
Case Studies of Good Practice for the Prevention of Racial Discrimination and Xenophobia and the Promotion of Equal Treatment in the Workplace

Luxembourg

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**CASE STUDIES OF GOOD PRACTICE
FOR THE PREVENTION OF RACIAL DISCRIMINATION
AND XENOPHOBIA AND THE PROMOTION OF EQUAL TREATMENT
IN THE WORKPLACE**

LUXEMBOURG

by

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List of Abbreviations

| | |
|-------|--|
| LCGB | Lëtzebuenger Chröstliche Gewerkschaftsbond (Christian trade union) |
| OGB-L | Onofhängege Gewerkschaftsbond Lëtzebuerg (Socialist trade union) |
| RMG | Revenu Minimum Garanti (Guaranteed minimum income) |

NATIONAL CONTEXT¹

1.1 Immigration in Luxembourg

Since the discovery of iron ore in the south of Luxembourg in 1870 there has been a constant flow of immigration into the country. Because of lack of experience in the extraction and processing of iron ore, German engineers and managerial staff were initially called in to assist. There was also a shortage of labour and, because the authorities wanted to keep the agricultural structure of the country intact, workers had to be recruited from Italy. This situation persisted until the outbreak of the First World War. The increasing demand for metal for the manufacture of war materiel gave this sector a key role in the economy at the time. Consequently, German managerial and professional staff were increasingly replaced by Luxembourgers; nevertheless manual labour continued to be performed largely by foreign workers.

Towards the end of the interwar period, however, these foreign workers began to move over into the construction sector. Later on this was to become their main source of employment (see below). After the Second World War Luxembourg, like the other countries in Europe, embarked on reconstruction. Workers from southern Europe (mainly Italy) were again called upon to satisfy the demand for manpower this brought with it. At first they came to do temporary and seasonal work, but later they decided to settle in the country and bring their families over from their countries of origin.

In order to facilitate the integration of these immigrants in Luxembourg the authorities drew up a number of admission criteria. Preference was given to workers from Europe who were white and Catholic.

If we look at the composition of the immigrant community in Luxembourg in 1991 (30% of the total population), we see that these criteria have indeed been met (see Table 1). Only 0.45% are from the African continent, 0.41% from Asia and 0.48% from the USA. With only a few exceptions the foreign population in Luxembourg consists of Europeans and, more specifically, nationals of the European Union. The biggest population groups are, in descending order, the Portuguese, the Italians, the French, the Belgians and the Germans.

Cape Verdeans constitute the exception. Because Cape Verde used to be a Portuguese colony and its inhabitants could therefore get a Portuguese passport relatively easily, they were admitted to the Luxembourg labour market. The fact that the country recently gained its independence has made it more difficult for this population group now to obtain work and residence permits (LCGB interview).

¹ With one or two exceptions I have based my account of the national context entirely on the report by Mr Serge Kollwelter, presented at the Madrid Conference in 1995.

Table 1.1 Foreign Population (1991 Census)

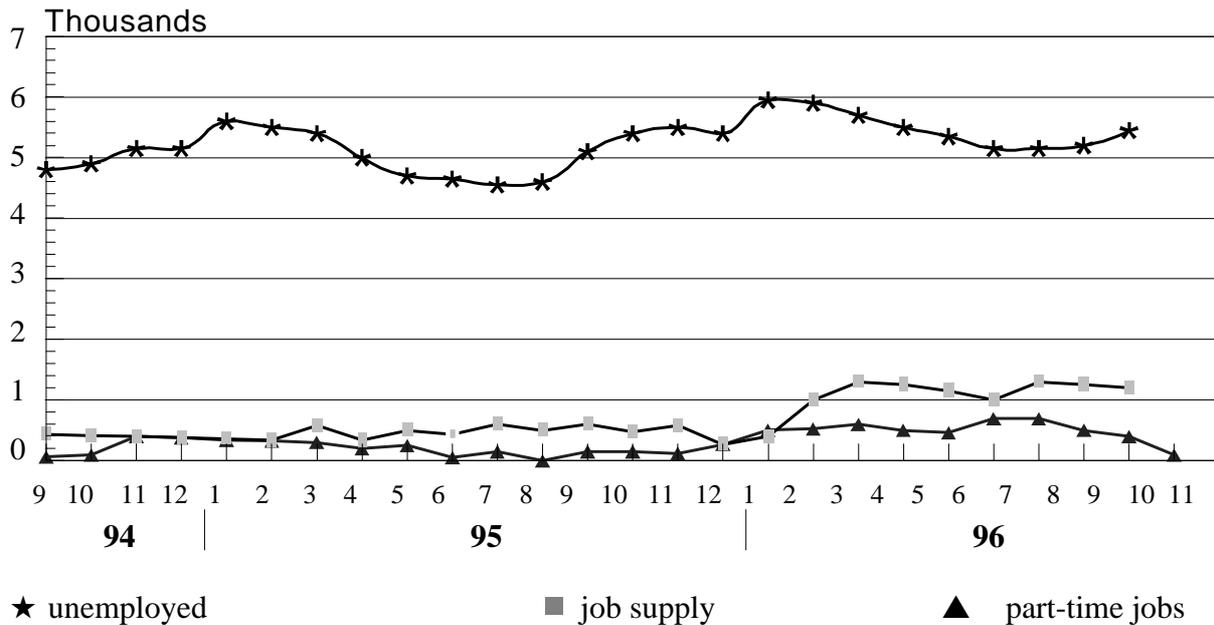
| Nationality | Number | % |
|-------------------------|----------------|---------------|
| <i>EC-Nationals:</i> | | |
| French | 13 202 | 3.40 |
| Belgians | 10 255 | 2.70 |
| Germans | 8 874 | 2.30 |
| Italians | 19 078 | 5.00 |
| Portuguese | 39 303 | 10.20 |
| Dutch | 3 361 | 0.87 |
| Spaniards | 2 505 | 0.65 |
| British | 3 190 | 0.82 |
| Irish | 538 | 0.14 |
| Greeks | 801 | 0.21 |
| Danes | 1 477 | 0.38 |
| <i>Africans:</i> | | |
| North Africans | 350 | 0.09 |
| Cape Verdeans | 1 102 | 0.29 |
| Others | 272 | 0.07 |
| <i>Other Europeans:</i> | | |
| Norwegians | 194 | 0.05 |
| Swiss | 460 | 0.12 |
| Swedes | 467 | 0.12 |
| Finns | 233 | 0.06 |
| Icelanders | 275 | 0.07 |
| Ex-Yugoslavs | 2 241 | 0.58 |
| East Europeans | 685 | 0.18 |
| Austrians | 380 | 0.10 |
| <i>US nationals</i> | <i>1 836</i> | <i>0.48</i> |
| <i>Turks</i> | <i>190</i> | <i>0.05</i> |
| <i>Asians</i> | <i>1612</i> | <i>0.41</i> |
| <i>Others</i> | <i>2 490</i> | <i>0.64</i> |
| Total | 113 905 | 100.00 |

Source: Kollwelter, S. (1994) Luxembourg Report

1.2. Labour market

In economic terms Luxembourg is doing very well, particularly by comparison with the rest of Europe (unemployment in September 1996 was 3.3%, compared with 13-14% in the rest of Europe), although unemployment is increasing here too (see Diagram 1). Employment is still growing, particularly among frontier workers and immigrants.

Graph 1.1 Labour market situation



Source: Déi dreiwend, 11, 1996

Cross-frontier activity increased by as much as 102% between 1988 and 1994. For EC nationals living in Luxembourg employment increased by 34%; for immigrants from other countries jobs expanded by 97%. Only for Luxembourg nationals themselves has there been a slight drop of 4% (see Table 2).

Table 1.2 Trends in employment 1988-1994

| | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 |
|------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Luxemburgers | 90 999 | 91 199 | 90 411 | 89 612 | 89 273 | 86 268 | 87 348 |
| EC nationals | 35 729 | 36 225 | 40 872 | 44 733 | 46 340 | 47 011 | 48 012 |
| Third countries | 2 801 | 3 146 | 3 620 | 4 426 | 4 884 | 5 449 | 5 519 |
| Frontier workers | 24 567 | 28 379 | 32 973 | 36 974 | 41 920 | 46 234 | 49 680 |
| Total | 154 096 | 158 949 | 167 876 | 175 745 | 182 417 | 184 962 | 190 559 |

Source : Kollwelter, S. (1994) Luxembourg report

About half of the economically active population (total approx. 200000) are of non-Luxembourg origin. A quarter are frontier workers and a quarter immigrants.

There will probably always be a demand for foreign workers, but it is not realistic to expect that they will continue to come only from Europe. An increase in migration from more distant parts is expected, so that the three criteria (European, white and Catholic) are unlikely to be sustainable.

If we look at the age distribution in Luxembourg we see that immigrants are over-represented in the lower two age ranges (0-19 and 20-44) and under-represented in the upper two (45-59 and 60+). Among Luxembourgers themselves, the situation is the reverse (see Table 3).

Table 1.3 Age distribution

| Ages | Luxembourgers | Foreigners | Total |
|-------------|----------------------|-------------------|--------------|
| 0-19 | <i>21.4%</i> | <i>27.2%</i> | <i>23.1%</i> |
| 20-44 | <i>36.6%</i> | <i>49.1%</i> | <i>40.3%</i> |
| 45-59 | <i>18.5%</i> | <i>15.8%</i> | <i>17.7%</i> |
| 60+ | <i>23.5%</i> | <i>7.9%</i> | <i>18.9%</i> |

Source : Kollwelter, S. (1994) Luxembourg report

Initially immigrants were employed in the metal industry. They were gradually replaced by Luxembourgers in this sector and moved over to the construction sector.

The table below shows clearly that the construction sector, together with the hotel and catering trade and the public sector, are the principal employers of immigrants in Luxembourg. A breakdown by status shows that they occupy the two extremes on the social ladder: they are to be found in both the top (senior management) and the bottom (manual workers') jobs.

1.3 Legislation

1.3.1 Constitution

The Constitution of the Grand Duchy of Luxembourg dates from the middle of the nineteenth century. The second part covers "Luxembourgers and their rights". Important Articles include:

- Article 11: "Luxembourgers are equal before the law";
- Articles 25 and 26: freedom of association and assembly;
- Article 24: freedom of expression.

With regard to foreigners in the country Article 111 stipulates that: "every alien present in the territory of the Grand Duchy of Luxembourg shall enjoy the protection afforded to persons and goods, except where provided otherwise by law".

A ruling by the Council of State on 4 February 1964 adds that "aliens in the Grand Duchy of Luxembourg shall enjoy all rights which are not denied to them. In the absence of a text providing otherwise, they shall be equated with Luxembourgers". Foreigners in the Grand Duchy were nevertheless prohibited from taking part in elections, either as voters or as candidates. The process of European unification has meant changes here. EC nationals may now take part in municipal elections, both as voters and as candidates. For foreigners from third countries the situation remains as before; they have not yet won the right to vote. Two categories of foreigner have thus been created: foreigners with more and foreigners with fewer rights. The Constitution, however, does not make any explicit provision for the prevention of discrimination.

1.3.2 Law

Since 9 August 1980 the prevention of discrimination has been regulated by law. The Act in question is simply a transposition of the 1996 New York Convention into national law.

It stipulates that it shall be an offence for any person, in the supply or offer for supply of goods or services, to discriminate against:

- a) a person on grounds of race, colour, descent or ethnic or national origin;
- b) a group or a community, the members of that community as a whole or individual members thereof, on grounds of race, colour, descent or ethnic or national origin,.

There is also the Act of 27 July 1993, which regulates the integration of foreigners in Luxembourg. Section 3 provides that "any discrimination in respect of a person, a group of persons or a community on grounds of the race, colour, descent, ethnic or national origin or religious affiliation of that person, the members of that group or that community shall be prohibited".

Section 4 determines the penal sanctions.

This does indeed represent an advance on the 1980 Act; the new legislation forbids any form of discrimination, hence by implication also discrimination on the labour market.

The International Convention on the Elimination of All Forms of Racial Discrimination obliges the signatories to report to the UN at regular intervals on the situation in their own countries. According to this international body, Luxembourg falls just short of 'satisfactory'. The country is encouraged to make more of an effort to draw up explicit provisions to outlaw racist and xenophobic movements.

In practice the Act governing the *revenu minimum garanti* (RMG - minimum guaranteed income) provides a basis for the discriminatory treatment of foreigners in comparison with Luxembourgers, although this is not explicitly stated. In order to secure this minimum income, claimants have to satisfy a number of criteria. One of these is that they must have been continuously resident in Luxembourg for a minimum of 10 years. This means that a large number of foreigners do not qualify.

1.3.3 Labour legislation

This legislation makes a distinction between EC nationals and non-EC nationals.

a) EC nationals

Article 48 of the EC Treaty lays the emphasis on freedom of movement for workers within the European Union. Such movement may be limited only on account of public concerns, such as public security and public health. These restrictions thus cannot be applied to public administration. Only where it is a question of the direct or indirect exercise of public authority or the protection of the general interests of the State can foreigners be excluded from the exercise of such offices (*AK-Info's*, 1996/4).

There are still parts of the public sector which are reserved for persons of Luxembourg origin, however, including teaching at primary and secondary schools, some jobs in health care, public transport, the postal and telecommunications services and the supply of gas and electricity. This violates Article 48 of the EC Treaty and Articles 1 and 7 of Regulation (EEC) No 1612/68.

As regards access to the labour market, the principle of equal treatment (Article 48) requires that a foreigner on the territory of the country may not be treated in a manner different to Luxembourg employees. The same applies in respect of working conditions and social security

benefits. In addition, immigrants are entitled to the same opportunities as regards vocational training and retraining.

Members of the family of a foreign worker are also entitled to equal treatment where access to employment is concerned, even if they are not nationals of the European Union.

b) Workers from third countries

The provisions of 12 May 1972, amended by regulations of 29 July 1977 and 17 June 1994, cover arrangements for the employment of foreign workers in the Grand Duchy.

A distinction is made here between individual and collective work permits.

Individual work permits:

No foreign worker may be employed in the Grand Duchy without a work permit, issued by the Minister of Labour or his representative.

There are different types of work permit (see Table 4). Upgrading from permit A to permit B and then to permit C is not automatic and can sometimes give rise to problems. In this way a great many immigrants from third countries can find themselves in an irregular situation. Although they may have been working for years and paying social security contributions, they may still not have been issued with work or residence permits.

Table 1.4 Work permits

| Type | Duration | Occupation | Employer |
|------|--------------------------------------|------------|--------------|
| A | 1 year | 1 job | 1 employer |
| B | 4 years | 1 job | any employer |
| C | indefinite | any job | any employer |
| D | duration of course or apprenticeship | - | - |

Source: *AK-Info's* (1996/4)

For the worker to be eligible the future employer must submit an application in duplicate to the employment services. An application in duplicate must also be submitted to renew the permit. The employment services must then check to see whether the employee is eligible. In addition, the employer must deposit LUF 60 000 at a bank for the repatriation of the employee, should his application be rejected. Ultimately, however, it is the Minister who decides whether an

application is acceptable. Moreover, priority is given to EU nationals; a worker of a different nationality may only be recruited if no EU national can be found.

Collective work permits:

A work permit of this kind can be issued in exceptional cases for foreign workers coming to the Grand Duchy for a limited period, either to work for a foreign company or for a Luxembourg company, and the company by which the workers will be employed has to apply for it. Collective work permits are issued for a maximum of eight months (renewals included). Here too a minimum bank guarantee of LUF 60000 may be required.

These cumbersome procedures for both individual and collective work permits must be seen in the context of the preferential treatment accorded to EC nationals.

Overview of problem areas in the legislation of the Grand Duchy of Luxembourg

- 1) lack of an explicit provision outlawing discrimination
- 2) the *revenu minimum garanti* (guaranteed minimum income): minimum of 10 years' residence
- 3) voting rights for immigrants: only for EC nationals and at local level and European level
- 4) limited access to public service posts
- 5) workers from third countries often find themselves in irregular situations
- 6) cumbersome procedures for the issue or extension of work permits.

CASE STUDY: OGB-L IMMIGRANTS' SECTION

2.1 *Contacts*

The European Foundation passed on to us a suggestion from the socialist trade union in the Grand Duchy that we make contact with their Immigrants' Section.

In order to form an impression of how this section worked, we contacted the following persons:

- De Matteis, chairman of the Immigrants' Section and delegate from the Southern Regional Division. He is also the trade union representative at CDC (Compagnie de Construction).
- Soisson, manager at CDC. The construction sector is the biggest employer of immigrants. CDC itself employs 390 manual workers and 40 white-collar workers, for example. In addition Mr Soisson has also been a director of the biggest employers' organisation (FEDIL) in Luxembourg.

2.2 *The Immigrants' Section: an introduction*

The section was officially set up twelve years ago, but even in the 1950s, when the union was still called "LAV", there was an official who dealt with matters affecting the Italians, who formed the largest group of immigrants at the time.

Between 1965 and 1970 many Spaniards and, later, Portuguese arrived as immigrants in Luxembourg. In this period the idea arose of placing activities on behalf of immigrants on a more structured footing.

The section consisted initially of a national executive, currently chaired by Mr Adolfo De Matteis. Regional divisions were subsequently set up too because the union was expanding. Its membership is currently estimated at 43000, including 12 000 immigrants. Trade union activity is currently pursued in five different regions.

2.3 *Policy and practices of the section*

The section was set up because at the time union meetings and assemblies were always held in Luxembourgish. The immigrants in the membership could not follow what was said at these meetings and therefore did not feel they were involved in the union's activities. In order to motivate this group to participate in the union's affairs, the idea was conceived of setting up an immigrants' section. The meetings organised by this section are conducted in French, but any worker can make comments and put questions in his or her own language. Pamphlets and

articles of interest to immigrant workers are translated into various languages and reproduced in the union magazine, *Actualités*. For example, the “Joint Declaration on the prevention of racial discrimination and xenophobia and promotion of equal treatment at the workplace” was translated into Portuguese.

Because of the increasing size of the union, it was decided to introduce regional divisions. There are now five regional immigrants' sections (North, Centre, South, Dudelange and Moselle) within the OGB-L, covering the whole of Luxembourg. The regional divisions are responsible for organising information meetings in which members can participate in their own languages. Cultural activities, social events and children's parties, are also organised, however, in order to enable the various nationality groups to make contact with one another and develop mutual understanding.

Each division provides contact points through which immigrants are helped with problems of all kinds. Problems at work and problems with social security, housing, administrative difficulties and the like are all dealt with.

The Immigrants' Section has been successful at national level too.

Within the OGB-L particular importance is attached to the participation of immigrants. All the staff of the immigrants' sections are thus of foreign origin. The premise is that it is only possible to do something for immigrants if they are included and integrated into the working of the union.

A number of candidates of foreign origin have been elected to the *Chambre de Travail* (Chamber of Labour)². The role of this body is to subsidise organisations, institutions or services whose aim is to improve the lot of the worker. It also has the task of safeguarding workers' interests and ensuring that social security and employment legislation is complied with. The Chamber of Deputies is obliged to seek the opinion of the *Chambre de Travail* on all legislation having a bearing on the working class.

On 1 June 1996 the Immigrants' Section drew up and approved an action programme (see annex) covering the various problem areas in policy as regards immigrants. The following standpoints were adopted:

- A demand for the regularisation of the position of foreign workers from third countries.
- The minimum guaranteed income must be available to everyone in need of it, regardless of period of residence and age.
- The public sector must be opened up to everyone.
- Every foreigner should be permitted to take part in elections (as a voter) after three years' residence in the Grand Duchy, and it should be possible to stand for election after six years.

² One of the six *chambres professionnelles*, in which only workers from different economic sectors are represented. In order to be elected to this chamber it is not necessary to be of Luxembourg origin.

- As 1997 has been declared European Year Against Racism, the section intends to work for the introduction of explicit statutory provisions outlawing racism.
- Immigrants are assumed to have a suitable place of residence when they arrive in Luxembourg. However, most are busy securing a contract of employment. Consequently immigrants often live in old and insalubrious housing. More and more families also find themselves obliged to live in rented rooms (sometimes together with several other families). The section proposes that access to the labour market be eased for immigrants by making administrative procedures more transparent and that action be taken against slum landlords.
- In education immigrant children often perform considerably worse than Luxembourgers; according to the section this is because the education system is not adapted to the needs of these children. Insufficient knowledge of the Luxembourg language constitutes a first obstacle to them in their school careers. The section therefore appeals for better facilities to integrate young immigrants. In addition, the section considers it important that immigrants should not lose their own mother tongue and cultural heritage. This means that the mother tongue and culture of immigrants must feature in educational provision.

On the same lines as the social evenings at regional level, a friendship celebration is held once a year which, this year (1997), will take place under the banner of the European Year Against Racism.

At CDC, where Mr De Matteis is the trade union representative, it was agreed that staff and management would do something jointly in the context of the European Year Against Racism, in order to raise awareness of this issue. One of the proposals is to design posters and placards which will be distributed around the enterprise and at the various workplaces.

Together with FEDIL, of which the present manager of CDC was chairman, and LCGB, the OGB-L has signed a declaration endorsing the Joint Declaration agreed by the European social partners in Florence in 1995 (see annex).

Regional divisions

- intercultural meetings
- meetings held in different languages
- translation of booklets and leaflets
- social assistance
- EC nationals are encouraged to register for local elections.

National section:

- friendship celebration
- translation of articles in the monthly bulletin
- representation in *chambres professionnelles* and advisory role in the *Chambre du Travail*
- Immigrants' Section Action Programme, approved on 1 June

Company (CDC):

- Joint declaration

2.4 Assessment

The OGB-L Immigrants' Section offers its members an extensive range of advice and guidance services both on an individual basis and at national level. On an individual basis the foreign worker can get help on matters arising from work, but also on questions to do with social security, health insurance funds, administration etc. The regional divisions endeavour to keep their members informed in all areas in order to ease their integration into Luxembourg society. At national level too the aim is to promote the general integration of foreigners into Luxembourg society; efforts are not restricted to employment matters. This is clearly illustrated in the 1996 Action Programme; it addresses all the various problem areas in immigrant policy in turn and proposes possible solutions.

The election of immigrants to the *Chambre du Travail* is also a positive sign. As this body exercises advisory powers at the highest level, namely in Parliament, immigrants can make a substantial contribution through it.

The Immigrants' Section remains part of the OGB-L, however; hence it operates in close association with the rest of the union. In order to strengthen the sense of belonging and integration of each individual in the trade union movement as a whole, activities are often organised in which the emphasis is on learning about each other's culture; hence also the attention devoted to enabling members to understand texts and proceedings at meetings.

2.5 Conclusion

Few concrete measures concerned with discrimination on the labour market (apart from the efforts to open up employment in the public sector to all) emerge from this report on activities on behalf of immigrants in the Socialist trade union, OGB-L.

The reasons for this probably relate to the fact that Luxembourg is an exceptional case in the European context. It is one of the few European countries in which unemployment has not yet reached dramatic levels. Employment is certainly still on the increase among the immigrant population, although unemployment is beginning to show itself. At present, however, it is 'only' 3.3%.

In such a situation there is a place for everyone on the labour market and slogans such as "jobs for our own people first" have not (so far) gained much currency.

According to the social partners there is practically no discrimination on the labour market in Luxembourg, with one or two exceptions. As regards equal treatment in recruitment, dismissal and remuneration, everything is said to be one in accordance with the law.

However, this does not prevent immigrants from finding themselves stuck on the lowest rung of the social ladder in comparison to Luxembourgers. Most immigrants are employed in the least attractive sectors, where work is often unsafe. This finding is echoed in the report of Serge Kollwelter, according to which immigrants suffer relatively more industrial accidents because they are indeed over-represented in the most dangerous sectors, such as construction

(80% of building workers are immigrants). Moreover, these are precisely the sectors in which most problems occur with employers violating the collective agreements in force. Indirectly, relatively more immigrants fall victim to these practices (Ricacho, LCGB).

The demand for a review of the rules for the guaranteed minimum income (RMG) must also be seen in this context. Immigrants often dare not take action over violations of collective agreements by employers out of fear of dismissal. If they then have not been resident in Luxembourg for ten years, they cannot claim the RMG benefit.

Their low-ranking status is also a consequence of the problems experienced by immigrant children in the Luxembourg education system. Their inadequate mastery of the language is a first obstacle, which is seldom overcome.

This explains to some extent why the trade unions have opted to press for voting rights for immigrants and an amendment of the RMG, rather than pursuing action against discrimination on the labour market.

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(Immigrants' Section)
Département des Immigrés

IMMIGRANTS' SECTION ACTION PROGRAMME
APPROVED ON 1 JUNE 1996
(Programme d'action du département des immigrés, approuvé le 1er Juin 1996)

COLLECTIVE AGREEMENTS

The Immigrants' Section denounces the arrogant attitude of the employers which calls into question the system of collective agreements and industrial peace.

CONSTRUCTION

Negotiations on the renewal of the Collective Agreement for the construction industry have been going on since September 1995.

The employers are calling into question the present classification and qualification system for workers without taking the trouble to invest in vocational training.

The employers do not want to improve real wages for workers despite the fact that everywhere enterprises are working overtime, working Saturdays, disregarding the safety and health of employees, etc.

The Immigrants' Section demonstrates its unconditional solidarity with the construction workers and will be out in the field helping to give effect to any form of struggle necessary to make the employers understand that the construction workers are capable of showing their strength (by means of a strike if need be) and their determination to safeguard the terms of the contract and to secure an improvement in wages and working conditions.

HOTELS AND CATERING

The Immigrants' Section points out that there is an ILO Convention of 1991 on working conditions in the hotel and catering sector, which has still not been introduced in Luxembourg.

The Government must act because negotiations with the Employers' Federation have been dragging on for years. The employers are not living up to their responsibilities, are failing to act constructively and are resorting to delaying tactics in order to postpone *sine die* the conclusion of a collective agreement for the hotel and catering sector.

We cannot accept that in Luxembourg, at the heart of the European Community, workers in the hotel and catering sector continue to work twelve, fourteen and sixteen hours a day without bonuses or any form of compensation.

In the State of the Nation debate, the Prime Minister said that the Government would be presenting a regulation on working hours in this sector. There was already a promise on these lines in 1994, to be given effect in summer 1995, which was not honoured.

We hope that this year the Government will keep its word.

CLEANING

Negotiations on the introduction of a collective agreement for the cleaning sector started several years ago.

It is time for the Employers' Federation to take the negotiations on a collective agreement in the cleaning sector seriously.

The workers in this sector deserve more respect and their working conditions and wages must be improved by means of a collective agreement. Furthermore, a collective agreement declared generally binding is the best way of fighting unfair competition from foreign firms.

METAL CONSTRUCTION

It is already more than three years since the OGB-L entered into negotiations with the *Fédération Luxembourgeoise des Constructions Métalliques* on the introduction of a collective agreement. The employers are stalling and prevaricating in order to enforce for as long as possible wages and working conditions which leave much to be desired.

It is time for employers in the HOTEL AND CATERING, CLEANING and METAL CONSTRUCTION sectors to make a constructive commitment to the negotiations and for workers in these sectors to get their collective agreement at long last.

BANKRUPTCIES

Payment by the *Fonds de l'Emploi* (Employment Fund) of the entitlements due to employees of firms declared insolvent must be made as quickly as possible. It is unjust and intolerable that workers and their families should be put at a disadvantage and be forced into impossible situations - unable to cater for the most basic needs of their families, let alone pay their rent or clear their bank overdrafts etc.

There must be an end to the scandal of employers who, either before or after becoming insolvent, start up new companies, sometimes in the same place, with complete impunity.

Society as a whole (through the *Fonds de l'Emploi*) should not have to foot the bill for the bad management, incompetence and improvidence of some "entrepreneurs".

The Immigrants' Section calls for new legislation on the right of establishment obliging every enterprise to set up a guarantee fund to ensure the payment of wages and allowances due to workers in the event of insolvency.

WORKERS IN AN "IRREGULAR" SITUATION

There are still hundreds of workers - men and women - from countries outside the Community who have worked in Luxembourg for years, who pay their social security contributions and who, in spite of that, do not have a work permit and/or a residence permit for Luxembourg.

In view of this intolerable and unjust situation, **the Immigrants' Section calls for the immediate regularisation by the Ministry of Labour of all workers in an "irregular" situation who have registered for social security.**

The Immigrants' Section demands that the regulations on the granting of work permits be amended so as to ensure that, after working for one year, workers will have a permit affording them access to various sectors and employers.

Current legislation in this area gives employers the sole right to determine the future of these workers and constitutes an "open road" to social dumping.

EMPLOYMENT ADMINISTRATION AND LABOUR INSPECTORATE

In 1995 it was decided in the NATIONAL TRIPARTITE CONSULTATION PROCEDURE that the Employment Administration (ADEM) and the Inspectorate of Labour and Mines (ITM) should be reformed. So far nothing has happened. On the contrary there has been an ever-increasing number of complaints.

In the event of unemployment, the inquiries conducted by ADEM almost always confirm the employer's version. In the event of an appeal to the Review Commission, decisions take one to three years without any justification.

With regard to the reform of the Employment Administration, the Immigrants' Section would like it to play its role more effectively in finding work for the unemployed and in paying unemployment benefits on time.

The Immigrants' Section would like the Inspectorate of Labour and Mines to be made more effective and dynamic and to be given more human and material resources so that it can act and secure compliance with labour legislation, particularly that relating to health and safety at work.

MINIMUM GUARANTEED INCOME

Current legislation on the *Revenu Minimum Garanti* (minimum guaranteed income - RMG) imposes, amongst other conditions, a period of residence of at least 10 years in Luxembourg. While this condition applies to everyone, its impact is particularly severe on new arrivals.

Another condition, which constitutes disguised discrimination against immigrants, is that of asking what assets (normally a house) the applicant for the RMG has in his country of origin.

The OGB-L Congress has decided to support the granting of the RMG to any resident who has worked in Luxembourg in accordance with the legal requirements, who has lost his or her job and has exhausted his or her entitlements to unemployment benefit and to residents receiving a pension from a Luxembourg social insurance body.

The Immigrants' Section once again demands the abolition of the residence criterion as a condition to qualify for the RMG and of all questions regarding the country of origin.

INVALIDITY PENSIONS

There are no uniform regulations at European level regarding the recognition of invalidity status by the various Member States. Because of this it is not unusual for the Luxembourg social security system to grant invalidity status to immigrant workers only for them subsequently to find that status rejected by other countries in which they have worked and paid contributions in the past.

The Immigrants' Section would like to see agreements concluded in the context of relations between Luxembourg and the other Member States of the European Union providing for a bilateral concordance table which would give automatic recognition to social security decisions, particularly as regards pensions, pending the adoption of uniform European regulations.

ACCESS TO THE PUBLIC SERVICE

Luxembourg legislation reserves access to the following public sector activities to Luxembourg citizens:

- research,
- primary and secondary education,
- health (in part),
- land transport (urban transport services in Luxembourg City and Esch-sur-Alzette),
- post and telecommunications,
- water, gas and electricity distribution,
- manual trades in State and Municipal Administration.

This situation is contrary to Community law, and the European Commission has instituted an action for non-compliance against Luxembourg before the Court of Justice in respect of infringements of Article 48 of the EEC Treaty and Articles 1 and 7 of Regulation (EEC) No 1612/68.

The OGB-L Action Programme states that "Luxembourg legislation governing access to posts in the civil service must be adjusted, on the lines of what has been done in the other countries of the European Union, to the provisions of the Treaty on European Union, in accordance with the case law of the European Court of Justice".

MUNICIPAL ELECTIONS

The Immigrants' Section welcomes the granting of the right to vote in local government elections to citizens of the European Union resident in Luxembourg for a certain time.

However, the Immigrants' Section considers it important to extend the right to vote to non-Community citizens in order to avoid the creation of a two-speed society. Granting the right to vote to all immigrants, Community and non-Community, who have been living in Luxembourg for a certain time, would place all citizens on an equal footing and ensure greater harmony in local society.

The Immigrants' Section calls on the Government to take a positive attitude and to extend to non-Community citizens the right to vote and to seek election. The Immigrants' Section considers that the residence requirements provided for by the Act adopted by Parliament are excessive and proposes three years' residence to acquire the right to vote and six years for the right to stand as a candidate.

The Immigrants' Section urges that the administrative formalities for names to be entered on electoral rolls should not be too restrictive and calls in particular for the abolition of the requirement of a "certificate documenting the duration of residence". (In cases of doubt the municipalities always have the means necessary to check a person's period of residence in the Grand Duchy).

The Immigrants' Section demands that the right to stand as a candidate for election should be extended to the office of alderman (only the office of burgomaster should be reserved for Luxembourg citizens).

In any event, the Immigrants' Section invites all those who meet the conditions currently imposed by law to enrol in the electoral register and undertakes to encourage immigrants to participate in the 1999 elections.

THE FIGHT AGAINST RACISM

The number of acts of racism and xenophobia has not attained the same proportions as in neighbouring countries. Nevertheless, the Immigrants' Section takes the view that everything must be done to combat and eliminate this scourge.

As the European Trade Union Confederation stated at the last International Day against Racial Discrimination, the fight against racism and intolerance forms an integral part of the trade union programme.

1997 will be European Year Against Racism and Xenophobia; the Immigrants' Section invites the Government and all the economic and social actors to act against this scourge.

The Immigrants' Section calls for approval by the European Union of the draft directive of April 1993 on the elimination of racial discrimination and for its prompt implementation by the Member States.

The Immigrants' Section calls for the insertion of an article on the prevention of racism in the Treaty on European Union when it is revised.

The Immigrants' Section will do everything it can to combat racism and xenophobia and calls on the Chamber of Deputies to make provision in law for associations to institute civil prosecutions over offences of a racist or xenophobic nature as part of the bill on the subject currently under discussion.

HOUSING

In principle immigrant workers should have accommodation on arrival in the country. But the focus of attention is more on imposing contracts of employment than on providing housing for workers and their families.

Immigrant families often occupy old houses in which they suffer deplorable unhealthy conditions and pay very high rents. Several hundred workers "live" three or more to a room in "dormitories", located in cellars or attics lacking the most basic conditions, and pay exorbitant rents.

The Immigrants' Section invites the State and the Municipalities to develop and pursue policies for the construction of social housing, while avoiding the creation of ghettos.

The Immigrants' Section demands an improvement in conditions of access to property ownership and the abolition of the administrative formality requiring immigrants to prove that they do not own a dwelling in their countries of origin.

EDUCATION AND VOCATIONAL TRAINING

The reasons for the failure of immigrant children at school and in vocational training are certainly not due to any intellectual inferiority but to a system which does not match the needs of either foreigners or Luxembourgers.

Inadequate knowledge of the Luxembourg language is a first major obstacle to the educational success of immigrant children.

The Immigrants' Section invites the local and national government authorities to set up crèches in each municipality of a number sufficient to accommodate both Luxembourg and non-Luxembourg children from a very early age, staffed by qualified personnel, in order to enable children to enter nursery education with a good knowledge of the Luxembourg language, which will doubtless assist them in their studies and make it easier for them to learn German later, a key factor in facilitating the vocational training of immigrant children and in preventing them from falling into the same trap as their parents before them - that of being fit only for unskilled jobs.

The Immigrants' Section supports the Minister for Education in her move to abolish the examination between the primary and secondary levels of education.

With regard to adult immigrants, the Immigrants' Section calls for the introduction of a period of language training leave to enable immigrants to learn the Luxembourg language as soon as they arrive in the country.

The Immigrants' Section is aware that for many workers moving to Luxembourg in adult life, particularly those of Latin origin, learning the Luxembourg language is fraught with difficulty, and calls for the development of French or German courses, which would provide a first stage in the integration of these workers.

The vocational training system in general needs a proper overhaul to enable it to equip our young people for the technologies of the twenty-first century, if Luxembourg is not to become an area in which the shortage of skilled labour has become so irreversible that certain sectors of the economy are fated to be forever dependent on "qualified foreigners".

As regards trade union education, immigrants are fully entitled to take part in courses organised by IFES and by the *Ecole Supérieure du Travail* (EST). The Immigrants' Section invites all workers to enrol and participate in the various courses organised by IFES and EST and undertakes to organise more courses responding to the needs of our members relating to health and safety work, staff representation and the latest legislation on temporary work and part-time working.

MOTHER TONGUE AND CULTURAL IDENTITY

Mother tongue tuition in schools has for years been the subject of lively discussion on a broad front, with particular emphasis on the need to integrate the mother tongue of pupils into the educational programme without imposing any additional burden on the children of immigrants. According to a report on the education of immigrant children in the European Union, **the integration of mother tongue tuition in the normal curriculum enhances the child's sense of self-worth and contributes to its educational success.** Every pupil has and must retain the right to attend classes in his or her mother tongue from nursery level onward. **The Immigrants' Section takes the view that the Ministry of Education and the municipalities must do all they can to integrate mother tongue tuition into school curricula.**

Social activities enrich the lives of human beings. Inter-cultural initiatives and events must be encouraged and developed. The Immigrants' Section calls on the municipalities to assist all associations without discrimination in terms of granting subsidies, hiring out halls and making sports facilities available. The Immigrants' Section undertakes to promote inter-cultural activities with a view to the better integration of immigrants in society.

FEDIL

OGB-L LCGB

To the Social Partners in the private sector

Subject: Joint Recommendation by FEDIL, OGB-L and LCGB on the Prevention of racial discrimination and xenophobia and promotion of equal treatment at the workplace

Luxembourg, 9 October 1996

Dear Sir/Madam,

At the Social Dialogue Summit in Florence on 21 October 1995, the European social partners UNICE/CEEP and ETUC adopted a "Joint Declaration on the prevention of racial discrimination and xenophobia and promotion of equal treatment at the workplace". In this declaration the social partners reaffirm the very great importance they attach to the achievement in Europe of a democratic, pluralist and mutually supportive society which respects the dignity of all human beings. In adopting this declaration they seek to stress their commitment to promoting the joint effort to prevent all forms of discrimination and to achieve social integration in the area over which they have some influence, namely the workplace.

Racism and xenophobia are a grave threat not only to the stability of European society but also to the proper functioning of the economy. It is a problem not limited to the world of work but one that concerns society as a whole, and it is in everyone's interest and is the responsibility of all to solve it.

Work is a key factor in the subsistence and social integration of human beings. Moreover harmony in working relations and the optimum use of all an individual's talents and skills are crucial to the efficiency of enterprises and the welfare of their workers. In addition, the establishment and development of harmonious relations within enterprises and organisations can serve as a model for society as a whole and can play a vital role in the fight against racism and xenophobia.

The signatory organisations would thus take this opportunity to send you the text of the Joint Declaration of the social partners and a brochure summarising the main objectives, with a recommendation that you integrate their content into relations between staff and management within your enterprise.

We hope that we can count on your support in these endeavours.

Yours faithfully,

OGB-L

LCGB

FEDIL

(signed)

(signed)

(signed)

Jean-Claude Reding
Member of the Executive
Bureau

Léon Drucker
General Secretary

Nicolas Soisson
Director