

DUAL NATIONALITY

NEW LAW ON THE FREE MOVEMENT OF PEOPLE AND IMMIGRATION: ENSURING THE ATTRACTIVENESS OF LUXEMBOURG FOR FOREIGNERS THROUGH A COHERENT AND TRANSPARENT LEGAL FRAMEWORK

Following is a statement of the Luxembourg Chamber of Commerce regarding draft law n° 5802 on immigration.

In the Grand Duchy of Luxembourg foreigners represent close to 42% of the resident population and more than 66% of private sector employees. These figures show the crucial importance of immigration for the prosperity of the economy and the cultural wealth of our country. The Luxembourg Chamber of Commerce therefore welcomes draft law n°5802 regarding the free movement of people and immigration, which aims at providing Luxembourg with a modern and coherent legislation in matters of immigration. The Chamber however believes that a certain number of precisions and administrative simplifications must still be implemented in the draft law in order to give Luxembourg an attractive legislation apt to encourage the installation of foreign companies and/or of foreign workforce in Luxembourg.

The numerous types of immigration are insufficiently taken into consideration in the current law of March 28, 1972 concerning the entry and residence of foreigners. The draft law responds to this situation by creating seven types of residence permits: employees, independents, athletes, students, pupils, interns or volunteers, researchers, family members and residence based on private or personal reasons. The introduction of the majority of these categories was necessary in order to implement the six directives of the European Union.

The Chamber welcomes the simplification of formalities of which EU citizens benefit in respect to their residence in Luxembourg.



The amalgamation of work permits and residence permits for employees from third countries constitutes another major administrative simplification. The desire for simplification and transparency must guide the process of delivering residence permits to a greater extent. The duration of residence permits can not be left at the discretion of the Ministry in charge of immigration; it must be defined in the draft law. The concern for promptness demands that the draft law defines a maximum timeframe for the Ministry to make its decision.

The conditions to receive a residence permit as employee are still too strict: the proof that the activity of the petitioner must serve the economic interests of the country is difficult to comprehend in the light of a severe lack of workforce in numerous sectors. It is a pity that the petitioner must have a work contract (and not simply the prospect of employment). Although the residence permits are no longer limited to a single employer, they are nonetheless limited to a specific sector for a certain amount of time, a concept not yet defined by the draft law.

The Luxembourg Chamber of Commerce regrets that the concept of a provisional recruitment plan which sets up a collaboration between the government and the concerned economic sector is not part of the draft law. Such plans allow companies to elaborate in advance in cooperation with the authorities, annual contingents of foreigners. These plans would allow companies to benefit from accelerated and even simpler procedures in obtaining residence permits for employees.

The draft law pays tribute to a demand of the professional sector to implement a quicker administrative procedure for employees assuming a job with executive functions. It has been agreed upon to clearly define the concept of executive task: The Chamber of Commerce suggests that these are jobs assumed by university graduates or by people with a specialized professional experience and who earn three times as much as the minimum salary.

Rules regarding the temporary deployment of workforce to Luxembourg deserve to be clarified and simplified more, concerning form as well as background.

The Chamber of Commerce regrets the very strict framework in which young third country nationals can follow internships in Luxembourg and the restrictions concerning the work duration of students. The same reservations apply to the highly restrictive conditions under which students from non EU countries, who have graduated in Luxembourg, can exercise a profession.

The arrangements outlined in the draft law concerning residence permits for researchers deserve some clarifications in order to give Luxembourg a coherent legislation thereby attracting scientists to Luxembourg, while at the same time meeting the objective of the Lisbon strategy in regard to research. The residence permit for individuals living on their own financial means is limited to one year's duration. This time period is, however, too short to incite people to transfer their residency to Luxembourg. Conditions for the renewal of residence permits, which are too strict, especially pertaining to the linguistic aptitude of immigrants, may deprive Luxembourg of necessary workforce. The Chamber asks for a more differentiated approach as to the demand for integration, thereby taking into consideration the type of immigration.

The Chamber of Commerce regrets that the draft law does not include any «passages» between one type of immigration towards another, allowing a person who is already a resident to benefit from longer residence permits.

The draft law outlines the sanctions against employers involved in clandestine migration which however risk backfiring on innocent individuals (such as other employees, clients and suppliers). Therefore the Chamber of Commerce would like to see these sanctions suppressed.

The Chamber hopes that the suggestions it expressed in its assessment of the draft law will be reflected in its final text, in order to eliminate existing obstacles towards a modern and flexible immigration legislation.

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