



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013

ENAR SHADOW REPORT

**Racism and related discriminatory practices in
employment in Luxembourg**

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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Executive summary

The situation of the labour market in Luxembourg is particular because of two main specificities: a particularly high percentage of foreign labour and cross borderers.

The Report is about how discrimination is working or not working in this particular expanding labour market.

The question of discrimination in the labour market is not easy to tackle in light of the limited information, data and statistics available for analysis.

As a result, we need to question if there is hidden discrimination that does not appear at first sight as it is neither brought to the attention of Trade Unions, nor of the civil society, nor of the Courts.

The rather good general economic situation in Luxembourg, the growth of the population through migratory balance may serve as explanations for the lack of data and of the few cases of discrimination in employment.

After examining these issues, our conclusion will be that that employment discrimination does not seem to be a particularly great problem in Luxembourg.

There has been no real awareness of discriminatory issues nor has this area been seen as a priority. The late transposition of the 2 European Directives of the year 2000 is a good illustration of the political will: if something has to be done, it will be done but only the bare minimum.

In relation to the equality body , the Centre for Equal Treatment should have the capacity to bring a case to court or to take binding decisions, and should be granted more financial means instead of having their budget reduced from 220.000 € in 2009 to 81.000 € in 2012.

- Regarding the legal framework, the anti-discrimination provisions applicable to the civil servant and private employees should be combined and provided for by one single law. Therefore the opposition of the strong civil servant lobby should be surmounted.
- While conducting the research for the Report, a lack of a specific system for the measurement of equality has been noticed.¹ To improve the antidiscrimination policy a first step would be the coordination of the bodies involved: CET, Labour Inspection, Unions, Employers' organisations.
- As for judicial complaints, the data available from the public prosecutor and the police should be combined and registered in a common data base.

¹ Jacobs A., Mertz F., Wagner R., "Manuel luxembourgeois sur les données relatives aux discriminations et à la diversité", RED N°16, CEFIS, p.59.

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1. Introduction

Racism is a reality in the lives of ethnic and religious minorities in Luxembourg. The extent and manifestations of this fact are often unknown and undocumented, especially with regard to official data sources. As a consequence, it can be difficult to analyse the situation and to establish solutions. Even when there is extensive official data, NGOs offer a vital alternative data source, which comes directly from the experiences of individuals and communities experiencing racism on a daily basis. The ENAR Shadow Reports have become a major tool for monitoring the situation of racism and xenophobia in EU Member States. Both ENAR's national and European Shadow Reports have proved to be an invaluable documented starting point for strategic and coordinated action, particularly for anti-racist civil society advocacy towards national governments, the European institutions, bodies and the media.

The aim of this report, therefore, is to contribute to knowledge and to provide insight from activists and professionals on the ground working to combat racism and discrimination in Luxembourg as an advocacy tool by which to influence policy. This report takes on a more narrow focus than previous reports, by exploring the situation of racism and discrimination in the field of employment in Luxembourg for the period of March 2012 to March 2013. The results will be used at national level to influence policy developments and will be further compiled into a European comparative report to influence European policies. With improved statistical and comparative data, the Shadow Reports will have a demonstrable impact for changing policy and bringing about necessary policy reforms.

The current geopolitical and economic context has affected Luxembourg as well, even though the consequences have not been as harsh in comparison with other European countries. The public deficit has risen, unemployment has reached 6.1 per cent overall, and youth unemployment stands at 12.5 per cent.²

Since the end of the nineteenth century, migration has significantly contributed to the economic and social development of the Grand-Duchy of Luxembourg.

After World War II, most migrants were Germans and Italians; however, since the 1970s, Portuguese migrants have become the predominant group. In 2011 " 61.2% of the population of Luxembourg has a migration background, directly or indirectly through the parents. In contrast, 38.8% of residents have no migration background (born in Luxembourg with Luxembourgish citizenship and both parents also born in Luxembourg). The migration background of a person can be apprehended through its nationality, its place of birth, but also through the birthplace of parents. Foreigners born abroad (with the two parents also out of Luxembourg) represent 32.0% of the total population. Their average age of arrival in Luxembourg is 26.0 years. Nearly one-tenth of the population (8.5%) was born in Luxembourg with the two parents born abroad and with a foreign nationality. In this group, we find for almost half of them Portuguese. 4.6% of residents were born in Luxembourg with the two parents born abroad. In this group, for almost six out of ten people, the two parents were born either in neighbouring countries of Luxembourg, or in a country where migration to Luxembourg are important (Portugal, Italy, Cape Verde). 4.3% of persons resident in Luxembourg with Luxembourgish citizenship are born abroad with their both parents were also born abroad. This group includes immigrants born abroad who have been naturalized (94.9% of cases). Also note that 11.3% of the population also has a migration background through one of their parents."³ To a large extent, this is the result of a policy carried out by the authorities to limit immigration mainly to white, Catholic Europeans.

² STATEC (National Statistic Institute) September 2012, page 1-4

³ STATEC (National Statistic Institute), September 2012, pages 1-4

Given Luxembourg's ageing population⁴, having a large migrant workforce is considered an economic necessity. In 2010, 32.5 per cent of the work force was comprised of Luxembourgers, 25.8 per cent of foreign residents and the remaining 42.8 per cent consisted of people crossing the border each day from France, Belgium and Germany⁵. Immigration is thus a triple challenge--it is necessary for economic growth and demographic survival. Those high percentages of foreigners not integrated in the democratic process create an important democratic deficit and, thus, a political challenge for the country less and less people making political choices for a growing foreign population.

The immigration from within the EU is a strong characteristic of Luxembourg, reinforced by the number of workers who commute every day. The economic crisis in the southern EU member states has brought many new migrants from Southern Europe to Luxembourg, and this has caused an increase in immigration numbers. The number of Portuguese immigrants fluctuated significantly from 2007 till 2011, going from 2 283 in 2007 to 3 506 in 2011. In 2007, only 141 Italians migrated to Luxembourg, but that number drastically increased to 557 in 2011. During the same period, Serbian migration went from 169 to 653. The total number of Portuguese, Spanish, Greek, and Italian immigrants rose from 2,459 in 2007 and to 4 550 in 2011⁶.

The past 30 years have been a period of almost full employment⁷ in Luxembourg and the economy has seen the creation of many new jobs, as well as an increase in the working age population. The unemployment rate has remained stable over the past 30 years, fluctuating between two and three per cent, and has risen only to six per cent in the last years of the economic crisis⁸. During this period there appeared to be no real need for a debate on immigration: immigrants arrived, settled in the country and due to economic growth, immigration was perceived as a 'win/win' situation for both the migrants themselves and the natives. The only discourse that took place concerned as to whether migrants' integration process in Luxembourgish society was smooth and successful. No explicit policy regarding immigration and integration existed. The Law⁹ on entry and residence of foreigners dates from 1972, and targeted non-EEC workers. In fact, only a minor change has been made since 1972, concerning the duration of the different working permits. The 1972 legislation was enacted mainly in response to the Portuguese migrants who were Luxembourg's main foreign labour force for a long time. However, given that Portugal became a member of the EU in 1986, this legislation was changed to take into account third-country nationals (TCNs) and to transpose with years of delay the European directives into national law¹⁰.

The legal definition of migrants under Luxembourgian legislation will be examined and a general statistical overview will be provided, along with an assessment of the labour market in general and

⁴ STATEC (National Statistic Institute) April 2013, page 1-4

⁵ STATEC (National Statistic Institute)

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=386&IF_Language=eng&MainTheme=2&FldrName=1&RFPPath=71

⁶ STATEC (National Statistic Institute)

http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=eng&MainTheme=2&FldrName=3

⁷ STATEC (National Statistic Institute)

http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=eng&MainTheme=2&FldrName=3

⁸ STATEC (National Statistic Institute)

http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=eng&MainTheme=2&FldrName=3

⁹ Loi du 28 mars 1972 sur l'entrée et le séjour (Law on entrance and staying)

¹⁰ Loi du 29 août 2008 portant sur la libre circulation des personnes et immigration (Law on free circulation and immigration)

the legal framework applicable to cases involving discrimination. In order to assess whether employment discrimination is deemed to be an important issue in Luxembourg, the judicial actions involving discrimination, both in relation to employment and access to employment, will be investigated. This will be followed by a consideration of how employment discrimination is dealt with in both the judicial and non-judicial areas, and how it is handled in the public and private sectors. After examining these issues, our conclusion will be that that employment discrimination does not seem to be a huge problem in Luxembourg.

1.1 Definitions

It has become common, that anyone who is not a native Luxembourgish be considered a 'migrant', irrespective of his background. Society at large and the media consider them all as migrants. Legislation regulating immigration only refers and applies to non – EU nationals (third country nationals (TCN's)). There is no legal definition for the term "ethnic minority" and the term is used only in a research contexts.

The term "foreigner", which has been defined by the Law of the 16th December 2008, refers to any person who does not have Luxembourg nationality and who has either exclusive another nationality or no nationality. The same law deals as well with EU citizens and their free movement as with Third Country Nationals. The term has also been used in the media and echoed in political speeches¹¹. Furthermore, the immigration policy, which also addresses the struggle against discrimination, makes no reference to ethnic origin.

'Foreigners', (EU citizens and Third Country Nationals) as defined by law, make up 44.5% of the population in Luxembourg and although this is far greater than the European average (6.2% in 2010), the percentage of TCN's is among the lowest in Europe.¹² Only 14% of 'foreigners' in Luxembourg in 2010 were TCN's, as compared to the European average of 63% of the foreigners in 2010.¹³

Ethnic minorities and religious minorities are not defined or recognised by national law, and moreover, no differentiation is made by law between ethnic minorities with migrant background and ethnic minorities without migrant background.

¹¹ « Discours et politiques d'immigration et d'intégration au Luxembourg (1974-2002) » dans 20 ans de discours sur l'intégration (sous la direction de Vincent Ferry, Piero-D. Galloro, Gérard Noiriel ; coordination de l'ouvrage : Mairie de Talange), L'Harmattan, 2005.
http://www.cdmh.lu/resources/pdf/_base_documents/0367752603.pdf

¹²Eurostat,
http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Migration_and_migrant_population_statistics/fr

¹³ Jacobs A., Mertz F., "L'intégration au Luxembourg, Indicateurs dynamiques et sociales, parcours des personnes originaires du Cap-Vert et de l'Ex-Yougoslavie ", *RED N°14*, CEFIS, p.68.

1.2 Statistical overview

Rates of birth, death, immigration and emigration 1980 - 2011

Year	1980	1990	2000	2005	2006	2007	2008	2009
Spécification								
Population	364 200	381 850	436 300	465 125	472 600	480 000	488 650	497 800
Increasing (‰)	3,84	13,36	12,38	16,90	15,02	15,86	19,85	17,20
Birth rate (‰)	11,45	12,93	13,12	11,55	11,67	11,41	11,45	11,33
Death rate (en ‰)	11,29	9,88	8,60	7,78	7,97	8,05	7,36	7,35
Natural increasing ‰)	0,15	3,05	4,51	3,76	3,70	3,36	4,09	3,98
Immigration rate (‰)	20,21	26,92	26,97	30,95	30,37	34,74	36,34	31,64
Emigration rate (‰)	16,48	16,60	16,81	17,82	19,04	22,24	20,58	18,42
Net immigration rate (‰)	3,73	10,32	7,86	13,14	11,32	12,50	15,76	13,22

Statec

Employees	June 2013
Total	362000
Résidents	202800
Luxembourgers	104500
EU residents	87500
Third country nationals residents	10800
Cross border workers	159600

Source : Statec¹⁴

¹⁴ Statec B3002 Emploi salarié intérieur par lieu de résidence et nationalité (x 1 000 personnes) June 2013
http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=7255&IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=92

STATEC	Population by sex and nationality				
	1981	1991	2001	2008	2013
Population					
Total Population (x1000)	364.6	384.4	439.5	483.8	537
women in the total population	186.7	196.1	223	244.2	268.6
Luxembourgers	268.8	271.4	277.2	277.9	298.2
foreigners (x1000)	95.8	113	162.3	205.9	238.8
of which					
- Portuguese	29.3	39.1	58.7	76.6	88.2
- Italians	22.3	19.5	19	19.1	18.3
- French	11.9	13	20	26.6	35.2
- Belgians	7.9	10.1	14.8	16.5	17.6
- Germans	8.9	8.8	10.1	11.6	12.4
- British	2	3.2	4.3	5	5.7
- Dutch	2.9	3.5	3.7	3.8	3.9
- Other EU	10.6	6.6	9.2	17.9	24.8
- Others	...	9.2	22.5	28.8	32.7
Foreigners in %	26.3	29.4	36.9	42.6	44.5

Source : STATEC – RP 2011

Religious affiliation is considered highly sensitive and confidential information in Luxembourg. The collection and analysis of these types of data are forbidden (with certain exceptions¹⁵) so the Census is unable to collect or present such information. Public administrative data banks do not hold such information, making it impossible to establish a quantitative link between individuals' religious affiliations and their socio-demographic situation.¹⁶ The following data are based on the European Value Study of 2008¹⁷ and are able to present the following picture:

- 73 % of the residents belong to a Christian religion
 - 68.7% are Catholics
 - 1.8% are Protestants
 - 1.9% belong to another Christian religion
- 2.6% belong to a non-Christian religion
- 24.9% do not belong to any religion

According to a report¹⁸, 8 000 to 12 000 Muslims are estimated to live in Luxembourg, which represents about 2% of the population. According to François Moysse, who chairs the Consistoire

¹⁵ Article 6 de la Loi modifiée du 2 août 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel. Mémorial A91, 13 août 2002.

¹⁶ Mertz F., "Rapport national 2012 Discrimination selon la religion ou les convictions", CEFIS, 2012.

¹⁷ Statec N° 2010-12 Les valeurs au Luxembourg : Premiers résultats du programme European Values Study. Enquête 2008 sur les valeurs , page 12.

¹⁸ Besch S., in Nielsen Jørgen S., "Yearbook of Muslims in Europe", Volume 3, Brill, 2011.

Israelite (Jewish Consistory), through an information provided by mail, estimates that approximately 1 500 Jews live in Luxembourg.

2. The context: labour market and legal framework

2.1 Outlook of the labour market

Luxembourg is a small, stable, high-income economy which benefits from its proximity to France, Belgium, and Germany. According to a survey by Eurostat¹⁹ in 2011, the Gross Domestic Product (GDP) of Luxembourg was 43 000 million Euros, and the national GDP per capita in 2011 was 82 100 Euros. Luxembourg thus ranks first in the EU.

The economy of Luxembourg is largely dependent on the banking, steel, and industrial sectors. The initially strong industry sector, mainly dominated by steel, has increasingly diversified to include chemicals, rubber and other products. Growth in the financial sector, which now accounts for about 27% of GDP, has more than compensated for the decline in steel. The economy in Luxembourg is unique as it depends quite heavily on foreign and cross-border workers which make up around 43% of its labour force. The unemployment rate, standing at around 6.9% in June 2013, is still below the EU average.²⁰

The economic crisis however has also affected the Luxembourgian economy. Following strong expansion in the service and banking sectors from 2004 to 2007, its economy contracted 3.6% in 2009, and rebounded in 2010-11 before slowing again in 2012²¹. In 2009, a budget deficit of 5% resulted from government measures to stimulate the economy, especially the banking sector, in response to the world economic crisis. Nevertheless, the deficit was cut to 1.1% in 2011 and 0.9% in 2012. Public debt remains among the lowest of the region, and the country's economy, while stable, grew slowly in 2012 due to the on - going limited economic growth in the euro area.²²

In Luxembourg we have to consider the three components of the labour market: The nationals, the foreign residents and the cross border workers

The activity rate in Luxembourg stands at 67.66% (250 832 out of a total of 370 749 persons between the ages of 15 and 64), and the employment rate in Luxembourg is 63.21% (234 362 citizens are employed out of a total of 370 749 persons between the ages of 15 and 64)²³.

It is important to note that in the particular situation of the Grand-Duchy, the number of cross border workers have not been included in the employment and activity figures published by the 2001

¹⁹ Eurostat

http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/GDP_per_capita_consumption_per_capita_and_price_level_indices#Data_sources_and_availability

²⁰ Eurostat

http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/GDP_per_capita_consumption_per_capita_and_price_level_indices#Data_sources_and_availability

²¹ Statec

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=934&IF_Language=eng

²² <https://www.cia.gov/library/publications/the-world-factbook/geos/lu.html>

²³ Statec

http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=91

General Census. Instead, cross border workers have been estimated separately and in May 2013, they reached 158 428.²⁴

No information has been found about the occupational level, from either the state or from the IGSS (Inspection générale de la sécurité sociale), except a table of Statec²⁵.

The number of self-employed individuals between the ages of 15 and 64 is 22 225, 6% of 370 749²⁶. The percentage of self-employed amongst the active population is 8.9%.

No information has been found regarding an overrepresentation of particular ethnic or religious minorities in certain industries or sectors, hidden unemployment statistics or about the representation of migrants or ethnic/religious minorities in more precarious jobs. There appear to be no studies highlighting ethnic labour market segmentation.

The Agency for employment has provided some statistics²⁷ about the TCNs registered at the Agency the 31st of May 2013:

1) Cape- Verde	309, thus 1.9%
2) Ex-Yugoslavia (until the 23.07.2003)	293, thus 1.8%
3) Serbia and Montenegro	153, thus 0.9%
4) Brazil	150, thus 0.9%
5) Bosnia-Herzegovina	147, thus 0.9%
6) Montenegro	119, thus 0.7%
7) Morocco	91, thus 0.6%

It is difficult to obtain precise information about the representation and activity of migrants in the informal economy, as the collection of data based on ethnic origin or religious affiliation is prohibited.²⁸

The regularisation campaign²⁹, which took place in January and February 2013, can help paint the picture of migrant participation in the informal economy. The goal of this campaign was to give undocumented migrants, who had worked in Luxembourg for a nine-month period, the possibility to

²⁴ Statec

http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=91

²⁵ Statec

http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=91

²⁶ Statec

http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=487&IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=92

²⁷ ADEM, (employment Agency) numbers provided on request, <http://www.adem.public.lu/>

²⁸ Article 6, Loi modifiée du 2 août 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel. Mémorial A91, 13 August 2002.

²⁹ Question parlementaire No 2787

http://www.chd.lu/wps/portal/public!/ut/p/b1/!Y3LDolwFEQ_qZfb0seSR62gotBgpBvDwhgSHhv91sTN4alOrvJzMkhijQICKEIkAlYlm5s7921vXXT2PbP7vg5xfRYZQzBiJIB5joXtS2oInwfgn-AD4ngnd9rywHpgUaVRb-zF49S2spEO61UHUMGSWB1GSnk-Jt_QbDAGzXjZaK81ZTbTRKEYCz90z8XfOGL9TRcyOD6IY98ALvUOQ0!/dl4/d5/L0IDU0IKSWdrbUEHIS9JRFJBQUlpQ_2dBek15cXchLzRKQ2IEb01OdEJqdEJIZmxDRUEhL1o3X0QyRFZSSTQyMDg5SkYwMk4xU1U4UU8zSzE1LzA!/?PC_Z7_D2DVRI42089JF02N1SU8QO3K15019404_secondList=&PC_Z7_D2DVRI42089JF02N1SU8QO3K15019404_acti on=document&PC_Z7_D2DVRI42089JF02N1SU8QO3K15019404_selectedDocNum=1#Z7_D2DVRI42089JF02N1SU8QO3K15

become regularised through an unlimited work contract. Out of 652 people asking for regularisation, 230 were Chinese, 105 were Brazilians, 66 were Montenegrins, 59 were Cape Verdeans and 43 were Serbs.

They were employed in the following economic sectors:

- Horeca (hotels/restaurants/cafes): 387 people
- Private households: 112 people
- Crafts: 69 people
- Construction: 45 people

As a response to a parliamentary question³⁰ asked by the deputies, Mrs V. Loschetter and Mr F. Braz on the 24th of June 2013, the Minister for Work, Employment and Immigration made the following statement: "In view of what precedes, it turns out that the sector HORESCA is by far the economic sector which is most affected by the illegal work of Third Country Nationals who stay illegally in the country."

The Minister speaks out an all-known evidence, but beside the regularisation campaign showed little action to fight these situations.

Access to the public sector is limited to people with Luxembourgian nationality; however, those public-sector positions not linked to sovereignty (justice, police) are also open to EU citizens. As a result, it is only through naturalisation that TCN's are able to gain access to public-sector employment.

No information could be retrieved regarding the position of migrants or religious minorities in employment. However, according to the CEFIS³¹, it has been reported that Muslims' socio-economic position is suffering. This condition was brought about because many of them arrived in Luxembourg as refugees during the wars in former Yugoslavia and often their diplomas and professional credentials have not been recognised. Unfortunately there are no other sources in this field and no statement on this issue from the Shoura.

The financial crisis appears to not have had a great impact on the general labour market in Luxembourg. It should be noted that the unemployment rate has not significantly increased since the economic crisis hit. This is due in part to the fact that the unemployment figures of daily border crossers are not included in the general unemployment rate for the whole country. Temporary work through specialised agencies however has diminished by 28% in 2009³² as companies first reduce the temporary workforce before laying off regular personnel.

According to a study by the Agency for the Development of Employment (ADEM)³³ after the financial crisis began, the number of jobseekers having been employed in Luxembourg going back to their country of origin and enrolling in the employment agencies. Unfortunately no figures are available about their specific situation. We might admit that most of them were nationals of their respective countries. This 2012 report however did not appear to demonstrate that there was an increase of a specific group or minority who were job-seeking.

³⁰ Loschetter V, Braz F, Question parlementaire No 2787

³¹ Cefis, "Discrimination selon la religion ou les convictions", *Rapport National 2012*, p. 9.

³² Clement F., "La situation du travail intérimaire luxembourgeois en temps de crise ", *Cahiers transfrontaliers d'EURES Luxembourg*, n°1/2012, p. 6.

³³ ADEM (Employment Agency)

http://www.adem.public.lu/publications/rapports/rapport_annuel_2012.pdf page 23

The small number of persons belonging to minorities makes little statistical impact on data and probably has very little effect on different employment positions.

One explanation for the lack of available data is the fact that daily border crossers are never included within the discrimination data, but still represent 45% of the Labour force. Border crossers can also include migrants from countries outside the EU, who have different religious and ethnic backgrounds.

Furthermore, the collection of religious and ethnic data is prohibited in Luxembourg.³⁴

2.2 Legal framework

The Law of the 19th of July 1997 modified the anti-discrimination provision in the Criminal Code (article 454)³⁵ now prohibits discrimination based on origin, skin colour, family situation, age, health, handicap, customs, political or philosophical opinion, trade union activities, and the adherence or non-adherence, actual or perceived membership, of an ethnic group, nation, race or religion. The Law 28/11/2006 included the category of age to these parameters. The Law fights direct and indirect discrimination.

Article 455-6³⁶ of the Criminal Code sets out the sanctions for discrimination for anyone (a physical or moral person, a group or community of persons) thereby referring expressly to the refusal to hire, sanctioning or dismissal of a person. Sanctions may go from 250 to 25 000 euros or 8 days to 2 years of prison.

After the judgment by the EU Court of Justice ³⁷ for having failed to transpose the EU anti-discrimination directives³⁸ that were passed in 2000, an anti-discrimination law was adopted and the Centre for Equal Treatment (CET)³⁹ was created. This agency has limited powers, as it cannot bring cases before the Court.⁴⁰ CET makes reports, campaigns, conferences.

After a substantial delay, EU directives 2000/43/CE and 2000/78/CE were incorporated into Luxembourgish Legislation by two different laws in 2006.

The Law of the 28th of November 2006 incorporates both EU Directives 2000/43/CE and 2000/78/CE which promote the principle of equal treatment specifically in to the field of employment. This law changes the “Code du Travail” (Labour Code) by introducing a new title V: “*Equal treatment in employment and work*”.⁴¹ Discrimination on the basis of religion or belief, disability, age, sexual orientation, race or ethnic origin is prohibited. The anti-discrimination provisions are applicable only to private-sector employees and address access to employment, access to professional training, employment and work conditions, and trade union affiliation.⁴² A difference in treatment is not considered as discriminatory if it has a legitimate aim. That is, if the difference in treatment is proportionate to the aim pursued and if the required characteristic is an essential professional requirement.⁴³

³⁴ Article 6, Loi du 2 August 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel, 13 August 2002.

³⁵ Loi du 19 juillet 1997 contre le racisme (Law against racism).

³⁶ Loi du 19 juillet 1997 contre le racisme (Law against racism).

³⁷ C 70/05 of 20 October 2005. Reference: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-70/05>

³⁸ EU Directives 2000/43/CE and 2000/78/CE.

³⁹ <http://cet.lu/>

⁴⁰ Loi Egalité de traitement, Mémorial N°207, 28 November 2006.

⁴¹ Article L-251-1 Labour Code.

⁴² Article L. 251-2 (1) Labour Code.

⁴³ Article L.252-1 (1) Labour Code.

The Law of the 28th of November 2006 also creates a “Centre pour l’égalité de traitement (CET)” (Centre of equal treatment).⁴⁴

Civil servants are covered by the Law of the 29th of November 2006, which introduces a general prohibition of discrimination based on religion or belief, disability, age, sexual orientation, race or ethnic origin in relation to civil servants of the State and of the Communes.⁴⁵

Law of the 29th of August 2008 is entitled “Loi sur la libre circulation des personnes et immigration” (Law concerning the free movement of people and immigration). This law modifies the conditions relating to the entry, residence and work permits of immigrants from outside the European Union. This law also introduces the concept of double nationality into Luxembourgian legislation.

Law of the 13th of Mai 2008 incorporates the EU directive 76/207/CEE relating to the principle of equal treatment of men and women in relation to access to employment, professional education, professional promotion and the employment conditions.

Access to employment is protected by Article 11(4) of the Constitution and Article 15 of the Charter of the Fundamental Rights of the European Union.

A major gap in the legal transposition is created by the coexistence of two different laws relating to discrimination in employment, as civil servants and private-sector employees are not covered by the same law. This deficiency has been noted by bodies such as the “Chambre du Travail”⁴⁶ or the Conseil d’Etat (Council of State) stating that a double standard does not make sense and that the CET is a “dentless tiger”.⁴⁷

Furthermore, the Labour Code creates a hierarchy among the grounds for discrimination by punishing only employment offers which are contrary to the principle of equal treatment between men and women punishing⁴⁸ employment offers that discriminate on this ground with a penalty going from 251 to 2 000 euros but not on grounds of origin, religion or nationality.

The Law 28/11/2006 does not cover discrimination on the basis of nationality or language, both not covered by EU directives. They however have a particular importance in the Luxembourgian multilingual situation where you may exclude somebody from a job for not knowing the 3 administrative languages (Luxembourgian, German and French) even if knowledge of these languages is not a direct requirement for the job in question. It is also rarely applied because many lawyers are unfamiliar with the law. This deficiency has been noted and criticized by the ECRI.⁴⁹ “Some shortcomings in the law of 28 November 2006 remain to be remedied. For example, the law does not cover nationality, language or colour, as advocated in ECRI’s General Policy Recommendation no. 7 on national legislation to combat racism and racial discrimination. However, it should be noted that Article 454 of the Penal Code forbids discrimination based on skin colour and citizenship. This lacuna is only partially filled, as discrimination based on language is not forbidden.

ECRI is also informed that not one case has come before the courts in respect of this law although it

⁴⁴ Article 8 - Article 17, Loi Egalité de traitement”, Mémorial N°207, 28 November 2006.

⁴⁵ Article 1bis of the Law 16 April 1979.

⁴⁶ Avis de la Chambre du Travail du 13 février 2004.

⁴⁷ Avis du Conseil d’Etat du 31 mars 2006.

⁴⁸ Loi du 13 mai 2008, art 241-11 <http://eli.legilux.public.lu/eli/etat/leg/loi/2008/05/13/n3> (art 241-11).

⁴⁹ ECRI, “Report 2012 about Luxembourg”, 2012, <http://www.refworld.org/docid/513dacc52.html>

has been in force since 2006»⁵⁰. « ECRI recommends that the Luxembourg authorities collect data on any racist violence there may be in Luxembourg. It also recommends that they carry out campaigns designed to encourage victims of this kind of act to make a complaint⁵¹».

The CET and the Labour Inspectorate are responsible for the implementation of the Directive 2000/78/EC. The objective is to promote, analyse and supervise the equal treatment among all people.⁵² The authority of the CET is not limited to discrimination in the employment field.

The Labour inspectorate is responsible for the implementation of the principle of equal treatment as set out in the Law of 28/11/2006, but only in relation to workers and private-sector employees. The powers of the Labour inspectorate are set out in the Labour Code, for instance the monitoring of work permits or security rules in a company.

3. Manifestations of racism and structural discrimination in employment

3.1 Perceptions of discrimination in employment

The Centre for Equal Treatment has a broad definition of “discrimination” that refers to discrimination as being either direct or indirect, real or presumed, based upon membership or not, on the basis of a given race or ethnic group, gender, sexual orientation, religion or beliefs, disability or age. This definition is similar to the one used in the Law 28/11/2006.⁵³ The “Chambre des salariés” also uses a similar definition.⁵⁴

As is the case with the procurement of data on religion, it is forbidden to collect data related to race or ethnic origin.⁵⁵

In general, labour market discrimination is not perceived as a major issue in Luxembourg. Most bodies like Unions the CET solicited in July 2013 reported no knowledge of any case of employment discrimination. The chair of the Trade Union OGB-L Jean-Claude Reding replied that the union had received no complaint of employment discrimination through the Counselling, Assistance and Information Service of the OGB-L. The LCGB Info-Centre that is responsible for recording any discriminatory behaviour has not had any case submitted to them during the period mentioned.

Different lawyers interviewed in the same period replied that they had not dealt with any employment discrimination case.

According to the ADEM (Employment Agency) discrimination in the labour market does not seem to be a big problem in Luxembourg, as the few complaints which have been investigated by ADEM (no numbers provided) were revealed to have no substance. According to the same agency, there has been no evidence that an employer directly or indirectly discriminates on the basis of nationality or ethnic origin.

⁵⁰ ECRI, “Report 2012 about Luxembourg”, 2012, p. 16 recommandation Number 25.

⁵¹ ECRI, “Report 2012 about Luxembourg”, 2012, p.26 recommandation Number 78.

⁵² Loi Egalité de traitement, 28 November 2006, Mémorial N°207.

⁵³ <http://cet.lu/en/la-discrimination/>

⁵⁴ http://discrimination.csl.lu/files/04186_droit_travail_discrimination_10-2012_Fr_Web.pdf

⁵⁵ Article 6, Loi relative à la protection des personnes à l’égard du traitement des données à caractère personnel, 2 August 2002.

According to a study conducted by CEPS/INSTEAD, where four groups of foreigners were interviewed as to whether they had faced discrimination based on their ethnic origin during the last five years, 16, 1% reported feeling harassed at work and 12,6% felt discrimination in access to employment.⁵⁶

According to a study⁵⁷ made in 2011 in which 1 025 persons were interviewed, discrimination based upon racial or ethnic origin has increased by 48% and discrimination based upon religion by 41%. However, very little subsequent action based on the complaints, whether judicial or extra-judicial, was carried out, as evidenced by the fact that 53% of the victims chose to take no further action and only 6% continued to file a judicial complaint.⁵⁸

The Luxembourg Shoura (Muslim Community in Luxembourg) stated that they were not aware of employment discrimination. However, there is anecdotal evidence from one Muslim employment manager telling us orally that a person with an Arabic name has more difficulties in having his CV selected, but no concrete case or further information had been given.

The National Council for Women and the Shoura affirmed us by mail that ethnic and religious background does not seem to be a frequent basis for discrimination in Luxembourg. According to the National Council for Women, women with a minority or migrant background do not generally feel discriminated against in employment. Also, the wearing of the headscarf is, in general, not a controversial issue in Luxembourg and there has not been so far an incident on this in the media.

There have been no new specific developments related to discrimination and racism in the labour market.

3.2 Incidence of discrimination in employment

Due to a lack of information, we cannot reach a conclusion as to which minorities suffer most severely from the present labour market situation.

No notorious incident or controversial event has been recorded to have taken place in the labour market during the reporting period between March 2012 and March 2013, neither in the previous years

3.3 Patterns of inequality over the course of time

After 09/11, Islamophobia which was not an issue in Luxembourg, as in many other European countries, became more evident.

On 31st of March 2003, house searches were carried out against 20 Muslim families residing in Luxembourg in an attempt to discover suspected Islamic extremists. Up until the present, these house searches have not led to any indictments. The methods used by the public forces were violent, affecting the dignity and private lives of those families. The Luxembourgian Courts have granted indemnities to four of the families directly affected by these searches.

There is no immediate impact on employment and according to the mail of the Shoura representative they don't know cases of discrimination in employment

⁵⁶ Ceps/Instead, "Enquête Migrants experiences of racism and discrimination ", 2005.

⁵⁷ Cefis, "Discrimination selon la religion ou les convictions", *Rapport National 2012*, p. 9.

⁵⁸ Survey realised via phone and online amongst 1 025 personnes- april-mai 2011, <https://www.tns-ilres.com/cms/Home/News/Publications/2011/Observatoire-des-discriminations-Printemps-2011>

3.4 Discrimination in access to employment

According to information received from the National Council for Women (Conseil national des femmes), they have not received any reports of discrimination based upon ethnic or religious motives, nor any complaints concerning the access of women to employment.

According to the CET, two cases reported to them have been related to discrimination in employment. In a case dated 01/02/2013⁵⁹, a person complained about discriminatory questions asked during a job interview. The CET made an inquiry about the company's internal employment procedure. This did not reveal any discriminatory elements in the written procedure. The interview had been conducted without witnesses and without a written notice. The complainant insisted that other questions had been asked as the ones being part of the procedure. CET insisted close to the company that the procedure must be strictly respected stated that they had already been informed about the applicable legislation.

- In a case dated 02/04/2013, a person had been seeking information about the "situation testing"⁶⁰, as he felt to have been discriminated in relation to access to employment. No further information was given

When listing unemployed people the Agency for the development of employment considers only the profile, not the nationality or ethnic origin to avoid any discriminatory procedure.

In Luxembourg, being able to forge good personal relations is very important in being able to secure employment, especially for men who do not hold a diploma, but have 5 or more years of professional experience.⁶¹ In the construction sector, 57% of the recruitment is done by referring family members, friends and third persons for positions.⁶² Due to the fact that in Luxembourg mainly men with a Portuguese background work within the construction sector, such a recruitment policy could lead to discrimination on the basis of ethnic origin or nationality. Furthermore, the job offers are not posted in a public space which immediately places migrants in a disadvantaged position.

The general trilingual requirements in Luxembourg could also be problematic as most foreigners do not speak Luxembourgish, German and French, which is likely to lead to discrimination in relation to access to employment, professional training and the civil service.⁶³ This evaluation was confirmed orally on July 4th by the head of the employment agency ADEM. Furthermore, applicants who wish to acquire the Luxembourgish nationality are obliged to take a language test which requires a very good

⁵⁹ List transmitted by CET to the author.

⁶⁰ What is Situation Testing?

Situation testing is a method according to which pairs are established in such a way that they differ solely on the basis of a single characteristic reflecting the discriminatory ground (gender, ethnicity, age, disability, religion or belief, sexual orientation) under scrutiny. If one of the members of the pair faces different treatment, the distinction points to discriminatory behaviour. In other words, the method of testing means setting up a situation, a sort of role play, where a person is placed in a position where s/he may discriminate without suspecting that s/he is being observed. This person is presented with fictional "candidates", some of whom possess a characteristic which may incite discriminatory behaviour. Observers aim to measure his or her behaviour towards people bearing this characteristic compared to others without it. *Isabelle Rorive 'Proving Discrimination Cases – the role of Situation Testing' co-published by MPG and the Swedish Centre for Equal Rights*

http://www.migpolgroup.com/projects_detail.php?id=25

⁶¹ Thomas A., "L'emploi dans le secteur de la construction", coll. *Cahiers transfrontaliers d'EURES 2/2013*, CEPS/INSTEAD, 2013, p. 8.

⁶² Ibid., Table 2.

⁶³ ENAR, Rapport alternatif d'ENAR Luxembourg 2011-2012, 2012, p. 4.

command of the Luxembourgish language, using words which aren't even familiar to the large part of the Luxembourgish spoken population.⁶⁴ Those language requirements in order to gain employment in Luxembourg apply to all applicants in general and do not directly discriminate on the basis of nationality or ethnic origin. Requiring knowledge of the three administrative languages (Luxembourgish, German and French) has of course an effect on who is able to do so and who would be chosen and thereby those requirements work as an indirect discrimination. In general, firms in Luxembourg are used to having a diverse working force.

Another issue to point to is that in general, CVs in Luxembourg are not anonymous and there is no legislation requiring the CV to be anonymous. There is no practice with anonymous CVs. This is to insert in the common view that discrimination is not a relevant issue.

Foreign qualifications are recognised in Luxembourg, as many students from Luxembourg study abroad. The process for recognising foreign qualifications is regulated by a law relating to higher education and to the approval of diplomas obtained in a foreign higher education system, dating from the 18th of June 1969⁶⁵. The law sets out the concrete procedure to be followed when studying one of the subjects set out in the first article, such as philosophy, languages, notary, medicine, dentistry, law, veterinary medicine and pharmacology. The recognition of diplomas can be obtained from the Minister of National Higher Education, after taking the advice of ad-hoc commissions. These criteria however only apply to regulated work.⁶⁶

As for regulated professions, often diplomas such as in Medicine or Law are not recognised immediately and it is customary that their recognition requires undergoing further procedures.

However, there seems to be a general problem with the recognition of foreign diploma, especially if the diploma has been obtained outside the EU. Many immigrants are faced with their diplomas not being recognised, and as a consequence, they often have to accept work for which they are overqualified.⁶⁷

Skills mismatch is therefore a problem in general in the labour market but, according to the ADEM, it does not specifically affect minorities and migrants. Despite the fact that foreign migrants whose foreign qualifications are not being recognised, therefore disadvantaging them greatly in the labour market, the ADEM insists that there is no skills mismatch issue in relation to migrants.

In Luxembourg, there is a law that prohibits Primary school teachers to wear any religious symbols to work.⁶⁸ No incidents have however been reported in this field.

3.5 Discrimination in the workplace

According to the Trade Union OGB-L, discrimination is not considered to be a big problem in Luxembourg and no cases have been raised to the Trade Union's attention.

⁶⁴ Ibid., p.12.

⁶⁵ Loi du 18 juin 1969 sur l'enseignement supérieur et l'homologation des titres et grades étrangers d'enseignement supérieur.

⁶⁶ Loi du 18 juin 1969 sur l'enseignement supérieur et l'homologation des titres et grades étrangers d'enseignement supérieur.

⁶⁷ Jacobs A., Mertz F., "L'intégration au Luxembourg, Indicateurs dynamiques et sociales, parcours des personnes originaires du Cap-Vert et de l'Ex-Yougoslavie", *RED N°14*, CEFIS, p.68.

⁶⁸ Article 5, Loi relative à l'obligation scolaire, Mémorial N°20, 6 February 2009. (Law on compulsory school)

According to the ENAR Luxembourg report 2012, some Muslim women claimed to have felt discriminated against in the workplace.⁶⁹ Unfortunately it was not possible to get further details on this issue.

According to a report which dealt with discrimination in employment in 2005⁷⁰, 29 companies out of 505 take into account specific religious or philosophical needs. 18 companies accommodate different dietary needs by offering a special menu in the canteen, seven companies grant special holidays for religious needs and four provide places of prayer. More recent data has not been found.

If an employee experiences discrimination, he/she has the right to report a complaint at the Centre for Equal Treatment⁷¹ or the Labour Inspectorate⁷². Complaints can also be brought before the company's staff delegation. There is no other independent complaint body on the job site that employees can address their complaints to.

According to the information transmitted by mail from the Chamber of Commerce, some companies have created an "Ethics committee" which is in charge of any complaint made by an employee about a potential case of discrimination. Those Committees, which are often supported by the employees' delegation, are not independent bodies.

3.6 Economic sectors

The Mobbing asbl⁷³ (non-governmental organisation) had 107 cases of mobbing⁷⁴ in 2012 from different sectors: 12% banks and insurance sector, 11% business, 17% public and municipal companies, 8% transport sector, 7% hotel and restoration sector, 7% education sector, 7% social services sector and the health sector, 6% industry, 5% real estate sector and 8% other sectors. Mainly small companies and the private sector were concerned (88%).⁷⁵

According to the same NGO, 29% of complainants had a university degree, 24 % had a high school diploma and 27% had a professional training qualification.⁷⁶

Every citizen being legally in Luxembourg has access to basic bank accounts and financial services. The conditions for bank loans are the same for all residents. The concept for micro credits is not yet implemented for residents.

⁶⁹ ENAR, Rapport alternatif d'ENAR – Luxembourg 2011-2012, 2012 p. 9.

⁷⁰ Besch S., Bodson L., Hartmann-Hirsch C., Legrand M., "Discrimination à l'emploi, Rapport au Commissariat du Gouvernement aux Etrangers", Sesopi-Ci/CEPS, 2005, p.38.

⁷¹ <http://cet.lu/>

⁷² Inspection du Travail et des Mines (Labour Inspectorate) <http://www.itm.lu/home.html>

⁷³ <http://www.mobbingasbl.lu/index.php/fr/>

⁷⁴ Self-definition of mobbing by Mobbing asbl: Workplace Mobbing

It is considered workplace mobbing when a member of a company behaves in an abusive manner repeatedly and deliberately with an colleague, employee or executive with the purpose of:

- Damaging their rights or their dignity
- Altering their working conditions or jeopardize their professional future by creating an intimidating, hostile, degrading, humiliating or offensive environment.
- Altering their psychological or physical health.

Mobbing and violence are due to unacceptable actions committed by one or several workers or executives, or even persons from outside the company that may want to violate the workers' or executives' dignity, damage their health and/or create a hostile environment at work.

<http://www.mobbingasbl.lu/index.php/fr/>

⁷⁵ Mobbing asbl Statistiques 2012, p.9 and p.10.

⁷⁶ Ibid., p. 13.

3.7 Geographical areas and relevant actors

As the Grand-Duchy of Luxembourg is a small country, there is no particular concentration of labour market discrimination and racism in a specific geographical area.

Only citizens who hold Luxembourgian nationality have access to the whole civil service and EU citizens are only eligible to apply to certain sectors within this. Private companies in Luxembourg generally are used to employing a mixed workforce, a large part of the employees being foreign.⁷⁷

4. Tackling the challenges

4.1 Public policies

The Luxembourg Reception and Integration Agency (OLAI)⁷⁸ is commissioned with the implementation of the Grand Duchy of Luxembourg's reception and integration policy. The OLAI also organises the reception, accommodation, and social supervision of applicants for international protection. For the years 2010-2014, the OLAI worked out a Multi-annual National Action Plan on Integration and Against Discrimination, which is subdivided into annual reports based upon an annual public consultation.⁷⁹ A consultation⁸⁰ was conducted by OLAI in April 2011 to find out the priorities to act on in the field of discriminations. It indicated that employment is considered by 56% of the participants in the consultation as among the first three priorities in the field of discrimination. In the consultation in April 2012, 58% of the applicants made a proposal how to fight discrimination in employment.⁸¹

On the MIPEX anti-discrimination ranking (Migrant Integration Policy Index, 2010), Luxembourg is in the 22nd position out of 31⁸², with a score of 48/100. Luxembourg is situated among those countries having slightly unfavourable anti-discrimination policies. This ranking illustrates the low political involvement in the antidiscrimination field.

The small number of officially reported discrimination cases, the non-availability of data, and the absence of governmental combat against racism and discrimination may serve to explain the lack of critique by the civil society.

⁷⁷ http://www.statistiques.public.lu/stat/TableView/tableView.aspx?ReportId=7255&IF_Language=fra&MainTheme=2&FldrName=3&RFPPath=92

⁷⁸ <http://www.olai.public.lu/fr/index.html>

⁷⁹ http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/plan/olai_plan_daction_uk.pdf

⁸⁰ Olai, "Summary of the results of the consultation on the 2013 priorities of the Multi-annual National Action Plan on Integration and against Discrimination 2010-2014". See :

http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/plan/Summary_results_consultation_2012_priorities.pdf

⁸¹ http://www.olai.public.lu/fr/publications/programmes-planactions-campagnes/plan/synthese_resultats_priorites_2013.pdf

⁸² <http://www.mipex.eu/anti-discrimination>

4.2 Access to effective remedies

4.2.1 Judicial remedies

Article 5 of the Law 28/11/2006⁸³ grants standing either to the victim himself/herself or to a non-profit organisation which has had a legal personality for five years or more and has the competence of representing others in such complaints procedures, i.e. it has acquired the requisite ministerial approval and will act in the defence of a collective interest. National Trade Associations are allowed to intervene as well, if they are represented either on a national level or within the specific sector concerned. The National Trade Associations and the non-profit organisations are allowed to intervene only if the victim expresses so.

An action can also be brought within the framework of a collective agreement. In such a case, every trade union which is a party to the collective agreement has a standing in cases where there is a general interest, except in situations where the potential victim manifests his/her opposition in writing.

According to the same Article 5, judicial proceedings can be brought either before a civil or administrative court. A judgment in relation to whether there has been discrimination or not, is delivered by the civil or administrative Courts or the Labour Tribunal, both bodies allowing an appeal and is binding on all parties concerned. If the decision is final, it will be immediately enforceable, thereby applying the general principles relating to the law on the enforcement of judgments in Luxembourg. No special fees or particular administrative proceedings are applicable.

According to Article 454 of the Criminal Code, a potential victim of discrimination can also file a criminal complaint, provided that the discrimination is classified⁸⁴ as an offence. In such a case the "Tribunal correctionnel" (Magistrates' Court) is competent.

Mediation is not a mandatory part of the court proceedings, as it is not mentioned as a legal requirement in reference to the judicial proceedings aforementioned.

According to the Public Prosecutor's office, no judgment has been issued concerning discrimination in employment between March 2012 and March 2013.

In 2010, the Employment Tribunal delivered a judgment⁸⁵ which clarified the extent of the burden of proof and of the presumption, as created by article L.253-2 of the Labour Code. The judgment establishes that a potential victim has to prove unequal treatment and a link of causality between the decision of the employer and the discriminatory factor.

The collection of evidence in civil and administrative proceedings falls upon the alleged victim of the discrimination. In cases where there is an intervention by an Association or a Trade Union, the latter can also collect and bring forward evidence in the Court. According to Article L-253-2 of the Labour Code, in order to facilitate the task of proving discriminatory behaviour, the existence of discrimination may be presumed by the case made by the victim and based on the presented facts.

⁸³ <http://www.legilux.public.lu/rgl/2006/A/3584/A.pdf>

⁸⁴ According to Criminal Code, Art. 454: « Discrimination is any distinction applied on a person based on their origin, skin colour, gender, sexual orientation, family status, age, state of health, disability, mores, political or philosophical opinions, trade union activities, their - actual or assumed - membership or non-membership of a specific ethnic group, nation, race or religion ».

⁸⁵ Judgment of the Labour Court 06/01/2010, répertoire fiscal no 23/2010.

The burden of proof then shifts to the other party who has to prove the absence of any violation of the principle of equal treatment.⁸⁶

Due to the very small number of cases, it is not possible to conclude about an average length of the proceeding.

The two judicial decisions cited above were not favourable to the applicants as the discriminatory behaviour could not be proven.

Judicial decisions rendered by an administrative Court, the “Court de Cassation”, which is the highest Court for criminal and civil proceedings, and the Constitutional Court are all published online.⁸⁷

Decisions of the lower Courts in Labour Law, Criminal Business Law and Family Law, are published in the Law Review « Juris-News »⁸⁸.

Civil and criminal jurisprudence is published every trimester in a Law Review called « Pasicrisie »⁸⁹. The latter however is not up-to-date as the decisions published mostly are already two years old.

The same principles of independence apply as for all the jurisdictions in Luxembourg as the complaint is handled either by a civil or administrative Court or by a criminal Court.

4.2.2 Non-judicial remedies

4.2.2.1 Ombudsman or equality body

The CET (Centre of equal treatment), composed of 5 members, was created by the Law of the 28th of November 2006. It is not an institution exclusively created to handle discrimination complaints in the field of employment. As a general body, the CET has as its aim to promote, analyse and supervise the equal treatment of all the people, without discriminating on the basis of race, ethnic origin, sex, religion or belief, handicap, and age.⁹⁰

The CET does have the power to publish reports, give recommendations and conduct studies in relation to the grounds listed above. The CET also has the power to assist potential discrimination victims by providing a counselling service on any judicial issue.⁹¹

According to a poll released in 2011, 48% out of 1 025 persons interrogated estimated the CET was a very important organ in the fight against discrimination.⁹²

The Labour inspectorate is exclusively responsible in the employment area, but does not have the power to issue a binding decision in relation to discrimination.⁹³

A person can contact⁹⁴ the CET by post, e-mail, phone, in writing and in person. All the information can be found on its website.⁹⁵ It is not clear whether it is possible to file a complaint anonymously, but in any case, the CET is bound by professional secrecy and only enquires as to the name, age and

⁸⁶ Ibid.

⁸⁷ <http://www.justice.public.lu/fr/jurisprudence/>

⁸⁸ Juris News <http://promoculture.davas-webdev.com/jurisnews.php>

⁸⁹ Pasicrisie <http://www.pasicrisie.lu/html/presentation.html>

⁹⁰ Loi du 28 Novembre 2006, “Egalité de traitement”, Mémorial N°207, Article 9.

⁹¹ Ibid., Article 10.

⁹² Survey realised via phone and online amongst 1 025 personnes- april-mai 2011, <https://www.tns-ilres.com/cms/Home/News/Publications/2011/Observatoire-des-discriminations-Printemps->

⁹³ See 4.2.2.3 below.

⁹⁴ CET. 26 Place de la Gare, L-1616 Luxembourg, Phone: (+352) 26 48 30 33, FAX: (+352) 26 48 38 73, Mail : info@cet.lu

⁹⁵ <http://cet.lu/>

nationality of the person. According to the report of 2012, 30,1% of the applicants did not indicate their nationality.⁹⁶ Once an application has been received by the CET, the situation of the applicant is classified among one of the eight categories⁹⁷ (six discrimination grounds, multiple discrimination, others). If the CET is able to detect a discriminatory element, it will advise the victim about the applicable legislation and jurisprudence, his/her rights and the procedure to be followed in order to enforce these rights. It could also assist a potential victim in the collection of evidence.

A statement of the CET is not judicially binding, is not published and cannot be enforced in a Court. In 42, 5% of the applications⁹⁸ in 2012 the CET acted as a counsellor.

In order to obtain an idea about how victims of discrimination or harassment at work deal with their situation and to whom victims revert to, it is useful to refer to the statistics of the NGO Mobbing asbl.⁹⁹

Out of 107 cases collected by them, 21% talked with their families about mobbing¹⁰⁰, 17% with a doctor, 16% with friends, 16% with colleagues, 12% with their supervisor, 6% with a Trade Union, 5% with the Staff delegation, 4% with the employment doctor, and the rest spoke with the ITM¹⁰¹, a lawyer and a psychologist.¹⁰²

During the reported period, 2 complaints¹⁰³ in relation to access to employment have been made to the CET. No further information about the profile of the victim or defendant has been provided and no judicial complaint has been filed.

In the case of the 01/02/2013¹⁰⁴, the CET reminded the defendant company about the procedure which had to be followed during a job interview. In this case, the interview was conducted in person without any witnesses. Only the oral evidence by the victim was available. No data is available in the field of employment distinguishing between the different reasons of discrimination. CET's statements are not binding, nor do they provide any remedies to the parties.

Even though the indemnities of the CET members and its staff are paid for by the Ministry of Family and Integration, it does not completely depend on the government, as is the case with the Ombudsperson.

The deficiencies of the CET however are numerous. First of all, the law only grants it very limited power, despite it being the main body which directly deals with the principle of equal treatment. It has restricted powers to give non-compulsory recommendations and to seek information from other institutions. Its competence does not include the public service in relation to access to employment and its financial possibilities have gradually been restricted: the accorded budget has been diminished from 220.000 € in 2009 to 81.000 € in 2012¹⁰⁵.

⁹⁶ CET, "Report of the activities 2012", <http://cet.lu/wp-content/uploads/2013/03/rapport-final-2012-site.pdf>

⁹⁷ Discrimination based on the six following reasons: membership or not, whether true or assumed, in a given race or ethnic group, sex, sexual orientation, religion or beliefs, a handicap or age.

⁹⁸ CET Activity report 2012, page 38.

⁹⁹ <http://www.mobbingasbl.lu/index.php/fr/>

¹⁰⁰ According to self-description on their website <http://www.mobbingasbl.lu/index.php/fr/>

Harassment is a misconduct, repeated and deliberate touching rights and dignity, influencing work conditions, touching physical or mental health.

¹⁰¹ <http://www.itm.lu/home.html>

¹⁰² Mobbing Asbl, "Statistiques 2012", p.35.

¹⁰³ CET Activity report 2012, page 36.

¹⁰⁴ CET decisions are not made public, but upon request, the CET furnished the necessary information about the case, but neither the identity of the victim nor of the company involved were revealed.

¹⁰⁵ CET Activity report 2012, page 8.

Secondly, as regards to the victims themselves, the body lacks the capacity to grant real justice, and this has been an aspect which has been severely criticized by the CET itself, as can be seen in its annual report¹⁰⁶ and in the ENAR report 2011/2012¹⁰⁷. Its decisions are not judicially binding and as a consequence the CET cannot impose any sanctions for non-adherence.

The Labour inspectorate has more extended investigation and decisional powers, but it is responsible for the employment area in general but is not specialised in the field of discrimination. The more extended powers conferred to the Labour inspectorate do not seem to be fully exploited by this public body.¹⁰⁸

The CET worked together with the IMS (Institut pour le Mouvement Sociétal/Institute of the social movement) in order to establish the “Diversity Charter.”¹⁰⁹ The Luxembourg Diversity Charter is a document with 6 articles, which can be signed by any business in Luxembourg where the signatory business commits itself to promote diversity by implementing tangible actions which go beyond its legal and regulatory obligations to ban discrimination in the workplace.¹¹⁰

The CEFIS (Centre for intercultural and social education and training) and the CET met with the INAP (National Institute of the civil service) to consider the elaboration of an e-learning platform concerning the fight against discrimination in relation to civil servants. This project is not yet implemented.

The OLAP (Office Luxembourgeois pour l'Accroissement de la Productivité/ Luxembourgian Office for the increase of productivity) offered a training held by the CET on 28 March 2011 done by François Moysse, lawyer, entitled « Equal treatment : the role of the employer »¹¹¹. Between ten and 20 employers from the public and private sector participated. Another training concerning the equal treatment in employment has been offered to the Trade Union “OGB-L “. Other training sessions about equal treatment however had to be annulled because of a lack of inscriptions, such as a national seminar organised by the CEFIS, entitled « Discriminations in Luxembourg: public governance and the discriminations based on religion or belief ».

The CET organized other activities such as information campaigns¹¹² and an information and reflection day about the « testing¹¹³ ». The CET also published an analysis of newspapers¹¹⁴ in relation to discriminatory job offers.

4.2.2.2 Mediation or conciliation

The Labour inspectorate has the power to act as a common interlocutor.¹¹⁵

The Centre of mediation assumes the role of mediator¹¹⁶. In 2012 only 0, 71%¹¹⁷ of the mediation requests were related to employment, no further information has been given.

¹⁰⁶ CET Activity report 2012, page 51.

¹⁰⁷ <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202011-12/Luxembourg.pdf>, page 28.

¹⁰⁸ Jacobs A., Mertz F., Wagner R., “Manuel luxembourgeois sur les données relatives aux discriminations et à la diversité”, RED n°16, CEFIS.

¹⁰⁹ <http://www.chartediversite.lu/pourquoi-charte-diversite-luxembourg>

¹¹⁰ <http://www.guichet.public.lu/entreprises/en/actualites/2012/10/03-charte-diversite/index.html>

¹¹¹ <http://cet.lu/2011/02/olap/#more-1042>

¹¹² CET activity report 2012, page 23.

¹¹³ CET activity report 2012, page 66.

¹¹⁴ CET activity report, page 39.

¹¹⁵ Article 612-1 (b) Labour Code.

4.2.2.3 Labour inspectorate

According to Article 241-10 of the Labour Code, the Labour inspectorate is responsible for the application of the anti-discrimination legislation. Article L-612-1 of the same Code lists its powers: The Labour inspectorate has to provide judicial information to employers and employees, and has to play the role of a common interlocutor. The Labour inspectorate however does not have the power to issue judicially binding decisions nor to impose any sanctions. It has the power¹¹⁸ to put an end to any situation of discrimination, to inform the prosecutor of an offence and to inform the Minister about any deficiencies or abuses of the legislative provisions and propose potential remedies. Since 2012, the Labour inspectorate has the power to control the employment of immigrants regarding their work permits and has an online Help Center.¹¹⁹

4.3 Civil society initiatives

4.3.1 Trade Unions

The CLS (Chamber of the employees) is a body elected and composed by employees, chosen amongst a list of candidates which are put forward by the Unions.

The CLS and the University of Lorraine organised a professional training programme entitled “University Diploma of Management of equality, non-discrimination and diversity”¹²⁰, offering different modules, such as “Observation of differences in employment”, or “elements of the Law of equality and non-discrimination in employment”, each of the six modules being taught for twenty hours.

The CSL) has an Internet site that is specifically dedicated to discrimination in employment, providing, among others, information about discrimination in general, the procedures to follow and the applicable legislation¹²¹. The CSL published also in 2012 a brochure title “discrimination in employment” providing a potential victim with a good overview on his/her rights and about the procedure to follow in the case of discrimination.¹²²

4.3.2 NGOs activities

The main aggregated NGOs (called asbl in Luxembourg) are ASTI ASBL¹²³, Info-Handicap asbl¹²⁴, Chiens Guides d’aveugles asbl (no website) and ALOs-LDH ASBL¹²⁵. An aggregated NGO is a NGO which has the capacity to bring a claim to court. Other important NGOs are: ENAR Luxembourg (no website), CLAE¹²⁶, Caritas¹²⁷, CEFIS¹²⁸, etc.

¹¹⁶ <http://www.mediation.lu>

¹¹⁷ http://www.mediation.lu/CM_activites_2012.pdf, page 23.

¹¹⁸ Loi du 28 novembre 2006 “Egalité de traitement”, art L 254-1 (Law on equal treatment).

¹¹⁹ <http://www.itm.lu/home/itm/structure/help-center.html>

¹²⁰ Article 612-1 (f) Labour <http://www.llc.lu/fr/formations-universitaires/formation/diplome-d-universite-gestion-de-l-egalite-de-la-non-discrimination-et-de-la-diversiteCode>, Loi du 21 Décembre 2012.

¹²¹ <http://discrimination.csl.lu/>

¹²² http://discrimination.csl.lu/files/04186_droit_travail_discrimination_10-2012_Fr_Web.pdf

¹²³ <http://www.asti.lu>

¹²⁴ <http://www.info-handicap.lu>

¹²⁵ <http://www.ldh.lu>

¹²⁶ <http://www.clae.lu>

¹²⁷ <http://www.caritas.lu>

¹²⁸ <http://www.cefis.lu>

One national NGO is ASTI (Association de Soutien aux Travailleurs Immigrés), created in 1979, to support immigrant workers. Discrimination in employment is only considered in relation to access to employment and the work permits distributed by the office for immigration. Asti fulfils the necessary requirements to fill a judicial complaint, as required by the anti-discrimination law of 2006. Asti assists and advises immigrants, and reports illegal and discriminatory practices to the Labour inspectorate.

Caritas took part in a regularisation campaign which took place in January and February 2013. Caritas explained upon request and by mail that it had no knowledge about any discrimination complaint in employment.

CLAE runs a project¹²⁹ on access to the labour market for third country nationals (TCNs), but whilst appreciating that discrimination may be a reason for exclusion, the project does not analyse it. No complaint has been brought to their attention.

CNFL¹³⁰ (National Council of women) communicated that no case on discrimination in employment had been raised to their attention.

The platform created by Asti, titled « migration and integration »¹³¹ brings together different associations and trade unions, the topics discussed however concern rather political rights than discriminatory practices.

A website has been created by Caritas Luxembourg, the Cefis and 4motion on the 16th of December 2012. Its aim is to provide information and self-training in relation to the fight against discrimination¹³². This internet site, which dedicates two sections to discrimination in employment and nationality-based discrimination, does not provide any further information about any discriminatory issues, cases or concrete actions to be taken to fight discrimination.

Most anti-discrimination initiatives taken by the NGOs do not specifically tackle discrimination in employment or provide for concrete actions or solutions.

4.3.3 Employers' organisations

The Institute for the Societal Movement (IMS)¹³³ is an initiative of companies working together to promote the development of corporate social responsibility policies. Since 2010, the IMS is also concerned with the fight against discrimination. A Diversity Charter¹³⁴ has been signed by 40 companies in September 2012 and 30 new signatories joined in March 2013. The Diversity Charter is a text composed of six articles whereby a firm, by signing it, engages itself in favour of the promotion of diversity by concrete actions, effectively going beyond any anti-discrimination legislation. The aim of the Charter is to promote diversity and it was launched by private and public companies and associations and grouped within the IMS. The principal institutional partner is the Family and Integration Minister¹³⁵.

¹²⁹ <http://www.clae.lu/html/m1sm4ssm1.html>

¹³⁰ <http://www.cnfl.lu/site/>

¹³¹ <http://www.asti.lu/migrations/plate-forme-migrations-et-integration/>

¹³² <http://www.diversite.lu/>

¹³³ <http://www.imslux.lu/>

¹³⁴ <http://www.chartediversite.lu/conferences/ceremonie-lancement-officiel-charte-diversite-letzebuerg>

¹³⁵ <http://www.chartediversite.lu/charte-diversite-letzebuerg>

Furthermore a “Diversity Guide Management of the diversity”, published on the 11th of July 2013, which had been written by Luxembourgian companies, expressed its support for the different companies implementing the diversity policies and offered different workshops.¹³⁶

The National Institute for the Sustainable Development and the Social Responsibility of Companies (INDR) developed a label called ‘Social Responsibility of the Firms’ (RSE) which is divided into three pillars: social, government and environment¹³⁷. To get the label the company has inter alia to promote equal opportunities for its workers.

4.4 Individual employers’ initiatives

Within the framework of the diversity Charter, a good practice which has been identified is a training course offered by the company SODEXO entitled “Diversity and Inclusion”¹³⁸. This formation, divided into different workshops, informs the participants (mostly managers) about the different aspects of diversity, the impact of diversity upon relations with colleagues and clients, and about the impact of an exclusionary behaviour upon the professional performance.¹³⁹

According to the Chamber of Commerce on request and by mail, the anonym CVs are very little used by companies in Luxembourg. The National institute for the sustainable development and the responsibility of companies (INDR) provides companies with documents relating to the definition of an equal opportunity policy, an intern diversity charter and a plan promoting social activities and equal opportunities. The IDNR has recommended to the companies a certain recruitment procedure in order to avoid discriminatory job postings, by holding non-discriminatory interviews and to non-discriminatory selection procedures.

5. Conclusions and recommendations

5.1 Political and societal developments related to racism and discrimination

There does not appear to be a great political will to fight discrimination in Luxembourg, as shown by the way in which the 2000 European directives on equal treatment have been transposed into Luxemburgish law and by the few means and resources allocated to the CET.

There is little open racism in the Luxembourgian society, and over the last years, there have been only few condemnations in relation to racism on the Internet.

The changes in asylum¹⁴⁰ and migration¹⁴¹ legislation during the last year have been exclusively due to European directives, generally transposed after the 2 year transposition delay. There has been no change in the period under review, with the exception of the regulation on “pocket money”, which decreased the pocket money granted to asylum seekers in July 2012 from monthly 105 € for an adult to 25 € per month.¹⁴²

¹³⁶ <http://www.imslux.lu/>

¹³⁷ <http://www.indr.lu>

¹³⁸ <http://www.chartediversite.lu/bonnes-pratiques/sodexo-formation-diversit%C3%A9-et-inclusion-pour-tous>

¹³⁹ Jacobs A., Mertz F., Wagner R., “Manuel luxembourgeois sur les données relatives aux discriminations et à la diversité”, *RED N°16*, CEFIS, p.59.

¹⁴⁰ Loi du 5 mai 2006 sur la protection internationale (Asylum law).

¹⁴¹ Loi du 29 août 2008 portant sur la libre circulation des personnes et l’immigration (Immigration Law).

¹⁴² Règlement grand ducal fixant les conditions et les modalités d’octroi d’une aide sociale aux demandeurs de protection internationale (regulation called “regulation 25”), 8 Jui 2012 (Grand-Ducal Regulation on social aid for asylum seekers).

Furthermore, no real changes have been made as regards to the communities which are most vulnerable to racism or related discrimination in Luxembourg, nor have there been any changes in public perceptions, political discourses or attitudes in relation to the most vulnerable groups. One exception are the Roma¹⁴³ even if this change happened before the period mentioned.

Since the abolition of the visa obligation for the Serbs, some Romas from Serbia have come to Luxembourg to seek asylum. The government did not have the appropriate reception centre and admitted publicly¹⁴⁴ that it was overwhelmed. The Minister of Immigration called them “asylum tourists”, thereby stimulating a general fear of Roma people leading to several incidents, such as the one in November 2011 in Petange.¹⁴⁵

In Luxembourg, although all the major religions do have a convention with the State which provides them public money, the Muslims do not benefit from such a convention. This situation is considered by the Shoura¹⁴⁶ as discrimination.

The activity report¹⁴⁷ of the Police Grand-Ducale¹⁴⁸ does not indicate any particular increase in complaints in relation to racial discrimination as the table below shows. 30 offences related to racial discrimination have been committed in 2012. The report however does not indicate if those offences are related to discrimination in employment.

Categories	2008	2009	2010	2011	2012
Other offences against persons	2.779	3.032	3.192	3.798	4.199
Racial discrimination	21	28	24	40	30

Source: activity report 2012 of the Police Grand-Ducale.¹⁴⁹

5.2 Conclusions and recommendations

The research has shown that the question of discrimination in employment in Luxembourg is not a big issue, few elements and few data being available. Furthermore there is neither real awareness, nor priority for this purpose. The late transposition of the 2 EU directives of the year 2000 is a good illustration of the political will: as something has to be done, the minimum will be done.

The MIPEX¹⁵⁰ shows Luxembourg on rank 23 of 32 countries in the field of antidiscrimination with a score of 48/100. An additional element showing the low importance of antidiscrimination policy in Luxembourg.

¹⁴³ ECRI, “Report 2012 about Luxembourg”, 2012, p 27 recommandations Number 94-96.

¹⁴⁴ <http://news.rtl.lu/news/national/95907.html>

¹⁴⁵ Nonet E., « Ces conteneurs sont donc confortables, *Le Quotidien*, 30 November 2011. See: <http://www.asti.lu/wp-content/uploads/2011/11/301111QuotPetanDA.pdf> (Article in daily paper on asylum seekers in containers).

¹⁴⁶ ECRI, “Report 2012 about Luxembourg”, 2012, p. 27 recommandation Number 92.

¹⁴⁷ http://www.police.public.lu/actualites/statistique/rapport_stat_2012/rapport-statistique-2012.pdf

¹⁴⁸ <http://www.police.public.lu/> Police Grand ducale is the unique police body in Luxembourg.

¹⁴⁹ http://www.police.public.lu/actualites/statistique/rapport_stat_2012/rapport-statistique-2012.pdf

¹⁵⁰ <http://www.mipex.eu/anti-discrimination>

- In relation to the equality body, the Centre for equal treatment should have the capacity to bring a case to court or to take binding decisions, and should be granted more financial means instead of reducing their budget from 220.000 € in 2009 to 81.000 € in 2012.
- As data related to discrimination in employment was in general difficult to collect, one single body (such as the CET or the Labour Inspectorate) should be held responsible for collecting that data and creating a database that is accessible to both the government and the public. The creation of a national data center collecting all the data in relation to discrimination is recommended.¹⁵¹
- Regarding the legal framework, the anti-discrimination provisions applicable to the civil servant and private employees should be combined and provided for by one single law. Therefore the opposition of the strong civil servant lobby should be surmounted.
- Reform of the admission criteria. The present restrictive admission criteria to the civil service should be reformed allowing for instance those who can vote and stay for municipal government to get access to all municipal jobs.
- While conducting the research for the Report, a lack of a specific system for the measurement of equality has been noticed.¹⁵² To improve the antidiscrimination policy a first step would be the coordination of the bodies involved: CET, Labour Inspection, Unions, Employers organisations.
- As for judicial complaints, the data available from the public prosecutor and the police should be combined and registered in a common data base.
- As there were many public organs which did not react or answer, I asked a Member of Parliament to put a question to 3 Ministers (Annexe page 56). The regulation of the House asks the members of the government to give an answer within a month. 2 months later there is still no answer.

¹⁵¹ Ibid., p.60.

¹⁵² Jacobs A., Mertz F., Wagner R., "Manuel luxembourgeois sur les données relatives aux discriminations et à la diversité", RED N°16, CEFIS, p.59.

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OLAI

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Unions: OGBL and LCGB

Employers organisations : Chamber of Commerce

CEFIS

CEPS

CET

Media reports

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NGO's ; ASTI, Caritas, CLAE, ENAR- Luxembourg, Shoura – Luxembourg

List of experts interviewed

Mrs Schlessler director of ADEM and Mr Peusch L., Adem office, 4th of July 2013.

Mrs Morgenthaler N., director of CET through various emails.

Mrs Konsbruck C., Ministry of Justice, through various emails.

Mr Besch S., CEFIS, through various emails.

Mrs Jacobs A., CEFIS, through various emails.

Mrs. Zuccoli L., chair of ASTI.

Mr Wolter P., Chambre de Commerce, through various emails.

Lorang C., Inspecteur du Travail et des Mines, through various emails.

LCGB, through various emails.

Maître Rhodesch A., through email.

Maître Thomas G, through email.

Maître Moyse F., through email.

Maître Lamamra A., through email.

Mr. Reding J-Cl., chair of OGB-L, through various emails.

Mr. Zahlen P., Statec, through various emails.

Mrs Jones G., Labour Ministry through email.

Mr Knebel C., LCGB and Mobbing asbl, through various emails.

Mrs Soric A., Service Solidarité et Intégration, Caritas Luxembourg, through various emails.

Mr Barillozzi F., CLAE and ENAR – Luxembourg, through email.

Mr Margue C., ILRES, through various emails.

Mrs Rasqué A., CNFL through email.

A certain number of experts did not answer:

Chambre des Métiers

Maison d'Afrique

Centre de Médiation

IGSS

7. Abbreviations

ADEM	Agence pour le développement de l'emploi/Agency for the development of employment
ASTI	Association de soutien aux Travailleurs immigrés
CAI	Welcome and Integration Contract
CEFIS	Centre d'étude et de formation interculturelle et sociale/Centre for intercultural and social education and training
CET	Centre d'égalité de traitement/Centre for equal treatment
CLS	Chambre of the employees
EU	European Union
GDP	Gross Domestic Product
IGSS	Inspection générale de la sécurité sociale
IMS	Institut pour le mouvement sociétal/Institute of the social movement
INAP	National Institute of the Civil Service
INDR	National institute for the sustainable development and the responsibility of the companies
ITM	Labour Inspectorate
NGO	Non-Governmental Organisation
OLAI	Luxembourg Reception and Integration Agency
OLAP	Office Luxembourgeois pour l'Accroissement de la Productivité/Luxembourgian Office for the increase of productivity
TCN	Third Country Nationals

8. Annex

Question parlementaire 2806 du 8 juillet 2013

Conformément à l'article 80 du règlement de la Chambre des Députés, je vous prie de bien vouloir transmettre à Madame la Ministre de la Justice ainsi qu'à Monsieur le Ministre de la Famille et de l'Intégration et à Monsieur le Ministre de l'Emploi la question parlementaire suivante:

En 2010, Madame la Ministre de la Famille et de l'Intégration présentait le " Plan d'action national pluriannuel d'intégration et de luttes contre les discriminations 2010 - 2014". Ce plan présentait onze principes directeurs de la politique d'intégration dont un ciblant notamment " l'emploi ".

En matière de discrimination dans l'emploi j'aimerais poser les questions suivantes aux trois Ministres:

- combien de cas de discrimination dans l'emploi ont-ils été soumis en 2012 et 2013 à l'Inspection du Travail et des Mines?
- combien de cas ont donné lieu à des enquêtes, combien à des plaintes?
- combien de cas de discrimination dans l'emploi ont-ils été traités en 2012 et 2013 par les juridictions du travail?
- combien de cas de discrimination dans l'emploi ont-ils été traités en 2012 et 2013 par des juridictions civiles?
- combien de cas de discrimination dans l'emploi ont-ils été traités en 2012 et 2013 par le CET ?
- combien de cas de discrimination dans l'emploi ont-ils été traités en 2012 et 2013 par OLAI ?

Le " Plan d'action national pluriannuel d'intégration et de luttes contre les discriminations 2010 - 2013 " prévoyait concernant l'emploi les aspects précis que voici :

- Valorisation des compétences professionnelles et techniques acquises à l'étranger;
- Promotion de l'employabilité des groupes cibles ;
- Élargissement de l'ouverture de la fonction publique aux citoyens de l'Union européenne ;
- Promotion de la création d'entreprises par les étrangers
- Promotion de l'employabilité des groupes cibles ;
- Formation à la diversité dans le secteur privé ;
- Promotion du principe de l'égalité de traitement dans tes entreprises ;
- Encourager la participation sociale des étrangers dans l'emploi ;
- Promotion de l'égalité dans l'emploi ;

Quels ont été pour chacun des aspects évoqués ci-dessus, les actions entreprises, les moyens y affectés, les personnes touchées et l'évaluation faite.

En vous remerciant d'avance. Monsieur le Président, ainsi que Madame la Ministre et Messieurs les Ministres, je vous prie de bien vouloir accepter l'expression de ma parfaite considération.

Serge Urbany
Député



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013