

Chapter 19

Migrants' Access to Social Protection in Luxembourg



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19.1 Overview of the Welfare System and Main Migration Features in Luxembourg

19.1.1 *Main Characteristics of the National Social Security System*

Luxembourg established a Bismarckian social insurance scheme between 1901 and 1911, when it was in a *Customs Union* with Germany (Kerschen 2001; Scuto 2001). All blue-collar workers and white-collar workers, whose wages were under a certain limit, were compulsory insured against four social risks: sickness, industrial accidents, invalidity and old age. In the 1930s, social insurance was progressively extended to private sector employees. Wage supplements for children and an unemployment allowance for workers were also created. After World War II, *universalism*, the main principle of Beveridge's doctrine, was adopted. During the 1950s and 1960s, social insurance was extended to civil servants, self-employed workers and the agricultural sector. The social security system was still based on the male-breadwinner model: workers were granted social rights as insured persons, whereas family members were entitled to derived rights. All children raised in Luxembourg were entitled to family benefits.

In the 1970s, Luxembourg changed from an industrial economy to a more service oriented one, this also affecting the national welfare system. As a Bismarckian model, the funding of the social protection system was characterised by social contributions levied on wages and shared by employers and workers. Little by little, the

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State became the main contributor. From 2002 to 2016, the participation of the State in the incomings of the social protection system was about 50% and it fluctuated between 54% and 59% of the current public spending¹. Despite this fundamental change, the practice of a professional activity in Luxembourg remained the basic criteria for registration as an insured person and an equivalent status was given to new categories of “workers”. Regarding social protection rights, the Welfare State was expanded in the 1980s and 1990s, when the Government created a guaranteed minimum income scheme (1986) and a long-term care insurance for the insured population from the cradle to the tomb (1998).

In 2008, the “*statut unique*” put an end to the traditional legal differences between blue-collar and white-collar workers. The four pension insurance funds and the five sickness insurance funds, based on socio-economic groups, merged into one pension insurance fund and one sickness fund. The current Luxembourg system is composed of the following institutions:

- the Common Centre for Social Security (*le Centre Commun de la Sécurité sociale – CCSS*²), which registers workers and their family members and collects the social contributions;
- the National Sickness Fund (*la Caisse Nationale de Santé – CNS*³), providing benefits in kind and in cash in case of sickness and maternity;
- the National Pension Fund (*la Caisse Nationale de Pension – CNAP*⁴), which pays invalidity and old age pensions;
- the Fund for the future of the children (*la Caisse pour l’avenir des enfants – CAE*⁵), which ensures the delivery of family benefits and compensation for parental leave;
- the Agency for the promotion of employment (*l’Agence pour la promotion de l’Emploi – ADEM*⁶), which provides benefits in cash and services to the jobseekers;
- the National Social Inclusion Office (*l’Office National d’Inclusion Sociale-ONIS*⁷), which replaced since January 2019 the National Solidarity Fund (*le Fonds National de Solidarité – FNS*), which pays a guaranteed minimum income (REVIS) as a social assistance benefit.

¹*Inspection générale de la sécurité sociale (IGSS), Rapport général sur la sécurité sociale au Grand-Duché de Luxembourg 2018*, Ministère de la Sécurité sociale, janvier 2019, p. 13. <https://igss.gouvernement.lu/fr/publications/rg/2018.html>. Accessed 29 May 2019.

²<http://www.ccss.lu/>. Accessed 29 May 2019.

³<http://cns.public.lu/fr.html>. Accessed 29 May 2019.

⁴<http://www.cnap.lu>. Accessed 29 May 2019.

⁵<http://cae.public.lu/fr.html>. Accessed 29 May 2019.

⁶<http://www.adem.public.lu/en.html>. Accessed 29 May 2019.

⁷<https://onis.gouvernement.lu/fr.html>. Accessed 29 May 2019.

19.1.2 Migration History and Key Policy Developments

In the nineteenth century, Luxembourg was an emigration country. Since 1842, Luxembourg was in the *Customs Union* with Germany and during that period, Luxembourg nationals emigrated mainly to France, the United States and South America. From 1891 onward, industrialization took place and main economic sectors channeled the request for foreign labor force. In the south of the country, mono-industry, iron and steel metallurgy, was grounded on foreign capital and labor force. In 1913, 60% of the staff was of foreign origins. World War I put an end to the *Customs Union* with Germany and to the attraction of foreign labor force. But this first period of immigration forged the Luxembourg political and legal approach of immigration. The Luxembourg citizenship was defined as *ius sanguinis* and, from 1878 onward, as *ius soli* for the children of foreign parents born in Luxembourg (Scuto 2010, 2013). On trade unions' initiative, a protectionist migration policy was put into place after World War I and until the 1970s economic crisis, national workers had a quasi-monopole on the labor market of the steel and metal industry in the south of the country, whereas foreign workers were considered as “*additional labor*”.

After World War II, Luxembourg signed bilateral agreements with Italy (1953), Portugal and Yugoslavia (1970), regulating employment and social security for workers from these countries. Family reunification was authorised only for Italian workers with a permanent contract and for Portuguese workers. A major change came with the establishment of the European Economic Community (EEC) in 1957. As a founding Member State, Luxembourg could no longer apply a protectionist migration policy to workers coming from an EU Member State, who were entitled to free movement and residence.

In the post-industrial period, Luxembourg became more and more an immigration country.⁸ From 1981 to 2018, the resident population grew from 364,600 to 602,000 persons. In 1981, Luxembourg citizens represented 73% of the resident population, this share decreasing to 57% by 2011 and 52% by 2018. Yet, the naturalization rate in Luxembourg is below the EU28 average. 72.3% of new acquisitions of citizenship are granted to citizens of another EU Member State, with Portuguese citizens accounting for the largest share⁹. In fact, the large majority of foreigners residing in Luxembourg are EU nationals¹⁰ (Table 19.1).

⁸ *Ministère des Affaires Étrangères et Européennes* (2018). *Rapport d'activité*, Chapitre 8, 87–119. https://maee.gouvernement.lu/content/dam/gouv_mae/minist%C3%A8re/rapports-annuels/Rapport-annuel-2018.pdf. Accessed 9 May 2019.

⁹ EUROSTAT. Acquisition of citizenship statistics. https://ec.europa.eu/eurostat/statistics-explained/index.php/Acquisition_of_citizenship_statistics#EU-28_Member_States_granted_citizenship_to_825.C2.A0400_persons_in_2017. Accessed 29 May 2019. STATEC (2019). Naturalisations de la nationalité luxembourgeoise selon la nationalité d'origine 2010–2018. https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12910&IF_Language=fra&MainTheme=2&FldrName=2&RFPath=100. Accessed 29 May 2019.

¹⁰ STATEC (2019). *93% de la population luxembourgeoise sont des ressortissants de l'UE-28. Regards* N°07, 05/2019. <https://statistiques.public.lu/catalogue-publications/regards/2019/PDF-07-2019.pdf>. Accessed 29 May 2019.

Table 19.1 Population residing in Luxembourg (1981–2018)

	1981	1991	2001	2011	2018
Population	364,600	384,400	439,500	512,400	602,000
Luxemburgish Citizens	268,800	271,400	277,200	291,900	313,800
Foreigners	95,800	113,000	162,300	220,500	288,200
<i>From</i>					
<i>Portugal</i>	29,300	39,100	58,700	82,400	96,500
<i>France</i>	11,900	13,000	20,000	31,500	45,800
<i>Italy</i>	22,300	19,500	19,000	18,100	22,000
<i>Belgium</i>	7900	10,100	14,800	16,900	20,200
<i>Germany</i>	8900	8800	10,100	12,000	13,100
<i>UK</i>	2000	3200	4300	5500	5900
<i>Netherlands</i>	2900	3500	3700	3900	4300
<i>Other EU Member States</i>	10,600	6600	9200	21,500	36,500
<i>Third-country nationals</i>		9200	22,500	28,700	43,800

Source: STATEC, https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12853&IF_Language=fra&MainTheme=2&FldrName=1. Accessed 29 May 2019

The recent demographic changes are mainly due to economic reasons (Hartmann-Hirsch 2008). Since the 1980s, Luxembourg has had a continuous growth of GDP per capita (the highest in the EU), and of the *interior employment*. The concept of *interior employment* is used by STATEC to document Luxembourg's atypical labor market: it includes workers residing in Luxembourg and frontier workers residing in the neighboring countries, but excludes Luxembourg nationals residing in Luxembourg and working abroad, as well as employees working in Luxembourg for European and international institutions. During the past 20 years, *interior employment* grew by 93%, the number of workers with residence in Luxembourg by 53% and the number of frontier workers by 180% (Table 19.2).

19.2 Migration and Social Protection in Luxembourg

All persons engaged in a professional activity in Luxembourg, whatever their nationality or residence, are registered as insured persons by the Common Centre for Social Security. They are compulsory insured and in principle, all active persons have the same social rights. However, their situation might be different when it comes to accessing legal residence and employment. Three main groups can be identified in this regard:

- (a) Luxembourg citizens and their family members, whatever their nationality, have an unconditional right to reside and work in Luxembourg;

Table 19.2 Interior employment by residence (labor contract only) (1998–2018)

	1998	2000	2005	2010	2015	2018
Workers residing in Luxembourg	147,622	156,513	168,296	186,288	209,776	227,213
	68.70%	65.42%	59.43%	55.86%	55.76%	54.65%
<i>Workers with Luxembourgish citizenship</i>	–	–	93,568	99,124	106,324	111,443
			33.0%	29.7%	28.2%	26.8%
<i>Workers from other EU Member States</i>	–	–	66,897	77,769	91,438	100,013
			23.7%	23.3%	24.3%	24%
<i>Non EU Workers</i>	–	–	7831	9395	12,014	15,757
			2.7%	2.8%	3.2%	3.8%
Frontier workers	67,242	82,711	114,911	147,193	166,406	188,447
	31.30%	34.58%	40.57%	44.14%	44.24%	45.35%
Total	214,864	239,224	283,207	333,481	376,182	415,660
	100%	100%	100%	100%	100%	100%

Source: STATEC, Interior Employment (data of the first trimester of each year)

https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12916&IF_Language=fr&MainTheme=2&FldrName=3&RFPPath=92. Accessed 29 May 2019.

- (b) EU citizens residing in Luxembourg for more than 3 months must prove either that they are workers or self-employed persons in Luxembourg [Article 6 (1) 1. of Law of 29 August 2008¹¹] or that they have sufficient resources for themselves and their family members not to become a burden on Luxembourg's social assistance system and have comprehensive sickness insurance coverage in Luxembourg [Article 6 (1) 2.]. EU citizens can also reside abroad and work in Luxembourg, which is the case of thousands of frontier workers;
- (c) Non-EU citizens need a residence permit allowing them to work as employees. This permit is issued to foreigners who have the required professional qualifications and hold a labour contract for a post made available by ADEM, as long as the exercise of their activity does not undermine the priority in employment granted to Luxembourg and EU nationals and is of an economic interest for Luxembourg [Article 42 (1)].

Regarding social security, Luxembourg and EU nationals are covered by EC Regulation 883/2004 on the coordination of social security systems, whereas third-country nationals may be covered by bilateral/multilateral social security agreements.¹²

¹¹ Memorial A N°138 of 10 September 2008. <http://data.legilux.public.lu/file/eli-etat-leg-memorial-2008-138-fr-pdf.pdf>. Accessed 29 May 2019.

¹² Luxembourg signed bilateral social security conventions, regulating especially old age pensions and access to healthcare, with the following countries: Albania, Argentina, Bosnia Herzegovina, Canada, Capo Verde, Chile, China, USA, India, Japan, Macedonia, Morocco, Moldova, Montenegro, Philippines, Quebec, Serbia, Tunisia, Turkey, Ex-Yugoslavia, Uruguay. <https://www.secu.lu/conv-internationales/conventions-bilaterales/>. Accessed 29 May 2019.

19.2.1 Unemployment

Articles L. 521-1 to L. 527-4 of the Labor Code, hereafter ‘LC’ (*Code du travail*¹³) regulate unemployment benefits provided by ADEM.¹⁴ Luxembourg has never created an unemployment insurance scheme, for which employers and employees would have to pay social contributions. The costs of unemployment benefits are covered through the Employment Fund, which is financed by taxes. Moreover, Luxembourg has no unemployment assistance scheme, but those who drop out of the unemployment scheme, can claim the guaranteed minimum income (REVIS).

All legal residents who lose their job are entitled to unemployment benefits as long as they are involuntarily unemployed; available and fit for work; aged between 16 and 65; willing to accept suitable jobs or active employment measures and claim the benefit within 2 weeks. Eligible claimants must have worked for at least 26 weeks over the 12 months prior to the registration at ADEM. Benefits are earnings-related and represent 80% of the wages. The duration of payment depends on the duration of work during the previous 12 months, which means that a person who has worked during 8 months is entitled to the payment of unemployment benefits for 8 months.

In the case of EU nationals, Article 64 of EC Regulation 883/2004 allows them to export unemployment benefits after 4 weeks of unemployment registration and during 3 months. A U2 form must be provided to the jobseeker by ADEM and handed over to the employment service of the host country. The jobseeker must also register in the host country. If the jobseeker does not return to Luxembourg after 3 months, he/she will lose the right to unemployment benefits. Except for this disposal, it is not possible to export an unemployment benefit when a person moves from Luxembourg to another country.

Unemployment has some consequences on residence rights. An employed EU citizen is still considered as a worker *without time limit* when he/she loses his/her job, if the following conditions are fulfilled: he/she is involuntarily unemployed, has worked for more than 1 year in Luxembourg and is registered as a jobseeker at ADEM. However, EU citizens will be considered as workers *for only 6 months* if: (a) they are involuntarily unemployed and have registered as jobseekers at ADEM at the end of a fixed-term labour contract of less than 1 year and; (b) they are involuntarily unemployed during the first 12 months after hiring and have registered as jobseekers at ADEM. For the renewal of the residence permit, a non-EU foreigner must be employed under a labor contract or be self-employed. If he/she is unemployed, the renewal of the residence permit may be refused.

¹³ <http://data.legilux.public.lu/file/eli-etat-leg-code-travail-20170703-fr-pdf>. Accessed 29 May 2019.

¹⁴ Memorial A N°11 of 26 January 2012. <http://data.legilux.public.lu/file/eli-etat-leg-memo-rial-2012-11-fr-pdf>. Accessed 29 May 2019.

19.2.2 Health Care

Book I of the Social Security Code, hereafter 'SSC' (*Code de la sécurité sociale*) regulates healthcare benefits in kind and in cash and the maternity benefit. Articles 1–7 define the beneficiaries of the compulsory regime and the conditions for accessing the voluntary regime. Benefits in kind are established under Articles 17–24, benefits in cash under Articles 9–16 and the maternity benefit under Article 25.

All persons engaged in a professional activity in Luxembourg, employees and self-employed, whatever their nationality or residence, are covered by a compulsory healthcare and maternity insurance. Moreover, insured persons who are temporary posted abroad by their employer remain covered by the Luxembourg sickness and maternity insurance. Several groups of individuals are exempted from compulsory insurance: (a) those who perform their professional activity only occasionally and in a non-habitual way for a duration designed in advance, which should not exceed 3 months per calendar year and; (b) upon request, those performing a professional activity in Luxembourg for a period which does not exceed 1 year and who remain affiliated in a sickness and maternity regime abroad. Healthcare insurance is extended to the family members of the insured person, to whom they are co-insured on the basis of derived rights.

National citizens, EU foreigners and non-EU foreigners, who reside legally in Luxembourg, who have been compulsory insured and who lose their rights, have the possibility to subscribe to a voluntary insurance, if they were active in Luxembourg for at least 6 months and they applied within the 3 months following the loss of their rights (case 1). Likewise, national citizens, EU foreigners and non-EU foreigners legally residing in Luxembourg who are not covered by the compulsory regime, have the possibility to subscribe a voluntary insurance (case 2). Compulsory insured persons and voluntary insured persons are obliged to pay contributions.

Regarding benefits in kind, patients have free choice of the healthcare providers, who are covered by a collective agreement signed between the CNS and the representatives of the providers. They are entitled to all healthcare provisions foreseen in the Social Security Code. For some special provisions, prior authorisation from CNS is needed. Terms, modalities and rates are inscribed in the CNS' Statutes. Insured persons become eligible to claim benefits in kind from the first day of affiliation if they are compulsory insured or if they subscribed to a voluntary insurance, because they lost their rights for compulsory insurance (case 1). If they subscribed to a voluntary insurance without prior affiliation (case 2), they will become eligible to claim benefits in kind only after 3 months. There are two types of coverage: reimbursement system and benefits-in-kind system. When patients see a physician, they pay the costs of medical treatment and later get reimbursed by the CNS. When they buy drugs or are hospitalised, the costs are directly paid to the healthcare provider by the CNS. In both cases, patients have to pay the costs that remain at their own expense.

Regarding cash benefits, since 2008, employers have to compensate the first 13 weeks of temporary incapacity to work due to sickness (Article L. 121–6 LC).

Employees are entitled to retain their full wage. Employers are members of a Mutual Insurance Company, which grants them reinsurance. Wages are reimbursed to the employers by the CCSS on behalf of the Mutual Insurance Company. Healthcare insurance pays a sickness allowance to self-employed people up to 52 weeks, provided they have worked for at least 104 weeks before they got sick. The same rules apply to employees, who remain incapable to work after the period of 13 weeks. The amount of compensation is equal to at least the guaranteed minimum wage and to a maximum of five times this guarantee. The payment of the sickness benefit in cash is suspended when the insured person stays abroad without prior authorisation by the CNS.

As for the maternity benefit, this is granted to women who have worked in Luxembourg for at least 6 months during the 12 months prior to the maternity leave. There is no condition regarding the country of birth or residence of the child. Maternity leave is compulsory and includes a prenatal leave, which starts 8 weeks prior to the anticipated date of birth, and a postnatal leave of 8 weeks after the delivery. Postnatal leave may be extended to 12 weeks under special conditions. The maternity benefit depends on previous earnings and is the same than the sickness benefit.

19.2.3 Pensions

Book III of the SSC regulates old age and invalidity pensions (Art. 170 to 268). All persons engaged in a professional activity in Luxembourg, employees and self-employed, whatever their nationality or residence, are covered by the compulsory pension insurance (Article 170 SSC),

It is possible for national citizens, EU foreigners and non-EU foreigners to join the pension scheme on a voluntary basis in two cases. Those who were compulsory insured in Luxembourg and lost their rights can subscribe to a voluntary insurance if they were active in Luxembourg for at least 12 months during the last 3 years before they lost their rights and if they applied within the 6 months following the loss of their rights (Art. 173 SSC). It is also possible for persons who are not engaged in a professional activity in Luxembourg due to family responsibilities to subscribe a voluntary insurance if they have their legal residence in Luxembourg, were compulsory insured for at least 12 months, are under the age of 65 and are not entitled to a personal pension (Art. 173bis SSC).

Luxembourg has two different old age pension schemes, one applicable in the public sector and one applicable in the private sector. Since 1998, convergence between both schemes was promoted. In order to bring the national legislation in line with the European directives and ECJ case law, Luxembourg established the so-called 'second pillar' of company pensions. It added also the 'third pillar' of personal pensions thanks to tax-free allowances for pension contributions.

The pension scheme in the private sector is a pay-as-you-go system. It is funded by a global contribution rate at 24% shared by the workers (8%), the employers

(8%) and the State budget (8%). It guarantees a minimum pension of 90% of the social minimum wage for all insured persons who can prove a professional career of at least 40 years. The standard retirement age is 65 years, which means that workers who contributed for at least 10 years (including contributions on a voluntary basis) are entitled to a pension. Early retirement is possible under specific conditions. In 2012, the general scheme of pensions in the private sector underwent a policy shift. The main change concerned a progressive reduction, spread over 40 years, of the gross pension replacement rate linked to the average revenue of the professional career, which will force workers to postpone retirement and to stay longer in employment, if they want to receive the same level of pensions than in the past.

For national citizens and EU foreigners, the periods that they completed in another EU Member State will be aggregated according to EU Regulation 883/2004 to determine their entitlement regarding pension rights. This regulation does not apply to non-EU foreigners whose rights depend on bilateral conventions. The following credited periods are taken into account for the entitlement to pensions of national citizens, EU foreigners and non-EU foreigners: periods during which persons benefit from allowances replacing wages, provided that contributions for the pension insurance have been paid; 24 months for parents who care for the education of their children in Luxembourg; periods during which an informal carer takes care of a person in need for long term care at home; periods covered by parental leave; periods during which persons are entitled to REVIS; military service periods.

Those who are not engaged in a professional activity in Luxembourg due to family responsibilities, those who left a foreign pension regime not covered by a bilateral/multilateral convention or those who left the pension regime of an international organization providing for a flat-rate redemption value of pension rights, can back-purchase the corresponding periods provided they are legally residing in Luxembourg, they were compulsory insured for at least 12 months, they are younger than 65 and not entitled for personal pension rights. National citizens and EU foreigners can export the public contributory pension according to EU Regulation 883/2004, when they decide to permanently move abroad. Non-EU foreigners are not allowed to export their pension, except if a social security convention, which applies to them, provides for it.

As for invalidity pensions, according to Art. 187 SSC, persons are considered as invalid if they, due to prolonged illness, infirmity or wear, lose their capacity of work and become unable to exercise their last professional activity or any other occupation in accordance with their forces and capacities. They are entitled to an invalidity pension before the age of 65 if they have completed a probationary period of 12 insurance months during the last 3 years prior to the date when invalidity was recognised or since the sickness benefit in cash expired. If invalidity is due to an accident or to a professional sickness, no probationary period applies. The beneficiary of an invalidity pension must give up, in Luxembourg and abroad, any professional activity, as a self-employed subject to compulsory insurance and as an employee other than an '*insignificant*' activity. Moreover, up to 50 years, beneficiaries must comply with rehabilitation or retraining measures prescribed by the pension fund. Otherwise, the invalidity pension might be suspended. There are also

provisions for preferential employment for handicapped people. According to the size of a company, a specific number of posts are reserved for people with disabilities. Invalidity pension is automatically converted into an old age pension when the beneficiary reaches the age of 65.

19.2.4 Family Benefits

Since 2016, a universal benefit (*'benefit for the future of the children'*) replaced the traditional family benefit. Each child is entitled to a flat-rate benefit of 265 EU per month (Law of 23 July 2016¹⁵). This new rule applies to children born since 1st of August 2016, to the children of a person who starts working in Luxembourg since that date and to persons with children who settle down in Luxembourg after 1st of August 2016. For all other children, the former regulation remains applicable, meaning they are entitled to traditional family benefits dependent on the composition of the family group. According to Art. 269 SSC, each child who resides effectively and on an ongoing basis in Luxembourg and has his/her legal domicile there, is entitled to the child benefit. Under this Article, *'legal domicile'* means that the person has an authorization to reside in Luxembourg, is legally registered in a municipality and has established the main residence in Luxembourg. Furthermore, family members, which means children born in wedlock, children born out of wedlock and adopted children of a person, who is subject to Luxembourg legislation according to EU regulation or to a bilateral social security agreement providing for family benefits in the country of employment, are entitled to the child benefit. Moreover, children as family members must reside in a country covered by the EU regulation or by a bilateral agreement. This condition applies to national citizens, EU foreigners and non-EU foreigners, when the father and/or mother is employed in Luxembourg and children reside abroad.

The law provides for exceptions. The condition of the *'effective and ongoing'* residence on the part of the child is presumed satisfied when the child resides temporarily abroad with a parent who is studying in an University abroad, who has been posted abroad by the employer but remains covered by the Luxembourg social security scheme, whom is granted the status of a diplomatic mission, etc. When a parent works and resides in Luxembourg and children reside in another EU country with the other parent who does not work, they are entitled to receive the Luxembourgish child benefit in the country of their residence. When the parent is an EU national cross border worker and the second parent is employed in the other EU country where both reside together with their children, two legislations are applicable at the same time and for the same family benefit. EU regulation provides for a priority rule. The State of the residence of the children will pay the family benefit.

¹⁵ Memorial A N°38 of 28 July 2016. <http://legilux.public.lu/eli/etat/leg/loi/2016/07/23/n2/jo>. Accessed 29 May 2019.

Luxembourg's benefit will be suspended up to the amount of the benefit in the residence country of the children. If the amount of Luxembourg's benefit is higher than the amount of the benefit in the other country, Luxembourg must pay the supplement corresponding to the difference between both benefits.

Paternity leave is guaranteed by Art. L. 233-16. 2 LC to all employees, regardless of their nationality or residence, who work under a labour contract in the private sector. It has been increased from 2 to 10 days since January 2018.¹⁶ Paternity leave is granted for all children who are born in wedlock or out of wedlock or who have been adopted, even if they reside abroad. Two months before childbirth, the father must inform the employer that he wants to benefit from paternity leave. Therefore, he must produce a medical certificate. Paternity leave must be taken during the 2 months following childbirth and it can be split. Wages during the paternity leave are paid by the employer, who is entitled for reimbursement from the State for the days which exceed the first 2 days. Reimbursement is limited to 5 x the Social Minimum Wage.

The scheme of parental leave recently refocused for both parents (Law of 3 November 2016¹⁷). Each parent can benefit from a full-time leave of 4–6 months or from a part-time leave under special conditions, as long as the child is under the age of 6. During parental leave, an income related benefit is granted to the beneficiary. It is calculated on the average of the professional income from the 12 months preceding the beginning of parental leave. Its lower limit is equal to the social minimum wage for non-qualified workers and its upper limit is equal to the social minimum wage increased by two third. Both parents are entitled to parental leave provided they comply with the general conditions to access parental leave. Each parent must have been affiliated to the Luxembourg social security at the date when the child was born and, without interruption, during the 12 months preceding the beginning of the parental leave, either under one or more labour contracts totalling at least 10 working hours per week or as an apprentice or as a beneficiary of an allowance replacing wages for which contributions for sickness and maternity insurance have been paid. Children must be raised in the household and parents must devote themselves principally to the raising of their children. One parent must take the parental leave directly after the maternity leave, whereas the other parent is free to take it later. There are no conditions regarding nationality or residence of the parents and the child.

¹⁶Law of 15 December 2017, Memorial A N°1082 of 18 December 2017. <http://data.legilux.public.lu/file/eli-etat-leg-loi-2017-12-15-a1082-jo-fr-pdf.pdf>. Accessed 29 May 2019.

¹⁷Memorial A N°224 of 10 November 2016. <http://legilux.public.lu/eli/etat/leg/loi/2016/11/03/n1/jo>. Accessed 29 May 2019.

19.2.5 *Guaranteed Minimum Resources*

Luxembourg established recently a new ‘*income for social inclusion*’ (REVIS). Law of 28 July 2018¹⁸ amended Law of 29 April 1999 and replaced the previous ‘*guaranteed minimum income*’. The scheme is organized centrally under the supervision of the Ministry for Family Affairs, Integration and the Greater Region. REVIS includes two different types of allowances: a) an *inclusion allowance*, which represents the difference between the guaranteed minimum resources calculated according to the composition of the household and the household’s effective resources; and b) an *activation allowance*, aiming to support persons who participate in professional or social activation measures established in an action plan between ONIS and the beneficiaries. If the household has two adults, both of them are, in principle, entitled to activation measures.

EU and non-EU foreigners who apply for REVIS must have residence rights in Luxembourg, which means that they must be registered in the National Register for Natural Persons and reside actually where they established their usual residence. Non-EU foreigners must reside in Luxembourg for at least 5 years during the last 20 years or have long-term resident status. This condition does not apply to family members of national citizens or EU foreigners. EU nationals and family members, whatever their nationality, are not entitled to the REVIS during the first 3 months of their residence in Luxembourg or during the period they are looking for a job in Luxembourg, if they came to Luxembourg as jobseekers. This disposal does not apply to employees and self-employed, to persons who retain their status and to their family members, whatever their nationality.

REVIS is a means-tested benefit. Income and/or properties that individuals possess in Luxembourg and/or abroad are taken into account in order to determine the eligibility for the minimum income benefit. Likewise, applicants must have exhausted other social benefits or civic responsibilities of maintenance by family members to become eligible. If they are fit for the labour market, they must be registered at ADEM and search for a job.

19.3 Conclusions

Luxembourg’s population has changed under economic pressures. Today, half of the population are immigrants. Nationals from other EU Member States form the vast majority of the foreign population. They are covered by EC Regulation 883/2004 on the coordination of social security systems and entitled to the same social rights than Luxembourg nationals. Non-EU foreigners are covered by bilateral social security agreements that Luxembourg has signed with more than 20 countries.

¹⁸Memorial A N°630 of 30 July 2018. The new law entered into force on the 1st January 2019. <http://legilux.public.lu/eli/etat/leg/loi/2018/07/28/a630/jo>. Accessed 29 May 2019.

Overall, immigrants legally residing and working in Luxembourg do not have major problems to access the social security system. However, entitlement to the guaranteed minimum income is restricted to EU citizens, including Luxembourg nationals, and to third-country nationals, who comply with very strict length of residence requirements.

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