures such as the seizure of computer equipment or the prohibition of voting.

Nevertheless, ECRI noted that there is no remedy available to victims of discrimination to assert their rights and suggests therefore to confer the right to be seized of complaints to the CET.<sup>391</sup>

ECRI also recommended that the police and judicial authorities set up and maintain a system for recording and monitoring racist and homo/transphobic incidents, recording the extent to which these incidents are transmitted to prosecutors and whether they are ultimately classified as racist offenses. It was recommended that the authorities publish these statistics.<sup>392</sup>

Finally, ECRI also pointed out that media and police should not disclose information concerning the race, colour, language, religion, nationality or national or ethnic origin, sexual orientation and gender identity of an alleged perpetrator of an offense, unless such disclosure is strictly necessary and serves a legitimate purpose. ECRI recommended that national authorities initiate a review of the regulatory framework for the media to prevent and eliminate hate speech in this area.<sup>393</sup>

## 7. RETURN

The number of TCNs returned to their country of origin over the course of 2016 was 569, compared to 793 the previous year. Of those returned, 456 returned ‘voluntarily’ (80,1%), while 113 (19,9%) underwent a ‘forced’ return.

94,7% (432) of ‘voluntary returns’ and 64,6% (73) of ‘forced returns’, thus a large majority, affected people coming from an application for international protection; others were TCNs staying in Luxembourg irregularly. A large majority of returned individuals stemmed from the Western Balkans: in fact, 71,9% of voluntary returns and 69,9% of forced returns concerned nationals from the Western Balkans (see table below).

**Table 15: Overview of returns in 2016**

	Country	Voluntary Returns		Forced returns	Total
			of which with IOM assist.		
<b>America</b>	Brazil	12	10	2	14
	Chile	0	0	1	1
	Peru	0	0	2	2
	<b>Total</b>	<b>America</b>	<b>12</b>	<b>10</b>	<b>5</b>
<b>Africa</b>	Cape Verde	3	0	5	8
	Congo (DRC)	1	0	0	1
	Eritrea	0	0	2	2
	Ethiopia	1	1	0	1
	Ghana	1	1	0	1
	Morocco	2	2	1	3
	Nigeria	4	2	6	10
	Senegal	1	0	2	3
	Tunisia	3	3	5	8
	<b>Total</b>	<b>Africa</b>	<b>16</b>	<b>9</b>	<b>21</b>
<b>Australia</b>	Australia	0	0	0	0
<b>Total</b>	<b>Australia</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Asia</b>	Bangladesh	1	1	0	1
	China	0	0	3	3
	<b>Total</b>	<b>Asia</b>	<b>1</b>	<b>1</b>	<b>3</b>
<b>Middle East</b>	Iran	9	9	0	9
	Iraq	58	58	0	58
	Lebanon	3	3	0	3
	Syria	2	1	1	3
	<b>Total</b>	<b>Middle East</b>	<b>72</b>	<b>71</b>	<b>1</b>
<b>Rest of Europe</b>	Azerbaijan	2	2	0	2
	Belarus	3	3	3	6
	Georgia	5	5	1	6
	Russia	2	2	0	2
	Turkey	3	2	0	3
	Ukraine	12	12	0	12
	<b>Total</b>	<b>Rest of Europe</b>	<b>27</b>	<b>26</b>	<b>4</b>

<b>Balkan</b>	Albania	75	0	27	102
	Bosnia and H.	67	0	9	76
	Kosovo	120	116	18	138
	FRYOM (Macedonia)	4	0	1	5
	Montenegro	28	0	18	46
	Serbia	34	1	6	40
	<b>Total</b>	<b>Balkan</b>	<b>328</b>	<b>117</b>	<b>79</b>
<b>TOTAL</b>		<b>456</b>	<b>234</b>		
<b>TOTAL RETURNS</b>		<b>456</b>		<b>113</b>	<b>569</b>

Source: Directorate of Immigration, 2017

As part of the promotion of voluntary return, the voluntary return and reintegration program, set up in 2009 by the Directorate of Immigration with the assistance of the International Organization for Migration (IOM) was continued in 2016. Whereas the program benefited from European co-financing via the European Return Fund between 2011 and 2013, it is co-financed since 2014 via the AMIF.<sup>394</sup>

### 7.1. Developments in return policy

A handful of issues dominated the debate regarding of return of irregular migrants over the course of 2016; the exclusion of Kosovar nationals from the AVRRL programme, the Schengen evaluation and the resulting changes to provisions on detention, the debate on the enforcement of the EU-Afghanistan agreement, as well as the continuation of the elaboration of readmission agreements.

#### 7.1.1. Assisted Voluntary Return and Reintegration for Kosovar nationals

As discussed in the section above, in 2016 234 individuals benefitted from the assisted voluntary return and reintegration programme put in place by the Directorate of Immigration with the support of IOM in 2016. 116 of these were nationals of Kosovo.<sup>395</sup> Since 1<sup>st</sup> December 2016, Kosovar nationals to whom the AVRRL programme applies are no longer eligible for pre-departure financial assistance as well as financial aid for reintegration. However, they are still assisted in obtaining travel documents, as well as assistance during the journey, which is organised by IOM. Furthermore, they have access to voluntary return organised by the Directorate of Immigration, targeted at nationals from Western Balkan countries that do not have access to the AVRRL programme. The aim of the programme is to allow people to return to their country of origin in a dignified manner. A bus trip to the country of origin is organised, and related costs are taken care of by the Directorate of Immigration.<sup>396</sup>

#### 7.1.2. Schengen Evaluation

An on-site visit took place in Luxembourg from 25 to 28 January 2016 in the framework of the evaluation mechanism for the correct application of the Schengen acquis. A team of eight Member State and two Commission experts, accompanied by a representative of the European Union Agency for Fundamental Rights as observer, met with Luxembourg's main actors in the field of return of irregularly staying TCNs. Based on meetings with the Directorate of Immigration, the Grand Ducal Police, the Detention Centre and organisations active in the reception and return of migrants, the experts elaborated an evaluation report that was adopted by the Schengen Committee on 13 July 2016.<sup>397</sup> Additionally, seven recommendations on addressing the deficiencies identified were adopted on 12 December 2016 at the European Council. According to the recommendations, Luxembourg should<sup>398</sup>:

- Ensure that return decisions are enforced effectively and proportionately by taking all necessary measures.
- In the case of prolonged detention periods, verify if the conditions for a TCN detention still exist by ensuring that the decisions of detention are subject to judicial review.
- Carry out removals of families during the whole year as a way of making removal operations of families less predictable, thereby addressing abuses and preventing absconding.
- Create a clear policy on the legal status of UAMs which allows for a return decision to be issued, or for the granting of right to stay. This decision should be based on an individual assessment of the UAMs' best interests carried out by a multi-disciplinary and experienced team and including the UAMs' appointed guardian.
- Ensure effective removal of TCNs by bringing the capacity for detention in line with actual needs.
- Provide for a realistic and practicable period for the detention of families with minors in view of removal.
- Provide a national legal framework that makes the monitoring of all types of forced-return operations possible.

### 7.1.3. Detention

As a consequence of the Schengen evaluation outlined above, and in order to guarantee the efficient application of the Schengen system's prescriptions regarding the detention of families with children who are in school, the Government took steps to change provisions on detention. These developments will be elaborated upon, followed by an overview of at the statistics regarding detention of irregular migrants in Luxembourg in 2016.

#### A. Changes in provisions regarding detention

The bill, which proposed to modify the law on the free movement of people and immigration and primarily deals with economic migration, also intended to change to the law on the Detention Centre. One amendment relating to the detention of families with children prompted the most public debate and controversy regarding this bill.

Thus, the bill amending the law of 28 May 2009 concerning the Detention Centre foresaw to extend the permitted period of detention for families with children from the current 72 hours to 7 days.<sup>399</sup> It was argued that the extension would allow to improve the organisation of the return and ensure that it would be carried out successfully.<sup>400</sup>

Whereas the State Council made its assent to the proposed modification conditional on compelling reasons outside the constraints of public authorities to justify a placement of seven days<sup>401</sup>, the LFR raised concerns with respect to several issues. In the opinion of the LFR, the proposed change would undermine the fundamental rights of the concerned persons, especially of children.

The LFR found it difficult to follow the legislators' logic regarding the extension of the detention period for minors, as in previous national legislative texts (i.e. bill n°5947 on the creation of the Detention Centre; the law of 18 December 2015 amending the law of 28 May 2009 on the Detention Centre), the legislator considered that this period should be as brief as possible. Also, the LFR did not accept the argumentation of practical and organisational constraints. According to them, the responsibility for finding adequate solutions to existing organisational problems lies with the State (at both the police- and magistrate level). They argued that this should not take precedence over the best interest of the child and respect for human dignity.

The LFR further recalled the provisions relating to the detention of minors as a measure of last resort enshrined within several international texts<sup>402</sup>, while referring to recent jurisprudence of the European Court of Human Rights<sup>403</sup> relating to the issue of minors' detention.

In view of these observations, the LFR invited the Government and the Parliament to delete the relevant Article III of Bill n°6992.<sup>404</sup>

Despite the call of civil society to waive the article, the bill was adopted by the Parliament.<sup>405</sup> However, a motion was introduced by Deputy Marc Angel (Socialist Party) which invites the Government to establish an assessment of the Detention Centre as announced in the Governmental Programme, while taking into account the recommendations that the Ombudsperson had expressed in 2014<sup>406</sup>. The assessment should include figures of families detained, the average period of detention as well as the policies applied in practice to supervise the families and minors. The motion, which was adopted<sup>407</sup>, further invited the Government to detain UAMs and families with minors only as a measure of last resort and for the shortest possible time, to ensure that the maximum duration of detention would only be reached in exceptional cases.

The conclusions of this assessment are to be presented to the Committee on Foreign and European Affairs, Defence, Cooperation and Immigration, in order to discuss possible concrete actions to implement.<sup>408</sup>

#### B. Statistics on detention

The number of persons detained in 2016 (391) remains relatively stable compared to the previous year (394). Of the 391 persons detained, 121 were transferred to the country responsible for processing their case under the relevant provisions of the Dublin Conventions, 117 were removed to their country of origin, 2 benefitted from a 'semi-voluntary return' with IOM, 101 were released and 2 were transferred to the Penitentiary Centre. As of 31 December 2016, the Detention Centre counted 48 detainees.

The average duration of detention, for all categories combined, amounted to 38 days in 2016 compared to 31 days in 2015. 36 people, compared to 28 in the previous year, were retained for a period of 120 days or more.<sup>409</sup>

**Table 16: Detention in 2016**

	Number of detained	Total of days present	Average stay in days
Dublin transfer	121	3.468	29
Removal	117	3.250	28
Release	101	6.074	60
Escape	0	0	0
Return IOM	2	153	77
Transfer to the Penitentiary Centre	2	23	12
Present at the Detention Centre on 31.12.16	48	2.054	43
<b>*TOTAL / **AVERAGE</b>	<b>*391</b>	<b>*15.022</b>	<b>**38</b>

#### 7.1.4. Joint Way Forward on migration issues between Afghanistan and the EU

On 2 October 2016, Afghanistan and the EU signed the declaration "Joint Way Forward on migration issues". This declaration expressed, inter alia, the intention to organise joint return flights for

irregularly staying Afghans from several MS under the organisation and coordination of FRONTEX.<sup>410</sup> Luxembourg's Minister in charge of Immigration and Asylum stated his intention to participate in these joint flights. According to the Minister, several regions of the country could be considered safe (i.e. Kabul, Mazar-i-Sharif). The repatriation of irregular migrants to such areas would therefore not amount to a violation of the principle of *non-refoulement*. The Minister further clarified that solely persons who do not qualify for international protection, having exhausted all legal remedies and who refused an assisted voluntary return, may be subject to forced return.<sup>411</sup>

The civil society manifested its concern regarding this declaration and the return of rejected AIPs to Afghanistan during a press conference on 28 November 2016 at the premises of Amnesty International. In a press statement, a number of associations and initiatives<sup>412</sup> denounced Europe's ongoing efforts to conclude readmission agreements, fearing it might have a negative influence on the recognition rate of applicants from Afghani origins, furthermore underlining their doubts regarding the legality of the agreement. The group noted that neither internal migration, nor migration to India and Pakistan, could be considered an option for these individuals. Thus, the group of signatories demanded amongst other things that Luxembourg's Government support EASO in strengthened monitoring of human rights violations and the evaluation of the sustainable integration of the internally displaced as well as of the sustainable reintegration of those who had been returned.

In reaction, the Minister of Foreign and European Affairs published a statement, which reiterated Luxembourg's commitment to the respect of fundamental rights and *non-refoulement*, underlining that every application is considered on a case-by-case basis in which the existence of a readmission agreement with the applicant's country of origin is not taken into consideration. The Minister reminded that the agreement includes procedural guarantees, offering the best possible assistance and protection to the most vulnerable. Luxembourg, a country pleading in favour of European solidarity with respect to migration and asylum, would not disassociate from this agreement according to the Minister, as the agreement goes beyond the facilitation of return to Afghanistan, by also supporting the fight against human trafficking, programmes of return and reintegration as well as information campaigns regarding the dangers of irregular migration. As of 1st December 2016, one single person had been returned to the Republic of Afghanistan (in 2011).<sup>413</sup>

## **7.2. Cooperation on return and readmission**

The idea of strengthening cooperation in matters of return of rejected AIPs was further invoked by Luxembourg's Minister of Foreign and European Affairs in his speech during the launch of Luxembourg's Presidency of the Benelux.<sup>414</sup>

The willingness to cooperate on return was later also confirmed at the Benelux Summit in Schengen, during which the three prime ministers affirmed that the potential for cooperation would be further explored with regard to joint actions and visits in countries where return proves to be difficult, joint return flights, exchanging best practices and working on communal reintegration programmes.<sup>415</sup>

The law of 31 August 2016 approves the agreement between the Benelux countries and the Republic of Kazakhstan regarding the readmission of people in an irregular situation and its protocol of application. It creates the legal framework and the procedure for readmission of persons in irregular residence, be they nationals, TCNs or stateless persons.<sup>416</sup>

In addition to readmission agreements, the Directorate of Immigration also seeks to strengthen relations with consular authorities in countries of origin of TCNs obliged to leave Luxembourg. In this context, the Directorate of Immigration organised a consular day with the aim of familiarising the consular authorities with the relevant legislation and procedures in the field of international protection and immigration. As in previous years, this project benefited from European co-financing through the AMIF.<sup>417</sup>

## 8. IRREGULAR MIGRATION AND SMUGGLING

### 8.1. Measures to reduce irregular migration

#### A. Border control measures - technology, equipment and infrastructures

The operational equipment for border control consists in:

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

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

An EUROSUR workstation is installed in the SIRENE office and a further Eurodac workstation has recently been installed in the 2nd line.

It is foreseen that Interpol queries in nominals (WP) will be added at the border control and SIS-AFIS will be used.

Furthermore, ABC-Gates are in study.<sup>418</sup>

#### B. Border control measures - other activities to improve the effectiveness of controls at external border

On 6 October 2016, Luxembourg announced that it will contribute 8 agents to the European Border and Coast Guard.<sup>419</sup> The Council of Government of 25 November 2016 approved the signature of a service contract between the Luxembourgish State and the Luxembourg Air Ambulance. The contract settles the financial and technical modalities of the collaboration and will ensure the implementation of Luxembourg’s participation in the joint operations of FRONTEX. Luxembourg will participate in ‘Triton’ and ‘Poseidon’ missions by making available an air surveillance capability in the form of a helicopter equipped with all technical elements required to successfully carry out the targeted tasks.<sup>420</sup>

In accordance with the Common Core Curriculum, the police officers that ensure border controls at the Luxembourgish Airport are regularly trained.<sup>421</sup>

If the Immigration Police has a suspicion concerning fraudulent acquisition and use of false documents, the SED, a police section specialised for the expertise of travel documents, is contacted. The SED controlled ±1500 travel documents in 2016.<sup>422</sup>

#### C. Liberalisation of the visa regime

The Minister of Foreign and European Affairs confirmed that very strict guarantees are an indispensable precondition to Luxembourg’s agreement to the liberalisation of the visa regime for Kosovar citizens, in order to avoid a wave of applications for international protection by Kosovar nationals. With relation to liberalisation of the visa regime for Ukraine and Georgia, the Minister



noted Luxembourg's demand for both States to fulfil the criteria defined by the EU and for solid criteria to be put in place to avoid abuses. More generally, he affirmed Luxembourg's support for a new suspension mechanism.<sup>423</sup>

## **8.2. Prevention of unsafe migration**

In the frame of the EU operation EUNAVFOR MED, which aims to combat trafficking and smuggling networks in the Mediterranean, Luxembourg decided to make available a maritime air surveillance plane. Since 16 July 2015, the plane contributes to the surveillance and data collection on suspicious or illegal activities.<sup>424</sup>

The bilateral agreement of 13 October 2015 between the Grand Duchy of Luxembourg and the Republic of Cape Verde on the concerted management of migratory flows and solidarity-based development was approved by the Council of Government.<sup>425</sup> The agreement foresees the facilitation of legal migration, measures aimed at a solidary development, circular migration as well as readmission (see also 10.2).

## **9. COUNTERING TRAFFICKING IN HUMAN BEINGS**

In 2016, there were five TCN victims of trafficking, four officially identified as such by the police and 1 presumed victim. Although a majority were women, there was also one man among the TCN victims in 2016 and two of them were minors. With regards to the form of exploitation, three of them were victims of sexual exploitation and two others were victims of labour exploitation.<sup>426</sup>

The CCDH, which is the national rapporteur on trafficking, noted however that the available data, in general, are not sufficiently precise and coherent, urging the authorities to remedy these shortcomings with improved coordination and communication between the various concerned actors.<sup>427</sup>

### **9.1. National Action Plan against trafficking**

The Council of Government endorsed the National Action Plan on trafficking in human beings on 21 December 2016, proposing measures to improve the fight against trafficking at national level. The proposed measures concern three priority areas: the detection and protection of victims, the prosecution and punishment of perpetrators and a policy to actively, effectively and efficiently combat trafficking.<sup>428</sup> The interministerial committee "*comité de suivi de la lutte contre la traite des êtres humains*", established by the Law of 8 May 2009 on the assistance, protection and security of victims of human trafficking will also shortly finalise a roadmap on the Luxembourg's identification and referral of victims, which will constitute a vademecum on the identification, referral, assistance and support of victims of trafficking to all authorities concerned.<sup>429</sup>

In accordance with the law of 9 April 2014 strengthening the rights of victims of THB, the CCDH, in their role of national rapporteur on THB, submitted its first report on THB to the President of the Chamber of Deputies on 15 March 2017. The report covers the years of 2014-2016.<sup>430</sup>

As regards the National Action Plan<sup>431</sup>, the rapporteur regretted however that the measures listed, while interesting and useful, are not accompanied by a more concrete program of actions in order to develop a real strategy. The rapporteur argued that it does not specify the means and implementation procedures for achieving the objectives, nor the way in which the results will be evaluated.<sup>432</sup>

The rapporteur also considered that the fight against trafficking would be more effective if the Labour and Mines Inspectorate (ITM) were given a specific competence in the detection and identification of victims, calling on the government to extend the mandate of the ITM and to strengthen its human

resources in order to enable it to participate actively in the detection of victims of THB. Whilst welcoming the Government's initiative to recruit more staff for its Directorate of Immigration and the OLAI to manage the influx of migrants in Luxembourg, the rapporteur stressed the importance of training for all professionals concerned, in particular agents of the Directorate of Immigration who conduct interviews with AIPs and the staff of OLAI responsible for supervision, in order to facilitate the detection of potential victims and to refer them to the competent assistance and reception services.<sup>433</sup>

Cooperation and communication between the concerned actors, the members of the monitoring committee and, in particular, the police, NGOs and immigration authorities, should also be improved through a multidisciplinary approach.<sup>434</sup>

## **9.2. Assistance services**

Since April 2016, the two assistance services supporting victims of trafficking, SAVTEH (*Service d'Assistance aux Victimes de la Traite des Etres Humains*) and COTEH (*Centre Ozanam – traite des être humains*), commit 40hrs/week (previously 30hrs/week) to taking care of victims of trafficking.<sup>435</sup>

The national rapporteur on THB stressed the importance of the police contacting NGOs as soon as possible in case of detection of an alleged victim of trafficking, even if the latter has expressed a desire to return to his / her country of origin. According to the rapporteur, in practice this has not always been the case. Some people do not consider themselves victims and return to their country of origin without meeting with the assistance services. Others are afraid of the police and refuse to make a statement but would feel more confident to talk to assistance services about what they have experienced.<sup>436</sup>

The rapporteur also highlights the fragile situation in which AIPs find themselves, in particular because of their precarious living conditions. In this context, the rapporteur strongly regrets the maintenance of the outrageous amount of the monthly allowance granted to applicants as well as the 6-month waiting period to access the labour market. It was argued that such indecent living conditions make AIPs more vulnerable to exploitation, THB and encourage the use of illegal employment.<sup>437</sup>

## **9.3. Awareness raising on trafficking in human beings**

On 1<sup>st</sup> December 2016, the Minister of Justice, the Minister of Equal Opportunities and the Secretary of State for Internal Security presented an information and awareness campaign on the phenomenon of THB. The campaign, which was organised by the interministerial committee "*comité de suivi de la lutte contre la traite des êtres humain*", was to a large extent an audiovisual media campaign, including radio spots, cinema screenings and a poster campaign targeting aspects of trafficking. A new website ([www.stoptraite.lu](http://www.stoptraite.lu)) was also set up. The aim of the campaign was to raise awareness among the general public and to inform them about the various forms of THB.<sup>438</sup>

The rapporteur recommended to the Government to improve awareness on several levels: among the general public on all types of THB, hospitals and social welfare staff who may come into contact with victims, as well as teaching and educational staff who should be made aware of the phenomenon of trafficking as part of their initial and/or continuous training.<sup>439</sup>

## **9.4. Cooperation in the fight against human trafficking**

Luxembourg collaborated with the Netherlands, Slovakia and Malta in the organisation of a conference on trafficking relating to illegal employment, which was organised in Amsterdam in January 2016. Experts from GRETA (Group of Experts on Action against Trafficking in Human Beings) were welcomed at the end of 2015 in order to discuss a report that was sent to the Council of Europe and which will be evaluated at the end of 2016 or the beginning of 2017.<sup>440</sup>

Luxembourg held the Presidency of the Benelux in 2016, with trafficking as a flagship topic of the Presidency within the domain of Justice and Home Affairs. Two days of exchange were organised in September and October 2016 with the aim of encouraging euregional cooperation among reception facilities of victims and of providing the best possible protection to the victims.<sup>441</sup>

On 2 December 2016, under Luxembourg's Presidency of the Benelux, the ministers of Justice of Luxembourg and Belgium and the Deputy Ambassador of the Netherlands to Luxembourg signed a declaration of intent regarding cooperation in the fight against human trafficking. The declaration covers cooperation with regard to reception centres, assistance to victims, judicial authorities, police services, immigration and integration and the services of social and labour inspection. An ad hoc working group that develops approaches to multidisciplinary cooperation across the Benelux borders will be set up, with its focus on exchange of best practices, organisation of common training, facilitating exchange, improving cooperation the existing national instances of orientation for victims as well as the need to develop a Benelux legal tool. Furthermore, an information brochure, which explains the various Benelux legislations, introduces the principal actors and the varying national mechanisms to aid victims of human trafficking, was developed.<sup>442</sup>

The national rapporteur on THB regretted that at the present time there was not yet a procedure that allowed THB victims from third countries to be placed abroad. The rapporteur invited the Government to find a solution to these problems in order to ensure victims' effective security.<sup>443</sup>

The Ministry of Foreign and European Affairs, through its Directorate for Development Cooperation and Humanitarian Action, financially supported several NGOs active in the field of counter-trafficking in third countries (i.e. ECPAT Luxembourg, Coopération Humanitaire Luxembourg).<sup>444</sup>

### **9.5. Absconding UAMs**

Of the 105 UAMs registered in 2016, 54 went missing before having introduced an application for international protection.<sup>445</sup>

The rapporteur believed that some of these minors might potentially be victims of trafficking and urged the government to address the issue of absconding UAMs and the connection with trafficking.<sup>446</sup> Because of their specific vulnerability and isolation, minors are exposed to different types of dangers and are an easy prey for groups of traffickers targeting migrants. It is therefore crucial to detect the victims of trafficking at the earliest possible stage in order to provide them with adequate protection and ensure their supervision and support.<sup>447</sup>

At the moment, there are no shelters that have a specific agreement to take care of child victims and male victims of trafficking. Child victims are placed in shelters for children in distress and there are no specific shelters for male victims of THB. The National Action Plan<sup>448</sup> acknowledges the need for more shelters for child victims and male victims.<sup>449</sup>

### **9.6. National strategy on prostitution**

On 29 June 2016, the Minister for Equal Opportunities and the Minister of Justice presented their strategy on prostitution in Luxembourg. The strategy consists of both a National Action Plan (PAN) on prostitution (A.) and a bill strengthening the fight against the exploitation of prostitution, procuring and THB for sexual purposes (B.).

#### **A. National Action Plan (PAN) on prostitution**

The Action Plan is organised around several priorities among which the reinforcement of the social, psychosocial and medical support as well as of the existing legal framework of the fight against the exploitation of prostitution, procuring and trafficking in human beings.<sup>450</sup> According to the Minister

of Equal Opportunities, both components are complementary and meet the ambitious objectives that the government has set:

- The reduction of violence perpetrated against prostitutes;
- the protection of minors;
- the intensification of collaboration between institutions and public actors with a view to better understanding the phenomena of procuring and THB and with a view to reorienting the victims in the appropriate structures;
- the improvement of the assistance conditions provided to prostitutes, both in terms of health and safety,
- the development of a concept of an "EXIT" strategy for prostitutes wishing to leave the prostitution business;
- the strengthening of “street work” in cooperation with the City of Luxembourg,
- the implementation of the measures contained in the Action Plan on Sexual and Emotional Education.<sup>451</sup>

B. Bill n°7008 strengthening the fight against the exploitation of prostitution, procuring and trafficking in human beings for sexual purposes

The bill<sup>452</sup> foresees, among other things, to penalise clients in cases of minors, vulnerable persons or victims of sexual exploitation, with the possibility of not having to conduct public prosecution against the client under certain conditions (i.e. testimony of the client). It furthermore foresees the institutionalisation of the “prostitution” platform as permanent committee and the creation of synergies with the “trafficking” monitoring committee (*comité de suivi “traite”*).<sup>453</sup>

## 10. MIGRATION AND DEVELOPMENT

### 10.1. Mitigating ‘brain drain’

The new cooperation agreement with Kosovo (2017-2020) maintains education, and more particularly vocational training, as one of the three sectors of intervention. The budget foreseen for vocational training is €5 million.

It is planned to specifically support the Ministry of Finance through technical assistance provided by Luxembourg’s House of Training, in order to support this Ministry in adopting and implementing European and international standards as well as to share Luxembourg's experience in this field. The latter project is in addition to an ATTF / House of Training program which has already been implemented for several years in Kosovo. Indeed, in October 2015, ATTF / House of Training celebrated the 10<sup>th</sup> anniversary of its collaboration with the Kosovo Banking Association (KBA). All of the eight banks in Kosovo are members of the KBA, which means that the program - which covers training on key issues such as compliance, international banking standards and risk management – has an important impact on the entire sector. For the past 10 years, these trainings have been funded entirely by Luxembourgish Cooperation and implemented by ATTF / House of Training, which constitutes an executing agency Luxembourg has created to share its know-how in banking and thus strengthen capacity.<sup>454</sup>

**Burkina Faso:** Training and professional integration were among the priority sectors of the 2008-2015 Indicative Cooperation Program (ICP), which has been extended to 2016. The new IPC for the period 2017 to 2021 was signed on 7 December 2016 and maintains training and professional integration as a priority sector.<sup>455</sup>

**Cape Verde:** Within the framework of the ICP 2011-2015, almost 50% of the €60 million were earmarked for training and professional integration. This covers sectoral budget support, setting up

of six vocational training centres (including a hotel school) and related curricula, an employability project, support for the implementation of the integrated education, training and employment policy of the Cape Verdean government. In the framework of the new ICP 2016-2020, signed in March 2015, training and professional integration amount to 55% of the €45 million budget. It covers sectoral budget support, bilateral employment and employability programs (through Luxdev), as well as multilateral (in collaboration with UNDP and ILO), support for inclusive finance (through the non-governmental organization Support for Autonomous Development) and triangular cooperation (with Sao Tome and Principe and Guinea-Bissau).<sup>456</sup>

**Mali:** The current ICP 2015-2019<sup>457</sup> provides for a vocational training and integration program in rural areas, which aims to create perspectives for young Malians. The focus is set on the employability of young people by increasing skills, providing support towards employment or entrepreneurship and access to factors of production (credit, equipment, land, etc.). The program also specifically targets rural women and youth, with a view to strengthening family farming systems. The program implemented by Lux-Development is supported by two projects also financed under the ICP III program with the ILO and FAO.

- The ILO project fits into the context of low job availability, high urban unemployment and chronic underemployment in rural areas, the main source of youth migration to urban centres. The project aims to improve the employability of rural youth and their incomes in productive circuits through an integrated mechanism favoring the creation and management of sustainable PEMs with enhanced involvement of the private sector and local communities. The FAO project focuses on the professional integrating the rural youth of the Ségou and Sikasso regions into the value chains of the agri-food supply chains. In particular, it will contribute to the creation of at least 200 jobs and the improvement of the quality of about 500 jobs.
- The executing agency Lux-Development was chosen for the implementation of one of the programs of this *Fonds Fiduciaire Sahel/Région du Lac Tchad* in Mali, namely the Economic Recovery and Community Support Program II (RELAC II) in the regions of Gao and Timbuktu for an amount of €10 million.<sup>458</sup>

Finally, the current ICP also provides for an interuniversity cooperation project between the University of Luxembourg and the Universities of Bamako in the fields of law and economics. This project aims at strengthening university governance and will directly contribute to preventing Mali's brain drain.<sup>459</sup>

**Niger:** Training and vocational integration were among the priority sectors of the ICP 2008-2015, €24,7 million out of a total €70 million having been devoted to it. On 26 September 2015, the new ICP stretching from 2016 to 2020 was signed. Training and vocational integration are still listed as one of the four priority sectors with a budget of €18,4 million. The support is part of broader support to the Ministry of Professional and Technical Education. This includes a component of institutional support, strengthening existing structures and completing reforms in progress, as well as a focus on training at grass-roots level, this in order to meet vocational training needs in agro-sylvo-pastoral sector. In addition to supporting the development of the institutional framework for vocational and technical education and training in Niger, the new support to the sector must also respond to the imminent need to absorb the flows by means of a quality offer for young people.<sup>460</sup>

## 10.2. Involvement of countries of origin

**Cape Verde :** The Council of Government of 9 December 2016<sup>461</sup> approved the bill approving the agreement of 13 October 2015 between the Grand Duchy of Luxembourg and the Republic of Cape Verde on the concerted management of migratory flows and solidarity-based development. The purpose of the agreement is to facilitate the movement of persons and to encourage temporary circular

professional migration between Luxembourg and Cape Verde. Thus, the agreement includes visa facilitation of “circulation” visas (for multiple entries) with a validity from one to five years allowing stays of up to three months per semester.<sup>462</sup> It also includes provisions on combating irregular immigration and on readmission and foresees leveraging migrants' skills and resources for solidarity-based development and the implementation of concerted incentives to facilitate the reintegration of migrants into their countries of origin.<sup>463</sup>

Preliminary measures before departure are foreseen by the national programme of Luxembourg in the framework of the AMIF for the period 2014-2020. As in the previous year, concrete actions to be carried out were selected in 2016 among the project proposals received following a call for projects<sup>464, 465</sup>.

**Niger** : In the frame of Council Decision 2012/392 / CFSP of 16 July 2012 creating the EU CSDP mission in Niger EUCAP SAHEL Niger, Luxembourg - via the *Fonds de la Coopération au Développement (FCD)* managed by the Directorate of Development Cooperation of the Ministry of Foreign and European Affairs - initially participated in the latter through the secondment of several human resources within the EUCAP mission based in Niamey as well as through the financial support for the implementation of two EUCAP projects for the benefit of the Nigerian Defence and Security Forces (DSF) and complementing the capacity-building activities already implemented by EUCAP. With this support, EUCAP SAHEL Niger received by the *FCD* in 2015 an additional financial support amounting to € 290.000. The new support concerns the framework of EUCAP SAHEL Niger's mandate to support the Nigerian Defence and Security Forces in better managing migration flows and in improving the fight against irregular migration and associated criminal activities. During the month of November 2016, the EUCAP mission submitted a new project to support Luxembourg funding. The financing agreement was signed in December 2016. With a budget of € 140.000, it aims to improve the working conditions and operational capacities of Nigerian actors with a view to implementing the 2015 law on the fight against the smuggling of migrants and related criminal activities. This framework will help to reduce the number of human tragedies that occur along the migratory flows (e.a. around Agadez and in the desert of North Niger).<sup>466</sup>

**Senegal** : Within the current ICP 2012 - 2017<sup>467</sup>, support for strengthening the training system and professional integration is one of the priority actions. The bilateral program (€ 17,4 million), implemented by the Ministry of Vocational Training, Apprenticeship and Crafts with the support of Lux-Development, also includes a component promoting the integration of young people leaving vocational and technical training (*formation professionnelle et technique* - FPT) through advisory support, the development of local productive systems and the provision of a support fund to finance business plans (ILO, UNIDO, UNDP, €3,36 million).

As part of the *Fonds Fiduciaire Sahel/Région du Lac Tchad*, the implementing agency Lux-Development, together with the AFD and the NGO *Frère des Hommes*, has been implementing a program since 2016 to develop employment by strengthening the competitiveness of enterprises and employability in the departure zones. Lux-Development interventions (€19 million) specifically aim to strengthen quality and equitable access to vocational and technical training (*FPT*) as well as the adequacy between the *FPT* and the labour market needs through support for training and integration projects for young people, especially in sectors with high added value (agriculture, livestock, crafts and ‘green progressions’). The Embassy of the Grand Duchy of Luxembourg, in partnership with the Luxembourgish Ministry of Culture and the Austrian Embassy, also supports a micro-project entitled “The bitter aftertaste of sweet oranges in Europe”, the aim of which is to raise awareness among young potential candidates to migration in Senegal on the conditions of irregular emigrants in Europe and the risks involved. The micro-project is organised in the form of an awareness-raising caravan. It will tour five regions with high migratory potential and will include a photographic exhibition on the working conditions of African migrants in Southern Europe, the organisation of community forums

and the awareness-raising of community actors, parents and young people on the possibilities of training and professional insertion in Senegal.<sup>468</sup>

Information on the different long-term visas, in particular concerning a work, student and athlete work permit, is provided by the consular offices of the embassies.<sup>469</sup>

### **10.3. Migrants' remittances**

The Ministry of Foreign and European Affairs supports the Luxembourgish NGO ADA (*appui au développement autonome* – support for autonomous development) through a mandate of approximately €6 million per year, which includes a component that attributes value to West African migrants' savings. In this context, ADA works with two microfinance institutions in Mali, aiming to "recycle" a larger share of migrants' savings towards productive activities. A reduced-cost transfer product between France and Mali is being developed. Luxembourg furthermore participates in a multi-donor fund of the International Fund for Agricultural Development, supporting a financing mechanism for remittances. The Ministry of Foreign and European Affairs contributed €500.000 in 2015, identical to the amount planned for 2016. The purpose of this multi-donor fund was to promote innovative markets for remittances and to empower migrant workers and their families. The goal is to improve access to remittances in rural areas, to link remittances to financial services and products in rural areas, to provide innovative and productive rural investment opportunities for migrants and community-based organisations.<sup>470</sup>

### **10.4. Working with diasporas**

**Cape Verde :** Luxembourg participates in a EU and IOM project on « Building capacity in Cape Verde for work management and return migration », more specifically a economic reintegration component, which is administered by the French agency in charge of immigration and integration. This component includes support for a local operator specialised in supporting business founders in performing a feasibility study for the project.<sup>471</sup>

An ongoing research project of Cefis, « CAP MOBI LUX », focusing on the Cape Verdean community is financially supported in the frame of the AMIF. Through a quantitative and qualitative methodology, the study aims to address three themes: (1) The socio-demographic profile of the Cape Verdean community in Luxembourg; (2) Migration practices (i.e. Why do Cape Verdeans migrate to Luxembourg? What are the factors that favour this emigration?); (3) Practices of solidarity with Cape Verde (i.e. What is their attachment to the country of origin? What is the extent of solidarity with Cape Verde? Of what nature? With what purpose?).<sup>472</sup>

### **10.5. Progress towards mainstreaming migration in development policies**

In his declaration to Parliament on 23 November 2016, Luxembourg's Minister for Cooperation and Human Action confirmed that development aid can, through programmes in health, education or vocational training, lessen poverty and increase the perspective of partner countries' population and thereby influence migration trends. He simultaneously confirmed that migration management ought not be the sole goal of development policies, noted the developmental benefits attributed to remittances and underlined the importance of the EU Emergency Trust Fund set up at the Valetta Summit in November 2015.<sup>473</sup>

Following the Valetta Summit in November 2015, Luxembourg, through its Directorate for Development Cooperation and Humanitarian Action, has contributed €3,1 million to the new EU emergency trust fund for stability as well as the fight against the root causes of irregular migration and the phenomenon of displaced persons in Africa. In consultation with other departments of the Ministry of Foreign and European Affairs, a member of the Directorate participates in meetings of the Strategic Board and the operational committees of the fund in Brussels. The executing agency

'Lux-Development' was chosen for the execution of programs of this Sahel / Lake Region Chad Fiduciary Fund in Mali, Niger and Senegal for a total of €36 million.<sup>474</sup>

The bilateral vocational training projects (Senegal, Cape Verde, Burkina Faso, Niger) detailed in sections 10.1 and 10.2 ) aim to create opportunities for young people, most of which are linked with multilateral actors (ILO, UNDP, etc.). for employment access programs.

The entire programming in **Mali** (2015 - 2019) revolves around rural development, value chains as well as income generation and rural employment. These last two points are not new, but they are the basis for any action to address the root causes of migration.

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## LIST OF ABBREVIATIONS

ADEM	<i>Agence pour le développement de l'emploi</i> (Employment Agency)
ADR	<i>Alternativ Demokratesch Reformpartei</i> (Alternative Democratic Reform Party)
AIP	Applicant for international protection
AIS	<i>Agence immobilière sociale</i> (social housing agency)
AMIF	Asylum, Migration and Integration Fund
ASTI	<i>Association de soutien aux travailleurs immigrés</i> (Association for the Support of Immigrant Workers)
AVVRL	Assisted Voluntary Return and Reintegration from Luxembourg
BIP	Beneficiary of international protection
CAI	<i>Contrat d'accueil et d'intégration</i> (Welcome and Integration Contract)
CASNA	<i>Cellule d'accueil scolaire pour élèves nouveaux arrivants</i> (Reception desk for newly arrived pupils)
CC	Chamber of Commerce
CCDH	<i>Commission consultative des Droits de l'Homme</i> (Consultative Commission on Human Rights)
CEFIS	<i>Centre d'étude et de formation interculturelles et sociales</i> (Centre for Intercultural and Social Studies and Training)
CESMI	<i>Centre Ethnopsychiatrique de Soins pour Migrants et exilés</i> (Ethnopsychiatric care centre for migrants and exiles)
CET	<i>Centre pour l'égalité de traitement</i> (Centre for Equal Opportunities)
CHFEP	<i>Chambre des Fonctionnaires et Employés Privés</i> (Chamber of Civil Servants and Private Employees)
CJEU	Court of Justice of the European Union
CLAE	<i>Comité de liaison et d'action des étrangers</i> (Foreigners' Liaison and Action Committee)
CNPD	<i>Commission nationale pour la protection des données</i> (National commission for data protection)
COTEH	<i>Centre Ozanam – traite des être humains</i> (Ozanam centre - trafficking in human beings)

CSA	<i>Chèque-service accueil</i> (care service vouchers)
CSL	<i>Chambre des salariés</i> (Chamber of Salaried Workers)
CSV	<i>Chrëschtlech-Sozial Vollekspartei</i> (Christian Social Party)
EASO	European Asylum Support Office
ECRI	European Commission against Racism and Intolerance
EIDD	<i>Ecole internationale de Differdange</i> (International school of Differdange)
EMN	European Migration Network
EPSCO	Employment, Social Policy, Health and Consumer Affairs Council
EU	European Union
EUROSUR	European Border Surveillance System
FAO	Food and Agriculture Organisation
FRONTEX	European Border and Coast Guard Agency
FTE	Full-time employment
GRETA	Group of Experts on Action against Trafficking in Human Beings
ICP	Indicative Cooperation Programme
ICT	Information and communication technology
ILO	International Labour Organisation
INL	<i>Institut National des Langues</i> (National Languages Institute)
IOM	International Organisation for Migration
ISCO	International Standard Classification of Occupations
ITM	<i>Inspection du travail et des mines</i> (Inspectorate of Labour and Mines)
JAI	Justice and Home Affairs
LCGB	<i>Lëtzebuenger Chrëschtliche Gewerkschaftsbond</i> (Luxembourgish Christian trade union)
LFR	<i>Lëtzebuenger Flüchtlingsrot</i> (Luxembourgish Council for Refugees)
LGBTI	Lesbian, gay, bisexual, transgender and intersexual
LISKO	<i>Lëtzebuenger Integratiouns- a Sozialkohäsiounscenter</i> (Luxembourgish Integration and Social Cohesion Centre)

LU EMN NCP	European Migration Network - National Contact Point Luxembourg
MAE	<i>Ministère des Affaires étrangères</i> (Ministry of Foreign Affairs)
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OLAI	<i>Office luxembourgeois de l'accueil et de l'intégration</i> (Luxembourg Reception and Integration Agency)
ONE	<i>Office national de l'enfance</i> (National childhood office)
ORK	<i>Ombuds-Comité fir d'Rechter vum Kand</i> (Ombuds-Committee for the Rights of the Child)
PISA	Programme for International Student Assessment
POS	<i>Plan d'occupation du sol</i> (land-use plan)
RLS	<i>Régime linguistique spécifique</i> (specific language regime)
RMG	<i>Revenu minimum garanti</i> (guaranteed minimum income)
SAVTEH	<i>Service d'Assistance aux Victimes de la Traite des Etres Humains</i> (Support Service for Victims of Trafficking in Human Beings)
SFA	<i>Service de la formation des adultes</i> (Service of adult learning)
SIRENE	Supplementary Information Request at the National Entries
SIS	Schengen Information System
SNAS	<i>Service national d'action sociale</i> (National Social Action Service)
SNJ	<i>Service National de Jeunesse</i> (National Youth Service)
STATEC	<i>Institut national de la statistique et des études économiques du Grand-Duché du Luxembourg</i> (National Statistics and Economic Studies Institute of Luxembourg)
SYVICOL	<i>Syndicat des villes et communes luxembourgeoises</i> (Luxembourgish towns and local municipalities union)
TCN	Third country national
THB	Trafficking in human beings
UAM	Unaccompanied minor
UNDP	United Nations Development Programme

UNHCR	United Nations High Commissioner for Refugees
<i>UNIDO</i>	United Nations Industrial Development Organization
VIS	Visa Information System

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- <sup>20</sup> On 8 February 2017, bill n°6992 was passed in Parliament with 58 votes in favour and 2 votes against.
- <sup>21</sup> Parliamentary document 6992/00 of 18 May 2016, “Commentaire des articles”, p.18.
- <sup>22</sup> *Ibidem*, p.18.
- <sup>23</sup> *Ibidem*, Art 47 (4) b).
- <sup>24</sup> *Ibidem*, “Commentaire des articles”, p.22.
- <sup>25</sup> *Ibidem*, Art 47-4.
- <sup>26</sup> *Ibidem*, Art 47-5.
- <sup>27</sup> *Ibidem*, Art 47-5 (3).
- <sup>28</sup> *Ibidem*, Art 47-4, (2).
- <sup>29</sup> Parliamentary document 6992/04 of 22 September 2016, p.8.
- <sup>30</sup> *Ibidem*, p.8.
- <sup>31</sup> Parliamentary document 6992/00 of 18 May 2016, Art 49bis (4).
- <sup>32</sup> *Ibidem*, Art 49bis (5).
- <sup>33</sup> *Ibidem*, p.45 and p.60.
- <sup>34</sup> *Ibidem*, “Exposé des motifs”, p.20. The bill maintains the prohibition already provided for in the current law, specifying that the activity carried out in the context of a temporary intra-corporate transfer does not confer a right on the person to obtain a residence permit “salaried worker”. The maintenance of this provision is explained by the intention to avoid a circumvention of the more restrictive admission conditions for "regular" employees but whose length of stay is in principle not limited.
- <sup>35</sup> Parliamentary document 6992/05 of 28 October 2016, p.3.
- <sup>36</sup> Parliamentary document 6992/00 of 18 May 2016, Art 49quater (2).
- <sup>37</sup> *Ibidem*, Art 49quater (3).
- <sup>38</sup> *Ibidem*, Art 49ter (1).
- <sup>39</sup> *Ibidem*, Art 49ter (2).
- <sup>40</sup> *Ibidem*, Art 49quinquies (2). Such grounds for refusal may include the situation where the employer has abolished full-time employment within the 12 months prior to the application date in order to create a vacancy for a seasonal worker, or else in case of prejudice to the priority of community employment or regularly residing third-country nationals.
- <sup>41</sup> Parliamentary document 6992/00 of 18 May 2016, Art. 49 quinquies (1) f) and (2) h).
- <sup>42</sup> Parliamentary document 6992/00 of 18 May 2016, Art 49quinquies (6).
- <sup>43</sup> Parliamentary document 6992/00 of 18 May 2016, p.46.
- <sup>44</sup> Parliamentary document 6992/04 of 22 September 2016, p.8.
- <sup>45</sup> *Ibidem*, p.7.

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<sup>46</sup> Parliamentary document 6992/00 of 18 May 2016, “Exposé des motifs”, p.19.

<sup>47</sup> *Ibidem*, Art 53bis 1 (1). Amendment 8 adopted by the Commission of Foreign and European Affairs, of Defense, of Cooperation and Immigration on 7 November 2016 specifies that the economic sectors open for investment will be determined by Grand ducal regulation . See Parliamentary document n°6992/06 of 7 November 2016, p.3.

<sup>48</sup> Parliamentary document 6992/00 of 18 May 2016, Art 53bis 1 (2).

<sup>49</sup> *Ibidem*, Art 53bis 1 (3).

<sup>50</sup> *Ibidem*, “*Commentaire des articles*”, p.19. Appropriate substance is defined in article 53bis (19), as well as in amendment 10 adopted by the Commission of Foreign and European Affairs, of Defense, of Cooperation and Immigration on 7 November 2016, which specifies, amongst other things, that the structure must include 2 work places. See Parliamentary document n°6992/06 of 7 November 2016, p.3.

<sup>51</sup> *Ibidem*, Art 53bis (1) 4.

<sup>52</sup> *Ibidem*, “*Commentaire des articles*”, p.25.

<sup>53</sup> *Ibidem*, Art 53bis (2).

<sup>54</sup> *Ibidem*, Art 53bis (7)

<sup>55</sup> *Ibidem*, Art 53bis (8)

<sup>56</sup> Amendment 9 adopted by the Commission of Foreign and European Affairs, of Defense, of Cooperation and Immigration on 7 November 2016 further specifies the modalities of this deposit. See Parliamentary document n°6992/06 of 7 November 2016, p.3.

<sup>57</sup> Parliamentary document 6992/00 of 18 May 2016, “*Commentaire des articles*”, p.26.

<sup>58</sup> *Ibidem*, Art. 53Quater, (4).

<sup>59</sup> Parliamentary document 6992/05 of 28 October 2016, p.8.

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<sup>62</sup> « *Comment imposer le respect de l'obligation de créer cinq emplois dans les trois ans à venir à un investisseur de 500.000 euros? L'obligation de pourvoir à ces emplois "en collaboration" avec l'Agence pour le développement de l'emploi, aussi louable que soit cette idée, n'a pas de portée normative au regard du caractère flou du terme de "collaboration"* ». Parliamentary document 6992/05 of 28 October 2016, p.9.

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- <sup>69</sup> An amendment adopted by the Commission of Foreign and European Affairs, of Defense, of Cooperation and Immigration on 7 November 2016 specifies the duration during which the data registered on the registry can be stored. It furthermore specifies that the modalities of acquisition, transmission and storage of the data foreseen by article 44bis (2) will be established by Grand ducal regulation. See Parliamentary document n°6992/06 of 7 November 2016.
- <sup>70</sup> Parliamentary document 6992/00 of 18 May 2016, Art 44bis (2) c).
- <sup>71</sup> *Ibidem*, Art 44bis (2) f).
- <sup>72</sup> *Ibidem*, Art 44bis (1).
- <sup>73</sup> *Ibidem*, Art 44bis (10).
- <sup>74</sup> *Ibidem*, Art 44bis (12).
- <sup>75</sup> *Ibidem*, “Commentaire des articles”, p.21.
- <sup>76</sup> Parliamentary document 6992/05 of 28 October 2016, p.2.
- <sup>77</sup> *Ibidem*, p.4.
- <sup>78</sup> Parliamentary document 6992/03 of 28 July 2016.
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- <sup>82</sup> Parliamentary document 6992/03 of 28 July 2016.
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- <sup>92</sup> Government of the Grand Duchy of Luxembourg, “Visite de travail de Jean Asselborn en Nouvelle-Zélande”, 27 September 2016, in : *gouvernement.lu*, URL : <http://www.gouvernement.lu/6335733/27-asselborn-nouvellezeelande> and Government of the Grand Duchy of Luxembourg, “Visite de travail de Jean Asselborn en Australie”, 29 September 2016, in : *gouvernement.lu*, URL : <http://www.gouvernement.lu/6340884/29-asselborn-australie>

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<sup>93</sup> Government of the Grand Duchy of Luxembourg, “Visite de travail de Jean Asselborn en Australie”, 29 September 2016, in : [gouvernement.lu](http://gouvernement.lu),  
URL : <http://www.gouvernement.lu/6340884/29-asselborn-australie>

<sup>94</sup> Answer of the Minister of National Education, Childhood and Youth to parliamentary question n°2333 on the reception of young au pairs, Luxembourg, 13 September 2016. URL:  
[http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1377027&fn=1377027.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1377027&fn=1377027.pdf)

<sup>95</sup> Ministry of National Education, Childhood and Youth, Rapport d’activité 2016, p.39, URL:  
<http://www.men.public.lu/catalogue-publications/themes-transversaux/rapport-activites-ministere/2016/fr.pdf>

<sup>96</sup> *Social dumping* refers to the practice where workers from third countries are exploited as “cheap labour” in order to increase profit margins of companies with the result that there is a general lowering of wages and labour standards for the whole population  
URL: <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/social-dumping-0>

<sup>97</sup> Parliamentary document 6992/00 of 18 May 2016, Art. 47-2 quiniues (1) d),e) and (2) d), e).

<sup>98</sup> *Ibidem*, Art. 49 quiniues (1) b),e) and (2) c), f).

<sup>99</sup> Joint answer of the Minister of Work, Employment, and Social and Solidarity Economy and the Minister of Finances to parliamentary question n°2159 on illegal employment, Luxembourg, 22 July 2016. URL:  
[http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368524&fn=1368524.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368524&fn=1368524.pdf)

<sup>100</sup> Joint answer of the Minister of Work, Employment, and Social and Solidarity Economy and the Minister of Finances to parliamentary question n°2393 on the collaboration between the ITM and the Customs and Excise Administration (ADA), Luxembourg, 22 July 2016. URL:  
[http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1386718&fn=1386718.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1386718&fn=1386718.pdf)

<sup>101</sup> Parliamentary document 6992/00 of 18 May 2016, Art 59.

<sup>102</sup> *Ibidem*, Art 59, 1.

<sup>103</sup> *Ibidem*, Art 59, 3.

<sup>104</sup> Law of 23 July 2016 amending the law of 24 July 2014 on financial state aid for higher education, Memorial A n°143 of 29 July 2016. URL: <http://eli.legilux.public.lu/eli/etat/leg/loi/2016/07/23/n10>

<sup>105</sup> Information provided by the Ministry for Higher Education and Research on 3 December 2016.

<sup>106</sup> See Court of Justice of the European Union, Judgment of the Court (Second Chamber) of 14 December 2016, C-238/15 - Branganca Linares Verruga e.a , URL: <http://curia.europa.eu/juris/liste.jsf?num=C-238/15&language=EN>

<sup>107</sup> Government of the Grand Duchy of Luxembourg, Ministry of Higher Education and Research “*Arrêt de la CJUE au sujet de la conformité de la condition de durée de travail minimale et ininterrompue de cinq ans prévue par la loi du 25 juillet 2013 sur l’aide financière pour études supérieures*”, Press release, published on 14 December 2016 in : [gouvernement.lu](http://gouvernement.lu)  
URL: <http://www.gouvernement.lu/6578776/14-ue-enseignement?context=519177>

<sup>108</sup> Court of Justice of the European Union, Judgement of the Court (Second Chamber) of 15 December 2016, Joined Cases C-401/15 to C-403/15, URL: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-401/15>

<sup>109</sup> LU EMN NCP, Annual Policy Report on Migration and Asylum in Luxembourg 2015, Luxembourg, 2016. URL: <http://www.emnluxembourg.lu/?p=1662>

<sup>110</sup> Answer of the Minister delegated to Superior Education and Research to parliamentary question n°2786 regarding the participation of applicants for international protection as free auditors in courses of the University of Luxembourg of 21 February 2017. URL:  
[http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1417886&fn=1417886.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1417886&fn=1417886.pdf)

<sup>111</sup> *Ibidem*.

<sup>112</sup> *Ibidem*, Art 39 (3).

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<sup>113</sup> *Ibidem*, Art. 47-3 (3) and 49ter (2).

<sup>114</sup> Ministry of Foreign and European Affairs, Rapport d'activité 2016, on: *gouvernement.lu*, URL: <http://www.gouvernement.lu/6806551/2016-rapport-affaires-etrangeres-europeennes.pdf> , p.92

<sup>115</sup> *Ibidem*, pp.93-94

<sup>116</sup> Ministry of Foreign and European Affairs, Rapport d'activité 2015, on: *gouvernement.lu*, URL: <https://www.gouvernement.lu/5921759/2015-rapport-affaires-etrangeres-europeennes.pdf> , p.88

<sup>117</sup> Parliamentary document 6992/00 of 18 May 2016, Art 69 (1).

<sup>118</sup> *Ibidem*, "Commentaire des articles", p.26.

<sup>119</sup> *Ibidem*, Art 69 (2).

<sup>120</sup> *Ibidem*.

<sup>121</sup> *Ibidem*, Art. 73 (7)(8).

<sup>122</sup> Parliamentary document 6992/04 of 22 September 2016, p.12.

<sup>123</sup> Thus, same sex couples who are habitually resident in Luxembourg may marry in Luxembourg even though their national law prohibits this form of marriage. On the other hand, if the same persons married abroad and asked Luxembourg for recognition of their marriage, it will be refused. This follows from the application of the general principle of private international law, which requires the recognition of a marriage between two foreigners to respect the law applicable to their personal status, which is in principle the national law. See Parliamentary document 6908/00 of 19 November 2015, p.3.

<sup>124</sup> Article 170-1 of the Civil Code. URL : <http://legilux.public.lu/eli/etat/leg/code/civil>

<sup>125</sup> Parliamentary document 6908/00 of 19 November 2015, p.4.

<sup>126</sup> Answer of the Minister of Justice to parliamentary question n° 2334 on the recognition of marriages involving children, Luxembourg, 30 September 2016. URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1381522&fn=1381522.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1381522&fn=1381522.pdf)

<sup>127</sup> Article 1 of the Law of 23 May 2016 on the recognition of marriages in the Grand Duchy of Luxembourg and modifying the Civil code, Memorial A 96 of 1 June 2016, URL: <http://legilux.public.lu/eli/etat/leg/loi/2016/05/23/n2/jo>

<sup>128</sup> Information provided by the Passports, Visas and Legalisations Office of the Ministry of Foreign and European Affairs on 6 January 2017.

<sup>129</sup> Directorate of Immigration, Ministry of Foreign and European Affairs, Bilan de l'année 2016 en matière d'asile et d'immigration, 2017, p.3. URL: <http://www.gouvernement.lu/5680602/Bilan-2016.pdf>

<sup>130</sup> Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, p.143. URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)

<sup>131</sup> Ministry of Foreign and European Affairs, Rapport d'activité 2016, p.76. URL : <http://www.gouvernement.lu/6806551/2016-rapport-affaires-etrangeres-europeennes.pdf>

<sup>132</sup> The rate of 'recognition rate' is the ratio between positive decisions leading to a refugee or subsidiary protection agreement and negative decisions. Negative decisions include the refusal of the application for international protection within the framework of 'normal' and accelerated procedures, as well as decisions of inadmissibility. On the other hand, persons whose application for international protection has been implicitly withdrawn and those who have withdrawn their application are excluded.

The 'overall recognition rate' includes the number of persons resettled during the year who are granted refugee status upon arrival in Luxembourg without having to go through the examination procedure of an application for international protection.

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<sup>133</sup> Directorate of Immigration, Ministry of Foreign and European Affairs, Bilan de l'année 2016 en matière d'asile et d'immigration, 2017. URL: <http://www.gouvernement.lu/5680602/Bilan-2016.pdf>

<sup>134</sup> Ombudsman, Rapport d'Activité 2016, Luxembourg, March 2017, p.69. URL: [http://www.ombudsman.lu/rapport\\_annuel](http://www.ombudsman.lu/rapport_annuel)

<sup>135</sup> Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, pp. 143-146. URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)

<sup>136</sup> *Ibidem*, pp.151-152

<sup>137</sup> Ombudsman, Rapport d'Activité 2016, Luxembourg, March 2017, p.33. URL : <http://www.ombudsman.lu/userfiles/files/Rapports%20annuels/RA%202016.pdf>

<sup>138</sup> ASTI asbl., “L'intégration des réfugiés au Luxembourg. L'ASTI tire un 1er bilan et propose des solutions”, Press release, Luxembourg, 10 October 2016, URL: [http://www.asti.lu/wp-content/uploads/2016/10/communiqué\\_conf\\_presse\\_101016\\_final1.pdf](http://www.asti.lu/wp-content/uploads/2016/10/communiqué_conf_presse_101016_final1.pdf)

<sup>139</sup> Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, p.152, URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)

<sup>140</sup> *Ibidem*, pp.149-150.

<sup>141</sup> See for instance : DELAGE, Michel, “Et feelt un adequate Wunnenge fir unerkannte Réfugiéen” (06.04.2016), in: *100komma7.lu*, URL : <https://www.100komma7.lu/article/aktualiteit/yves-piron-direkter-vum-olai> ; RTL, “Croix Rouge : Ëmmer méi Flüchtlinge bleiwen an de Foyeren hänken” (08.08.2016), in: *rtl.lu*, URL : <http://www.rtl.lu/letzebuerg/940576.html> ; ANGEL, David and FUCHSHUBER, Thorsten, “OLAI : Wir fühlen uns allein gelassen” (20.10.2016), in: *worxx.lu*, URL : <http://www.worxx.lu/olai-wir-fuehlen-uns-allein-gelassen/> ; HANSEN, Josée, “Responsabilité collégiale” (28.10.2016), in: *land.lu*, URL : <http://www.land.lu/2016/10/28/responsabilite-collégiale/>.

<sup>142</sup> At the end of 2016, there were 360 beds in the phase 1 reception facility (Luxexpo site) where applicants for international protection were accommodated before having presented their application, ideally for no more than 72 hours. There were 308 beds in phase 2 facilities at the end of 2016. Once applicants have presented their application, they are moved to these facilities where their specific medical, psychological, educational (amongst others) are assessed before being oriented towards a phase 3 facility. At the end of 2016, there were 3.640 beds available in these phase 3, or permanent facilities, where the applicants will stay while their application is being treated. Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, p.146, URL: <https://www.gouvernement.lu/6768870/2016-rapport-activite-famille>

<sup>143</sup> *Ibidem*

<sup>144</sup> Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)

<sup>145</sup> UNKNOWN, “Yves Piron, Direkter vum OLAI” (1.12.2016), in *rtl.lu*, URL : <http://radio.rtl.lu/emissionen/den-invite-vun-der-rtl-redaktioun/981572.html> and *worxx*, Olai : “Wir fühlen uns alleingelassen” (20.10.2016), in *worxx.lu*, URL : <http://www.worxx.lu/olai-wir-fuehlen-uns-allein-gelassen/>

<sup>146</sup> In the context of POS procedures, the Ministry submits the draft POS's to the municipal administrations. The file can be consulted within 1 month. The College of Mayor and Aldermen must hold at least one public information meeting within 30 days of the public filing of the plans, and interested parties must submit their comments in writing to the College within 45 days from the day of submission. Following the public inquiry, the college of the Aldermen Council transmits the observations of the public and the opinion of the municipal council to the Minister (within three months from the date of the submission of the project). The Government shall take it into account to the extent that it considers it compatible with the aims pursued. Land-use plans are declared compulsory by Grand-Ducal regulation and are published in the Memorial.

<sup>147</sup> Junglinster on 29 January 2016; Diekirch on 25 January 2016 ; Mamer, on 15 February 2016 and Steinfort on 27 February 2016.

<sup>148</sup> In the run-up to the local elections of 8 October 2017, the citizen's initiative asked in January 2017 the following:

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- (1) Clear positions of all political parties within the framework of the electoral campaign, at local and national level
  - (2) Reception of a maximum of 100 persons who have been granted refugee status in existing houses and small buildings throughout the municipality of Steinfort.
  - (3) No ‘*accommodation camp*’ for new arrivals in order to ‘*avoid a ghettoisation that prevents from integration*’
  - (4) Creation of new residential districts with a real mix, in the places provided by the municipal PAG.

<sup>149</sup> Answer of the Minister of Sustainable Development and Infrastructure to parliamentary question n°1840 on the capacity of first arrival reception centres, Luxembourg, 24 March 2016. URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1354311&fn=1354311.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1354311&fn=1354311.pdf)

<sup>150</sup> Diekirch on 26 February 2016, Jundlinger on 15 March 2016, Mamer on 29 March 2016, Steinfort on 24 August 2016.

<sup>151</sup> UNKNOWN, “Steinfort : le gouvernement va faire appel car “ il y a urgence ””, in : *wort.lu*, 15 September 2016. URL: <http://www.wort.lu/fr/politique/accueil-des-refugies-steinfort-le-gouvernement-va-faire-appel-car-il-y-a-urgence-57daa706ac730ff4e7f6670d>

<sup>152</sup> Following the launch of a POS procedure for Marnach on 14 November 2016, the Council of Mayors and Aldermen of the municipality of Clervaux and the Ministry of Sustainable Development and Infrastructures invited to an information meeting on the POS project « *Structure provisoire d'accueil d'urgence pour demandeurs de protection internationale, déboutés de la procédure de protection internationale et bénéficiaires d'une protection internationale et reconversion du site d'émissions d'ondes radioélectriques à Marnach* ».

<sup>153</sup> For Esch-sur-Alzette, the solution finally retained was to not go through the adoption of a POS, but instead a PAP (*Plan d'Aménagement Particulier*). Also, the facility is limited to a maximum of 150 persons.

<sup>154</sup> Information provided by the OLAI on 8 February 2017.

<sup>155</sup> Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, p.146, URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)

<sup>156</sup> *Ibidem*, p.147

<sup>157</sup> RTL Interview with Yves Prion, “Yves Piron, Directeur vum OLAI” (1.12.2016), on *rtl.lu*, URL : <http://radio.rtl.lu/emissionen/den-invite-vun-der-rtl-redaktioun/981572.html>

<sup>158</sup> Ombudsman, Rapport d'Activité 2016, Luxembourg, March 2017, p.32. URL : <http://www.ombudsman.lu/userfiles/files/Rapports%20annuels/RA%202016.pdf>

<sup>159</sup> Caritas Luxembourg, “Communiqué de presse du LFR à l’occasion de la Journée Mondiale de Réfugiés”, Press release, Luxembourg, 20 June 2016. URL: <http://www.caritas.lu/Ce-que-nous-disons/Questions-politiques-et-sociales/Communiqu%C3%A9-de-presse-du-LFR-%C3%A0-1%E2%80%99occasion-de-la-Journ%C3%A9e-Mondiale-de-R%C3%A9fugi%C3%A9s>

<sup>160</sup> ASTI asbl, L’intégration des réfugiés au Luxembourg: l’ASTI tire un 1er bilan et propose des solutions (10.10.16) on *asti.lu* URL : <http://www.asti.lu/2016/10/10/lintegration-des-refugies-au-luxembourg-lasti-tire-un-1er-bilan-et-propose-des-solutions/>

<sup>161</sup> BRAUN, Frédéric, “Foyers LGBT pour les réfugiés: Bettel met son Veto”, in : *lequotidien.lu*, April 2016. URL: <http://www.lequotidien.lu/politique-et-societe/foyers-lgbt-pour-les-refugies-bettel-met-son-veto/>

<sup>162</sup> Answer of the Minister of Interior Security to parliamentary question n° 2423 on Police interventions in reception facilities, Luxembourg, 28 October 2016. URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1388942&fn=1388942.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1388942&fn=1388942.pdf)

<sup>163</sup> CHASSAING, Guillaume, “Réfugiés: La situation n’est pas tendue”, in: *lequotidien.lu*, 27 May 2016, URL: <https://www.lequotidien.lu/luxembourg/refugies-la-situation-nest-pas-tendue/>

<sup>164</sup> Information provided by the Agence Immobilière Sociale (AIS) on 6 January 2016.

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<sup>165</sup> For this reason the OLAI signed renting contracts with the beneficiaries for three years. See: OLAI, Ministry of Family, Integration and the Greater Region, Rapport Quinquennal, Luxembourg, December 2014, p. 119. URL: [http://www.olai.public.lu/fr/publications/rapports/rapports\\_5ennal/index.html](http://www.olai.public.lu/fr/publications/rapports/rapports_5ennal/index.html)

<sup>166</sup> Information provided by the Agence Immobilière Sociale on 6 January 2016.

<sup>167</sup> Oeuvre Nationale de Secours Grande-Duchesse Charlotte, Supported projects, on *oeuvre.lu*, URL: <http://www.oeuvre.lu/initiatives/mateneen-en/>

<sup>168</sup> OLAI, Résumé projet L’habitat intergénérationnel : Comme vecteur d’intégration - Cohabit’AGE, URL: [http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme\\_amif/ResumeProjet\\_Cohabitage.pdf](http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme_amif/ResumeProjet_Cohabitage.pdf)

<sup>169</sup> European Commission against Racism and Intolerance (ECRI) of the Council of Europe, Rapport de l’ECRI sur le Luxembourg (cinquième cycle de monitoring), adopted on 6 December 2016, published on 28 February 2017, p.28, URL: [https://www.gouvernement.lu/6765220/Rapport-de-l\\_ECRI-sur-le-Luxembourg.pdf](https://www.gouvernement.lu/6765220/Rapport-de-l_ECRI-sur-le-Luxembourg.pdf)

<sup>170</sup> Oeuvre Nationale de Secours Grande-Duchesse Charlotte, Supported projects, on *oeuvre.lu*, URL: <http://www.oeuvre.lu/initiatives/mateneen-en/>

<sup>171</sup> Joint answer of the Minister for Family and Integration and the Minister for Work, Employment and Social and Solidary Economy to parliamentary question n° 2327 on integration of refugees in the labour market, Luxembourg, 20 September 2016, URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1377813&fn=1377813.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1377813&fn=1377813.pdf)

<sup>172</sup> Lëtzebuenger Flüchtlingsrot (LFR), “Luxembourg terre d’accueil ! Quid de l’intégration ?” , Press release, Luxembourg, on *asti.lu*, June 2016, URL : [http://www.asti.lu/wp-content/uploads/2016/06/communiqué\\_jmr\\_2016\\_final.pdf](http://www.asti.lu/wp-content/uploads/2016/06/communiqué_jmr_2016_final.pdf)

<sup>173</sup> ASTI asbl., “L’intégration des réfugiés au Luxembourg. L’ASTI tire un 1er bilan et propose des solutions”, Press release, Luxembourg, 10 October 2016, URL: [http://www.asti.lu/wp-content/uploads/2016/10/communiqué\\_conf\\_presse\\_101016\\_final1.pdf](http://www.asti.lu/wp-content/uploads/2016/10/communiqué_conf_presse_101016_final1.pdf)

<sup>174</sup> Lëtzebuenger Flüchtlingsrot (LFR), “Luxembourg terre d’accueil ! Quid de l’intégration ?” , Press release, Luxembourg, on *asti.lu*, June 2016, URL : [http://www.asti.lu/wp-content/uploads/2016/06/communiqué\\_jmr\\_2016\\_final.pdf](http://www.asti.lu/wp-content/uploads/2016/06/communiqué_jmr_2016_final.pdf)

<sup>175</sup> Article 16 of Bill n°6775 on the reception of applicants for international protection and temporary protection and amending the amended law of 10 August 1991 on the profession of lawyer (Governmental amendments), Parliamentary Document 6775/02 of 29 September 2015, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/200/472/149791.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/200/472/149791.pdf)

<sup>176</sup> Lëtzebuenger Flüchtlingsrot (LFR), “Luxembourg terre d’accueil ! Quid de l’intégration ?” , Press release, Luxembourg, on *asti.lu*, June 2016, URL : [http://www.asti.lu/wp-content/uploads/2016/06/communiqué\\_jmr\\_2016\\_final.pdf](http://www.asti.lu/wp-content/uploads/2016/06/communiqué_jmr_2016_final.pdf)

<sup>177</sup> The Directorate of Immigration, through its Refugee Service (Service Réfugié), collects general information on AIPs language skills, namely mother tongue and other language proficiency, as soon as they apply for international protection and more precisely when filling their personal data sheet (*fiche données personnelles*). This information is streamlined to OLAI, who will be their referral authority for everything relating to their reception and support.

In a second phase, AIPs will be more precisely questioned on their language skills, including the level of proficiency as well as whether they are currently pursuing language courses, as soon as they are granted their statement of international protection status (the so-called “*papier rose*”). Information provided by the Directorate of Immigration on 26 April 2017.

<sup>178</sup> Joint answer of the Minister for Family and Integration and the Minister for Work, Employment and Social and Solidary Economy to parliamentary question n° 2327 on integration of refugees in the labour market, Luxembourg, 20 September 2016, URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1377813&fn=1377813.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1377813&fn=1377813.pdf)



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- <sup>179</sup> Ombudsman, Rapport d'Activité 2016, Luxembourg, March 2017, URL: <http://www.ombudsman.lu/userfiles/files/Rapports%20annuels/RA%202016.pdf>
- <sup>180</sup> Oeuvre Nationale de Secours Grande-Duchesse Charlotte, Supported projects, on *oeuvre.lu*, URL: <http://www.ooeuvre.lu/initiatives/mateneen-en/>
- <sup>181</sup> *Ibidem*.
- <sup>182</sup> See LU EMN NCP, Integration of beneficiaries of international / humanitarian protection into the labour market: policies and good practices, Focussed Study 2015, Luxembourg, 2016. URL: <http://www.emnluxembourg.lu/?p=1262>
- <sup>183</sup> Ministry of Family, Integration and the Greater Region, Rapport d'activité 2016, Luxembourg, February 2017, p.157, URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)
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<sup>309</sup> *Ibidem*.

<sup>310</sup> THILL, Germaine et PELTIER, François, Regards n°11 sur les acquisitions de la nationalité selon la résidence, STATEC (ed.), August 2015, URL: <http://www.statistiques.public.lu/catalogue-publications/regards/2015/PDF-11-2015.pdf>

<sup>311</sup> For persons not resident in Luxembourg, the legislator requires the existence of a community of life of at least three years preceding the declaration of option. This difference in treatment compared to couples living in Luxembourg is justified by the legislator by a greater difficulty in detecting marriages of convenience in the case where the couple resides abroad. It should be noted that the marriage of convenience will be sanctioned by the deprivation of the Luxembourgish nationality.

<sup>312</sup> Opinion of the Consultative Committee on Human Rights on Bill n°6977 on Luxembourg nationality, Parliamentary Document 6977/01, p.5, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/130/622/162291.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/130/622/162291.pdf)

<sup>313</sup> Opinion of the Chamber of Salaried Workers on Bill n°6977 on Luxembourg nationality, Parliamentary Document 6977/02, p.11, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/130/698/162997.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/130/698/162997.pdf)

<sup>314</sup> Opinion of the Chamber of Commerce on Bill n°6977 on Luxembourg nationality, Parliamentary Document 6977/05, p.3, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/133/654/163523.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/133/654/163523.pdf)

<sup>315</sup> Opinion of the Council of State on Bill n°6977 on Luxembourg nationality, Parliamentary Document 6977/03, p.6, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/129/698/162987.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/129/698/162987.pdf)

<sup>316</sup> Parliamentary Document 6977/05, p.17, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/133/654/163523.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/133/654/163523.pdf)

<sup>317</sup> Parliamentary Document 6977/03, p.6, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/129/698/162987.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/129/698/162987.pdf)

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<sup>319</sup> Opinion of the Chamber of Civil Servants and Public Employees on Bill n°6977 on Luxembourg nationality, Parliamentary Document 6977/06, p.4, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/137/609/163068.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/137/609/163068.pdf)

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<sup>321</sup> Parliamentary Document 6977/01, p.5, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/130/622/162291.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexdpata/Mag/130/622/162291.pdf)



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<sup>339</sup> Amendments by the Legal Committee of the Parliament on Bill n°6977 on Luxembourg nationality, Parliamentary Document 6977/07, p.10, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/148/686/164875.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/148/686/164875.pdf)

<sup>340</sup> *Ibidem*

<sup>341</sup> *Ibidem*, p.11

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<sup>349</sup> ChamberTV, “Emission Aktuell du 13/2/2017”, Séquence n°2 : Reportage : D’Reform vun der Nationalitéit – e Réckbléck of d’Chamber-Debatt, in: *chd.lu*, URL: <http://visilux.chd.lu/ArchivePage/video/1891/sequence/85496.html>

<sup>350</sup> The action plan as well as the strategy for the promotion of the Luxembourgish language, implemented in 2017, will be treated more in detail in our subsequent annual Policy Report on Migration and Asylum 2017. For the moment, one may note that the strategy foresees, among others, the creation of a Commissioner on the Luxembourgish language, the creation of a ‘Centre for Luxembourgish’ (*Zentrum fir d’Lëtzebuergesch*), the entrenchment of the Luxembourgish language in the Constitution as well as the recognition of the Luxembourgish language as an official language of the EU. See: Government of the Grand Duchy of Luxembourg, Ministry of National Education, Childhood and Youth, Une stratégie pour promouvoir la langue luxembourgeoise, in: *men.lu* (09.03.2017), URL: <http://www.men.public.lu/fr/actualites/articles/communiqués-conference-presse/2017/03/09-strategie-letzebuergesch/index.html>

<sup>351</sup> Public petition n°698 - Lëtzebuurger Sprouch als 1. Amtssprooch an Nationalsprooch gesetzlech fir all Awunner zu Lëtzebuerg festzeleeën, author: Lucien Welter, introduced on 16 August 2016, URL : <http://chamber.lu/wps/portal/public/Accueil/TravailALaChambre/Petitions/RoleDesPetitions?action=doPetitionDetail&id=771>

<sup>352</sup> UNKNOWN, « Keine rassistischen und ausländerfeindlichen Aussagen », in : *wort.lu* (19.09.2016), URL : <http://www.wort.lu/de/politik/luxemburgisch-als-erste-amtssprache-keine-rassistischen-und-auslaenderfeindlichen-aussagen-57dfa349ac730ff4e7f669fe>

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<sup>353</sup> “*Domadder ass ons Nationalsprooch, ewéi d’Verfassung et virgesäit, zum Ausstierwe verdaamt. Et ass vun engem nationalen Interessi, dass ons Sprooch als national ewéi als 1. administrativ Sprooch erhale muss ginn.*”, Motivation de l’intérêt général de la petition, Public petition n°698 - Lëtzebuenger Sprooch als 1. Amtssprooch an Nationalsprooch gesetzlech fir all Awunner zu Lëtzebuerg festzeleeën, author : Lucien Welter, introduced on 16 August 2016, URL : <http://chamber.lu/wps/portal/public/Accueil/TravailALaChambre/Petitions/RoleDesPetitions?action=doPetitionDetail&d=771>

<sup>354</sup> Public petition n°725 - « NEEN » zu eiser Mammesprooch als äischt offiziell Sprooch. « NON » à la langue luxembourgeoise comme première langue officielle en matière administrative et judiciaire. « NEIN » zur luxemburgischen Landessprache als erste Amtssprache, author : Joseph Schlessler, introduced on 5 October 2016, URL : <http://chd.lu/wps/portal/public/Accueil/TravailALaChambre/Petitions/RoleDesPetitions?action=doPetitionDetail&id=807>

<sup>355</sup> Gilles quoted by MARTIN, David, Luxembourg broaches dropping French and German as official languages in : *dw.com* (14.01.2017), URL : <http://www.dw.com/en/luxembourg-broaches-dropping-french-and-german-as-official-languages/a-37135623>

<sup>356</sup> FEHLEN, Fernand, Die Alphabetisierung in Luxemburgisch als Zukunftsprojekt, September 2016, in : *forum* 365, , p.31. URL: <http://orbilu.uni.lu/bitstream/10993/28381/1/forum%20365%20Alphabetisierung.pdf>

<sup>357</sup> *Ibidem*, pp.31-32.

<sup>358</sup> Bill n° 6974 approving 1. the Convention on the Reduction of Statelessness, concluded at New York on 30 August 1961; 2. the European Convention on Nationality, concluded at Strasbourg on 6 November 1997; 3. the Council of Europe Convention on the avoidance of statelessness in relation to the succession of States, concluded at Strasbourg on 19 May 2006, Parliamentary document n°6974/00 of 23 March 2016, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/119/624/161283.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/119/624/161283.pdf)

<sup>359</sup> Government of the Grand Duchy of Luxembourg, “Application for the status as a stateless person”, Luxembourg, 24 August 2016, in : *guichet.lu*, URL: <http://www.guichet.public.lu/entreprises/en/ressources-humaines/recrutement/ressortissant-pays-tiers/demande-statut-apatride/index.html>

<sup>360</sup> OLAI, Ministry of Family, Integration and the Greater Region, “Appels à projets 2016 aux Associations sans but lucratif dans le cadre de la campagne d’information et de sensibilisation à l’attention des étrangers en vue de leur inscription sur la liste électorale pour les élections communales du 8 octobre 2017”, URL: <http://www.olai.public.lu/fr/actualites/2016/10/appele-a-projet-asbl/index.html>

<sup>361</sup> Joint answer of the Prime Minister, minister of State, Minister of Family and Integration, Minister of interior, Minister of National education, Childhood and Youth to parliamentary question n°1935 on the participation of non-Luxembourgish nationals at the municipal and European elections, Luxembourg, 26 April 2016, URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1358297&fn=1358297.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1358297&fn=1358297.pdf)

<sup>362</sup> Centre d’étude et de formation interculturelles et sociales (CEFIS), URL: <http://www.cefis.lu/>. See also: [http://www.olai.public.lu/fr/publications/rapports/rapports\\_projets/Resume-projet-ASTI-CEFIS-CLAE-2016.pdf](http://www.olai.public.lu/fr/publications/rapports/rapports_projets/Resume-projet-ASTI-CEFIS-CLAE-2016.pdf)

<sup>363</sup> Joint answer of the Minister of Interior and Minister of Family and Integration to parliamentary question n°2526 on the registration of foreign residents on the electoral rolls, Luxembourg, 9 December 2016, URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1399842&fn=1399842.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1399842&fn=1399842.pdf)

<sup>364</sup> *Ibidem*.

<sup>365</sup> Law of 29 March 2016 modifying the amended law of 19 June 2013 regarding identification of physical persons and the amended electoral law of 18 February 2003, Memorial A N°52, Luxembourg, 2016, URL: <http://legilux.public.lu/eli/etat/leg/loi/2016/03/29/n2/jo>

<sup>366</sup> Joint answer of the Minister of Interior and Minister of Family and Integration to parliamentary question n°2526 on the registration of foreign residents on the electoral rolls, Luxembourg, 9 December 2016, URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1399842&fn=1399842.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1399842&fn=1399842.pdf)

<sup>367</sup> Joint answer of the Prime Minister, minister of State, Minister of Family and Integration, Minister of interior, Minister of National education, Childhood and Youth to parliamentary question n°1935 on the participation of non-

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<sup>368</sup> Information provided by the OLAI on 8 February 2017.

<sup>369</sup> OLAI and SYVICOL, « *Plan Communal Intégration – Guide Pratique* », 2016, p.21  
URL : [http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/pci/guide-PCI\\_version-web.pdf](http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/pci/guide-PCI_version-web.pdf)

<sup>370</sup> *Ibidem*.

<sup>371</sup> Ministry of Interior and OLAI, “Circulaire n°3358 concernant les subsides aux administrations communales pour des actions ayant trait à l’élaboration d’un Plan communal intégration en collaboration avec l’OLAI et le SYVICOL – Appel à projets”, 22 March 2016, p.1, URL: <http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/pci/circulaire-pci.pdf> and Ministry of Interior and OLAI, “Circulaire n°3413 concernant les subsides aux administrations communales pour des actions ayant trait à l’élaboration d’un Plan communal intégration en collaboration avec l’OLAI et le SYVICOL – Appel à projets”, 12 October 2016.

<sup>372</sup> Financial support is made available through the budget heading « *Subsides aux entités publiques du secteur communal, intercommunal et regional, initiant et soutenant des projets en vue de l'intégration et de l'accueil des étrangers* ». Maximum co-financing shall not exceed 50% of the total cost of the projects. See: Ministry of Interior and OLAI, “Circulaire n°3414 concernant Appel à projets subsides pour des projets ayant pour objets l’intégration des étrangers”, 12 October 2016.

<sup>373</sup> OLAI, Ministry of Family, Integration and the Greater Region, “Résumé Projet : L’Empowerment Economique des ressortissants de pays tiers : deux outils pour l’intégration – The American Chamber of Commerce in Luxembourg”, URL: [http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme\\_amif/ResumeProjet\\_AMCHAM.pdf](http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme_amif/ResumeProjet_AMCHAM.pdf)

<sup>374</sup> OLAI, Ministry of Family, Integration and the Greater Region, “Résumé du projet ESF « Pont de l’entente »”, URL: [http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme\\_amif/Resumeprojet-ESF.pdf](http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme_amif/Resumeprojet-ESF.pdf)

<sup>375</sup> OLAI, Ministry of Family, Integration and the Greater Region, 4Motion, URL: [http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme\\_amif/ResumeProjet\\_4Motion.pdf](http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme_amif/ResumeProjet_4Motion.pdf)

<sup>376</sup> OLAI, Ministry of Family, Integration and the Greater Region, “Résumé projet”, URL: [http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme\\_amif/ResumeProjet-multilearn.pdf](http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/programme_amif/ResumeProjet-multilearn.pdf)

<sup>377</sup> OLAI, Ministry of Family, Integration and the Greater Region, “Lancement du troisième appel à projets du Fonds Asile, migration et integration”, published on 30 July 2016. URL: <http://www.olai.public.lu/fr/actualites/2016/07/cai/index.html>

<sup>378</sup> Charte de la Diversité Lëtzebuerg, “2<sup>e</sup> journée de formation “Gestion de la Diversité ”, URL: <http://www.chartediversite.lu/conferences/2e-journee-formation-gestion-diversite>

<sup>379</sup> Charte de la Diversité Lëtzebuerg, “Invitation : Diversity Network”, URL : <http://www.chartediversite.lu/conferences/diversity-network>

<sup>380</sup> Charte de la Diversité Lëtzebuerg, “Diversity Network : attirer et fidéliser des talents”, URL : <http://www.chartediversite.lu/conferences/diversity-network-attirer-et-fideliser-talents-diversifies>

<sup>381</sup> Charte de la Diversité Lëtzebuerg, “Diversity Network : accueil et intégration”, URL : <http://www.chartediversite.lu/conferences/diversity-network-accueil-et-integration>

<sup>382</sup> Charte de la Diversité Lëtzebuerg, “Diversity Network: réaliser un Diagnostic”, URL: <http://chartediversite.lu/conferences/diversity-network-realiser-un-diagnostic>

<sup>383</sup> Charte de la Diversité Lëtzebuerg, “Les actions Diversity Day 2016”, URL : <http://www.chartediversite.lu/diversity-day-2016>

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<sup>384</sup> Diversity Charter Luxembourg, “Baromètre Diversité & Entreprise Luxembourg – Edition 2016 – les démarches mises en oeuvre dans le domaine de la diversité par les signataires de la Charte de la Diversité Lëtzebuerg”, pp.39-41, in: *chartediversite.lu*, URL : [http://www.chartediversite.lu/sites/default/files/barometre\\_bd.pdf](http://www.chartediversite.lu/sites/default/files/barometre_bd.pdf)

<sup>385</sup> Bill 1) transposing the Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers, 2) Modifying the amended law of 28 November 2006 1. Transposing Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; 2. Transposing Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; 3. Modifying the labour law and introducing into Book II a new title V on the equal treatment in employment and occupation, 4. modifying articles 454 and 455 of the Penal code; 5. Modifying the Law of 12 September 2003 on disables persons. URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/0000/148/1485.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/0000/148/1485.pdf)

<sup>386</sup> Government of the Grand Duchy of Luxembourg, “Résumé des travaux du 14 October 2016”, press release, 14 October 2016, in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/6384449/14-conseil-gouvernement>

<sup>387</sup> Information provided by the Ministry of Justice on 24 April 2017.

<sup>388</sup> European Commission against Racism and Intolerance (ECRI) of the Council of Europe, “Rapport de l’ECRI sur le Luxembourg (cinquième cycle de monitoring)”, adopted on 6 December 2016, published on 28 February 2017, URL: [https://www.gouvernement.lu/6765220/Rapport-de-l\\_ECRI-sur-le-Luxembourg.pdf](https://www.gouvernement.lu/6765220/Rapport-de-l_ECRI-sur-le-Luxembourg.pdf)

<sup>389</sup> On 7 June 2015, citizens with Luxembourg nationality voted in a national referendum on three different questions, one of them concerning the possibility to grant non-Luxembourgish residents the right to vote in national elections. For more detailed information see also: LU EMN NCP, Annual Policy Report on Migration and Asylum in Luxembourg 2015, Luxembourg, 2016, URL: <http://www.emnluxembourg.lu/?p=1662>

<sup>390</sup> Information provided by the Ministry of Justice on 24 April 2017.

<sup>391</sup> European Commission against Racism and Intolerance (ECRI) of the Council of Europe, “Rapport de l’ECRI sur le Luxembourg (cinquième cycle de monitoring)”, adopted on 6 December 2016, published on 28 February 2017, pp.15-16, URL: [https://www.gouvernement.lu/6765220/Rapport-de-l\\_ECRI-sur-le-Luxembourg.pdf](https://www.gouvernement.lu/6765220/Rapport-de-l_ECRI-sur-le-Luxembourg.pdf)

<sup>392</sup> *Ibidem* p.18,

<sup>393</sup> *Ibidem*, p.20.

<sup>394</sup> Directorate of Immigration, Ministry of Foreign and European Affairs, Bilan de l’année 2016 en matière d’asile et d’immigration, 2017, p.28, URL: <http://www.gouvernement.lu/5680602/Bilan-2016.pdf>.

<sup>395</sup> Ministry of Foreign and European Affairs, Rapport d’activité de l’année 2016, on *gouvernement.lu*, URL : <http://www.gouvernement.lu/6806551/2016-rapport-affaires-etrangeres-europeennes.pdf>

<sup>396</sup> LU EMN NCP response to FR EMN NCP Ad-Hoc Query of 5<sup>th</sup> December 2016 on European return and reintegration programmes for nationals of Western Balkan countries.

<sup>397</sup> Ministry of Family, Integration and the Greater Region, Rapport d’activité 2016, Luxembourg, February 2017, p.101, URL: [http://www.mfi.public.lu/publications/01\\_rapports-activite/rapp\\_act\\_2016.pdf](http://www.mfi.public.lu/publications/01_rapports-activite/rapp_act_2016.pdf)

<sup>398</sup> Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Luxembourg on the application of the Schengen acquis in the field of return, 12 December 2016, URL: <http://data.consilium.europa.eu/doc/document/ST-15483-2016-INIT/en/pdf>

<sup>399</sup> Parliamentary document 6992/00 of 18 May 2016, Article III.

<sup>400</sup> *Ibidem*, “Commentaire des articles”, p.27.

<sup>401</sup> In its opinion to bill n°6992, the State Council further reminds the previous position of the legislator on the amended law of 28 May 2009 concerning the Detention Center, in which the authors emphasised that “[Persons or families accompanied by children] ... shall in no event be detained for more than 72 hours at the Center” as well as Article 17 (1) of Directive 2008/115/EC, which provides that “Unaccompanied minors and families with minors shall be detained

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only as a measure of last resort and for the shortest appropriate period". See Parliamentary document 6992/05 of 28 October 2016, p.9.

<sup>402</sup> See Art. 37 b) of the Convention on the Rights of the Child; Resolution 1810 (2011) of the Council of Europe on unaccompanied minors in Europe: issues of arrival, stay and return; Recommendation n°1985 of 7 October 2011 on undocumented migrant children in an irregular situation: a real cause for concern; Art. 17 of Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals.

<sup>403</sup> A.B. and Others v. France - 11593/12; R.K. and Others v. France - 68264/14; R.C. and V.C. C. France - 76491/14; R.M. and Others v. France - 33201/11; A.M. and Others v. France - 24587/12

<sup>404</sup> Opinion of the LFR on Bill n°6992, Parliamentary document 6992/09 of 28 October 2016, p.5, URL: [http://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/0001/049/2492.pdf](http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/0001/049/2492.pdf)

<sup>405</sup> The bill was adopted with 58 votes in favor and 2 votes against (from the Left Party – *Déi Lénk*)

<sup>406</sup> For further information please see : Ombudsman, Service du contrôle externe des lieux privatifs de liberté, URL: [http://www.celpl.lu/index.php?l=1&page=accueil\\_site&action=&ok=&inscrit=&lang=en](http://www.celpl.lu/index.php?l=1&page=accueil_site&action=&ok=&inscrit=&lang=en) and LU EMN NCP, Policy Report 2014, Luxembourg, 2015, URL: <http://www.emnluxembourg.lu/?p=633>

<sup>407</sup> Just as the bill with 58 in favour and 2 votes against (from the Left Party – *Déi Lénk*).

<sup>408</sup> Motion to Parliamentary document n°6992, “Motion: Bilan de fonctionnement du Centre de rétention”, URL: [http://www.chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/0001/007/2078.pdf](http://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/0001/007/2078.pdf)

<sup>409</sup> Directorate of Immigration, Ministry of Foreign and European Affairs, Bilan de l’année 2016 en matière d’asile et d’immigration, 2017, URL: <http://www.gouvernement.lu/5680602/Bilan-2016.pdf>.

<sup>410</sup> EEAS, “Joint Way Forward on migration issues between Afghanistan and the EU”, URL: [https://eeas.europa.eu/sites/eeas/files/eu\\_afghanistan\\_joint\\_way\\_forward\\_on\\_migration\\_issues.pdf](https://eeas.europa.eu/sites/eeas/files/eu_afghanistan_joint_way_forward_on_migration_issues.pdf)

<sup>411</sup> Answer of the Minister of Foreign and European Affairs 13 November 2016 to parliamentary question n°2466 on the declaration “EU-Afghanistan Joint Way Forward migration issues”, URL: [http://chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1390369&fn=1390369.pdf](http://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1390369&fn=1390369.pdf)

<sup>412</sup> Lëtzebuenger Flüchtlingsrot (LFR), Cercle de coopération des ONG, Reech eng Hand, Passerell, iamnotarefugee, Amitié Portugal-Luxembourg, Narin, Heemscht, Oppent Haus – Open Home, Press statement, “Afghanistan is not safe : non au retour forcé”, URL : [https://web.cathol.lu/IMG/pdf/position\\_politique\\_ong\\_afghanistan-2.pdf](https://web.cathol.lu/IMG/pdf/position_politique_ong_afghanistan-2.pdf)

<sup>413</sup> Government of the Grand Duchy of Luxembourg, “Jean Asselborn expose la position du gouvernement sur l’accord Joint Way Forward on migration issues”, 1 December 2016, in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/6544413/01-asselborn-migration>

<sup>414</sup> Government of the Grand Duchy of Luxembourg, “L’accomplissement d’un véritable marché unique du Benelux reste une priorité”, 23 February 2016, in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/5743357/22-presidence-benelux>

<sup>415</sup> Government of the Grand Duchy of Luxembourg, “Sommet Benelux à Schengen”, 3 October 2016 in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/6350838/03-sommet-benelux>

<sup>416</sup> Government of the Grand Duchy of Luxembourg, “Résumé des travaux du 15 janvier 2016”, in: *gouvernement.lu*, 15 January 2016, URL : <http://www.gouvernement.lu/5613538/15-conseil-gouvernement>

<sup>417</sup> Directorate of Immigration, Ministry of Foreign and European Affairs, Bilan de l’année 2016 en matière d’asile et d’immigration, 2017, p.31, URL: <http://www.gouvernement.lu/5680602/Bilan-2016.pdf>

<sup>418</sup> Information provided by the Grand Ducal Police on 27 January 2017.

<sup>419</sup> Government of the Grand Duchy of Luxembourg, “L’agence européenne de garde-frontières et de garde-côtes, dotée à terme d’une capacité d’intervention rapide de 1500 personnes, succède à Frontex”, 6 October 2016, in: *gouvernement.lu*, URL: <http://www.europaforum.public.lu/fr/actualites/2016/10/comm-garde-frontieres/index.html>

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- <sup>420</sup> Government of the Grand Duchy of Luxembourg, Press release, “Résumé des travaux du 25 novembre 2016”, 25 November 2016, in : *gouvernement.lu*, URL : <https://www.gouvernement.lu/6530748>
- <sup>421</sup> Information provided by the Grand Ducal Police on 27 January 2017.
- <sup>422</sup> *Ibidem*.
- <sup>423</sup> Answer of the Minister of Foreign and European Affairs of 13 June 2016 to Parliamentary Question n°2058 concerning visa liberalisation for the Republic of Turkey and the Republic of Kosovo. URL: [http://www.chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1363533&fn=1363533.pdf](http://www.chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1363533&fn=1363533.pdf)
- <sup>424</sup> Government of the Grand Duchy of Luxembourg, “Le Luxembourg participe à l’opération EUNAVFOR MED par la mise à disposition d’un avion de surveillance maritime”, 16 July 2015, in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/5071379/16-eunavformed-avion>
- <sup>425</sup> Government of the Grand Duchy of Luxembourg, “Résumé des travaux du 9 décembre 2016”, in: *gouvernement.lu*, URL: <https://www.gouvernement.lu/6559092>. Bill n°7107 on the Agreement between the State of the Grand Duchy of Luxembourg and the Republic of Cabo Verde on the Concerted Management of Migration Flows and Solidarity Development, established in Luxembourg on 13 October 2015, was introduced in the Chamber of Deputies on 17 January 2017.
- <sup>426</sup> Information provided by the Ministry of Justice on 31 March 2017.
- <sup>427</sup> Commission consultative des Droits de l’Homme du Grand-Duché de Luxembourg- CCDH (Advisory Committee on Human Rights), National Rapporteur on trafficking in human beings, Rapport sur la traite des êtres humains au Luxembourg, Années 2014-2016, Luxembourg, 15 March 2017, p.21  
URL: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite/index.html>
- <sup>428</sup> Government of the Grand Duchy of Luxembourg, “Résumé des travaux du 21 décembre 2016”, in: *gouvernement.lu*, 2 December 2016, URL: <http://www.gouvernement.lu/6585063/21-conseil-gouvernement>
- <sup>429</sup> Answer of the Minister of Justice to parliamentary question n°2239 on the trafficking in human beings, Luxembourg, 21 July 2016. URL: [http://www.chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368195&fn=1368195.pdf](http://www.chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368195&fn=1368195.pdf)
- <sup>430</sup> Commission consultative des Droits de l’Homme du Grand-Duché de Luxembourg- CCDH (Advisory Committee on Human Rights), National Rapporteur on trafficking in human beings, Rapport sur la traite des êtres humains au Luxembourg, Années 2014-2016, Luxembourg, 15 March 2017,  
URL: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite/index.html>
- <sup>431</sup> Not yet publicly available at the time of finalising the present report.
- <sup>432</sup> Commission consultative des Droits de l’Homme du Grand-Duché de Luxembourg- CCDH (Advisory Committee on Human Rights), National Rapporteur on trafficking in human beings, Rapport sur la traite des êtres humains au Luxembourg, Années 2014-2016, Luxembourg, 15 March 2017, p.50,  
URL: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite/index.html>
- <sup>433</sup> *Ibidem*, p. 26, 31 and 53.
- <sup>434</sup> *Ibidem*, pp. 57-58.
- <sup>435</sup> Information provided by the Commission consultative des Droits de l’Homme (CCDH), National Rapporteur on trafficking in human beings, on 24 January 2017.
- <sup>436</sup> Commission consultative des Droits de l’Homme du Grand-Duché de Luxembourg- CCDH (Advisory Committee on Human Rights), National Rapporteur on trafficking in human beings, Rapport sur la traite des êtres humains au Luxembourg, Années 2014-2016, Luxembourg, 15 March 2017, p.29,  
URL: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite/index.html>
- <sup>437</sup> *Ibidem*, p.32.

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- <sup>438</sup> Government of the Grand Duchy of Luxembourg, Ministry of Equal Opportunities, “Lancement de la campagne d’information et de sensibilisation sur le phénomène de la traite des êtres humains”, in: *mega.public.lu*, 1 December 2016, URL: <http://www.mega.public.lu/fr/actualites/2016/12/campagne-traite/index.html>
- <sup>439</sup> Commission consultative des Droits de l’Homme du Grand-Duché de Luxembourg- CCDH (Advisory Committee on Human Rights), National Rapporteur on trafficking in human beings, Rapport sur la traite des êtres humains au Luxembourg, Années 2014-2016, Luxembourg, 15 March 2017, p.58, URL: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite/index.html>
- <sup>440</sup> Answer of the Minister of Justice to parliamentary question n°2239 on the trafficking in human beings, Luxembourg, 21 July 2016, URL: [http://www.chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368195&fn=1368195.pdf](http://www.chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368195&fn=1368195.pdf)
- <sup>441</sup> *Ibidem*.
- <sup>442</sup> Government of the Grand Duchy of Luxembourg, “Les ministres de la Justice du Benelux veulent renforcer la coopération en matière de lutte contre la traite des êtres humains”, 2 December 2016, in: *gouvernement.lu*, URL: <http://www.gouvernement.lu/6549531/02-justice-benelux>
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- <sup>444</sup> Information provided by Directorate of Cooperation, Development and Humanitarian Action on 1 February 2017.
- <sup>445</sup> Information provided by the Directorate of Immigration on 14 March 2017.
- <sup>446</sup> Information provided by the Commission consultative des Droits de l’Homme (CCDH), National Rapporteur on trafficking in human beings, on 24 January 2017.
- <sup>447</sup> Commission consultative des Droits de l’Homme du Grand-Duché de Luxembourg- CCDH (Advisory Committee on Human Rights), National Rapporteur on trafficking in human beings, Rapport sur la traite des êtres humains au Luxembourg, Années 2014-2016, Luxembourg, 15 March 2017, pp. 33-34. URL: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite/index.html>
- <sup>448</sup> Not yet publicly available at the time of finalising the present report.
- <sup>449</sup> Information provided by the Commission consultative des Droits de l’Homme (CCDH), National Rapporteur on trafficking in human beings, on 24 January 2017.
- <sup>450</sup> Ministry of Equal Opportunities, Government of the Grand Duchy of Luxembourg, “Plan d’action national “Prostitution” ”, Luxembourg, 29 June 2016, URL: <http://www.mega.public.lu/fr/publications/publications-ministere/2016/plan-daction-national-prostitution/index.html>
- <sup>451</sup> Ministry of Justice, “La Ministre de l’Egalité des chances, Mme Lydia Mutsch, et le Ministre de la Justice, M. Felix Braz ont présenté la stratégie gouvernementale en matière de la prostitution au Luxembourg”, Press release, 29 June 2016, URL: [http://www.mj.public.lu/actualites/2016/06/Strat\\_gouv\\_prostitution/index.html](http://www.mj.public.lu/actualites/2016/06/Strat_gouv_prostitution/index.html)
- <sup>452</sup> Bill n°7008 strengthening the fight against the exploitation of prostitution, procuring and trafficking in human beings for sexual purposes and amending: 1) the Code of Criminal Procedure; 2) the Criminal Code, Parliamentary document n°7008/00 of 27 June 2016. URL: [http://www.chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/137/605/163064.pdf](http://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sexpdata/Mag/137/605/163064.pdf)
- <sup>453</sup> Ministry of Justice, “La Ministre de l’Egalité des chances, Mme Lydia Mutsch, et le Ministre de la Justice, M. Felix Braz ont présenté la stratégie gouvernementale en matière de la prostitution au Luxembourg”, Press release, 29 June 2016, URL: [http://www.mj.public.lu/actualites/2016/06/Strat\\_gouv\\_prostitution/index.html](http://www.mj.public.lu/actualites/2016/06/Strat_gouv_prostitution/index.html) and Answer of the Minister of Justice to parliamentary question n°2239 on the trafficking in human beings, Luxembourg, 21 July 2016. URL: [http://www.chd.lu/wps/PA\\_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368195&fn=1368195.pdf](http://www.chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=1368195&fn=1368195.pdf)



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- <sup>454</sup> Information provided by the Directorate of Cooperation, Development and Humanitarian Action on 9 January 2017.
- <sup>455</sup> *Ibidem.*
- <sup>456</sup> *Ibidem.*
- <sup>457</sup> Directorate of Cooperation, Development and Humanitarian Action, Ministry of Foreign and European Affairs, “Programme Indicatif de Coopération (PIC) 2015-2019”, URL: <http://www.cooperation.lu/2015/fr/664/Mali>
- <sup>458</sup> Information provided by the Directorate of Cooperation, Development and Humanitarian Action, Ministry of Foreign and European Affairs on 9 January 2016.
- <sup>459</sup> Information provided by the Directorate of Cooperation, Development and Humanitarian Action on 9 January 2017.
- <sup>460</sup> *Ibidem.*
- <sup>461</sup> Government of the Grand Duchy of Luxembourg, “Résumé des travaux du 9 décembre 2016”, in: *gouvernement.lu*, URL: <https://www.gouvernement.lu/6559092>. Bill n°7107 on the Agreement between the State of the Grand Duchy of Luxembourg and the Republic of Cabo Verde on the Concerted Management of Migration Flows and Solidarity Development, established in Luxembourg on 13 October 2015, was introduced in the Chamber of Deputies on 17 January 2017.
- <sup>462</sup> The following persons are eligible to such “circulation” visas: a) State- and local officials and local with mission orders b) businessmen, traders, lawyers, intellectuals, academics, researchers, artists and performers, high-level athletes, or (c) permanent professionals of trade unions and non-governmental organisations duly established in the territory of each Parties and which participate actively in economic, commercial, professional, academic, scientific, cultural or sports relations between the two countries. Parliamentary document 7107/00 of 17 January 2017.
- <sup>463</sup> Parliamentary document 7107/00 of 17 January 2017, « Exposé des motifs », p.5.
- <sup>464</sup> Documentation on these projects is available at the OLAI, which manages them. See: <http://www.olai.public.lu/fr/fonds-programmes/amif/index.html>
- <sup>465</sup> Information provided by the Directorate of Cooperation, Development and Humanitarian Action, Ministry of Foreign and European Affairs on 9 January 2016.
- <sup>466</sup> *Ibidem.*
- <sup>467</sup> *Programme Indicatif de Coopération (PIC) 2012-2017*, See: <http://www.cooperation.lu/2015/fr/668/S%C3%A9n%C3%A9gal>
- <sup>468</sup> Information provided by the Directorate of Cooperation, Development and Humanitarian Action, Ministry of Foreign and European Affairs on 9 January 2016.
- <sup>469</sup> *Ibidem.*
- <sup>470</sup> *Ibidem.*
- <sup>471</sup> *Ibidem.*
- <sup>472</sup> Centre d’étude et de formation interculturelles et sociales (CEFIS), “CAP MOB LUX: Une étude sur la communauté capverdienne”, URL: <http://www.cefis.lu/page6/styled-4/index.html>
- <sup>473</sup> Government of the Grand Duchy of Luxembourg, Minister of Cooperation and Humanitarian Action, “Deklaratioun vum Minister Romain Schneider iwwert d’Lëtzebuurger Entwécklungspolitik. Chambre des députés – 23 November 2016”, 23 November 2016, in: *gouvernement.lu*, URL: [http://www.gouvernement.lu/6528186/Discours-ChD-2016\\_luxembourgeois.pdf](http://www.gouvernement.lu/6528186/Discours-ChD-2016_luxembourgeois.pdf)
- <sup>474</sup> Information provided by the Directorate of Cooperation, Development and Humanitarian Action, Ministry of Foreign and European Affairs on 9 January 2016.

The European Migration Network, created by Decision No 2008/381/EC of the Council of 14 May 2008, has the aim of providing up-to-date, objective, reliable and comparable information on migration and asylum to Union institutions, authorities and institutions of Member States and the general public with a view to support policymaking and facilitate the decision-making process within the European Union.

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