

GRAND-DUCHY OF LUXEMBOURG

REPORT

ON THE

FREE MOVEMENT OF WORKERS

by François Moyse

Avocat à la Cour

Luxembourg

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Introduction

Following are the highlights of 2006:

- *Legislation on Residence*: Luxembourg has begun drafting a law which will completely reshape the old law of 1972 on the entry and residence of foreigners, and due to the necessity of transposing Directive 2004/38/EC, several Grand-Ducal regulations on working conditions. Indeed, the Luxembourg legislation is no longer suitable to EC law in this area.

- *Enlargement*: Luxembourg has decided to keep the regime of restrictions for 8 out of 10 new EU member countries, including also the two new member countries, i.e., Bulgaria and Roumania with respect to accessing the employment market.

- *Opening of the public sector to EU citizens*: as in 2005, no changes were made to the national legislation. In principle, Luxembourg only allows the access of foreigners as civil servants for the six areas that have been decided by the Court of Justice of the European Communities as being open to other EU citizens and only for minor positions.

Chapter I: Entry, Residence, Departure

- *loi modifiée du 28 mars 1972 concernant 1. l'entrée et le séjour des étrangers; 2. le contrôle médical des étrangers; 3. l'emploi de la main-d'oeuvre étrangère*
- *Règlement grand-ducal du 28 mars 1972 relatif aux formalités à remplir par les étrangers séjournant au pays – modifié*
- *Règlement grand-ducal du 28 mars 1972 relatif aux conditions d'entrée et de séjour de certaines catégories d'étrangers faisant l'objet de conventions internationales-modifié*

Legislation

Luxembourg's legislation in effect on the entry and residence of foreigners dates from 1972. This legislation is not longer suitable to the current context, including the progress made through the European Community legislation, allowing for free movement of EU citizens, with its extension of rights to third-country spouses or family members.

In a 4 August 2004 coalition agreement, the Christian-Social Party and the Socialist Party, the two ruling political parties, agreed to amend the existing legislation.

According to recent information, a preliminary draft (*avant-projet*) of the new law was to be submitted to the Council of Government on 27 April 2007. However, it is not known yet when the legislation will be submitted to Parliament, as this draft may well be amended before becoming a draft bill (*projet de loi*). The bill will most probably not be adopted by the Chamber of Deputies in 2007. This bill will also contain changes in the legislation as required by the transposition of Directive 2004/38/EC.

Thus, the unamended law still applies, meaning that the entry of foreigners is largely governed by the law of 28 March 1972 (the "Entry and Residence Law") as concerns the:

- (a) entry and temporary visits, or residence of foreigners;
- (b) medical supervision of foreigners, and
- (c) employment of foreign workers.

Additionally, the Grand-Ducal regulation of the same date concerning the formalities with foreigners visiting Luxembourg must comply (the "Formality Regulation") also impacts the matter.

A foreigner wishing to reside for less than three months in the Grand Duchy of Luxembourg must make a declaration to this effect within three days of arrival to the local authority of the place where the person intends to stay (Article 1 of the Formality Regulation).

However, according to the Grand-Ducal Regulation of 28 March 1972 concerning conditions for certain categories of foreigners subject to international conventions (the "Special Foreigner Regulation"), which has been amended several times, there are special, more liberal, conditions for persons from EU and European Economic Area (EEA) Member States.

For these persons, entry and residence in the Grand-Duchy of Luxembourg for up to three months, requires only the presentation of a national identity card or a valid passport (or one which has expired less than five years prior) or any other piece of identification recognised for crossing an international border (Article 2 of Special Foreigner Regulation). Such persons must also notify their arrival to the local authorities of the place of their residence three days of their arrival (*id.*, at Article 7).

These provisions apply to nationals from an EU Member State who intend to come to Luxembourg to work in salaried positions; to nationals engaging in an unpaid activity; and, those who, *inter alia*, do not intend to live in the Grand-Duchy of Luxembourg, but who offer, as independent workers, "services" as defined by former article 60 of the Treaty of Rome (current article 50 of the EU Treaty).

The Regulation is also applicable to those who were formerly employed or exercised an unpaid activity in the EEA, provided that they are the beneficiary of a disability, early retirement or retirement pension or of an annuity due to a industrial accident or occupational disease, which provides them the equivalent of the minimum guaranteed income (RMG) and that they are covered by health insurance.

It is also applicable to those who do not benefit from any right of residence due to other provisions of EU law, provided they and their family and who have an income are covered by health insurance which is at least equivalent to the minimum guaranteed income.

Finally, the same applies to citizens who occupy a salaried position in Luxembourg, but who reside in another EU country, provided that they return to their principal country of residence every day or at least once a week.

Treatment of Jobseekers

Some problems arise from the treatment of cross-border commuters. It must be recalled that Luxembourg has a considerable number of cross-border commuters, because it is a country in which the labor market is continuously expanding and there is a need to recruit foreign workers, including many workers from the immediately surrounding border region. Therefore, there is a considerable number of cross-border commuters from France, Germany and Belgium working in Luxembourg, and of course, some are also unemployed and seeking employment.

The administrative practice of the employment administration ADEM (*Administration de l'Emploi*), is to keep two separate lists of unemployed persons: one for Luxembourg residents and one for cross-border commuters.

One can *de facto* witness discrimination towards the jobseekers included in both lists as the residents are generally given priority treatment by the ADEM with respect to ADEM services. Thus, Luxembourg residents are more readily called upon when some offers are presented to jobseekers.

Also, some employability measures are open only to jobseekers who possess a work permit, thereby disadvantaging non-EU Member State, or third country, jobseekers.

Until recently, the administrative practice for EU jobseekers was that a residence permit was required as a condition for receiving unemployment benefits as well as, of course, registration with the ADEM. This was based on a Foreign Ministry internal administrative instruction, which is not publicly available.

Because of the requirements of Directive 2004/38/EC, the whole process is under review and a residence permit may no longer be required from EU citizens.

According to the Ombudsman's 2006 report, some third country workers with a work permit, who have fulfilled the condition of having worked for 26 weeks for an employer in Luxembourg and have paid social security contributions have encountered serious problems.

After being dismissed from their job or after the end of their employment contract, their request for unemployment benefits was rejected because they no longer had a work permit.

Indeed, on 16 November 2000, Luxembourg's *Cour de Cassation*, decided that unemployment benefits may only be paid to third country citizens in possession of a work permit. This decision is based on article 13 of the law of 30 June 1976¹ creating an unemployment fund and regulating unemployment benefit payment, as amended.

¹<http://www.legilux.public.lu/leg/search/resultHighlight/index.php?linkId=7&SID=71cc253e973554ae1b689e4d5721d52f>

In order to get these benefits, this article requires that a jobseeker be available (« *disponible* ») to the labour market, and thus, he must hold a work permit. This notion of being available to the labour market stems from the Grand-Ducal Regulation of 25 August 1983.²

The Ombudsman has asked the Minister of Labour and Employment and the Minister of Foreign Affairs and Immigration to consider amending the legislation.

Indeed, this problem exists for third country citizens who have a class A work permit (for one year and restricted to one employer). For several years now, the authorities do not consider that a jobseeker, who has a class B work permit (valid for the same profession but any employer) entails the end of unemployment benefit payment.

According to the Ministry of Labour and Employment's 2006 report, it intends to give a more restrictive definition of the notion of « residence ». It will require that the jobseeker be domiciled in Luxembourg at the moment of the dismissal and that he lost his last job there. In the future, the periods of paid leave which exceed the end of the contract or which are after the end of the contract, will not be considered a factor delaying the beginning of payment of unemployment benefits.³

² « *Les critères retenus de l'emploi approprié concernent notamment le niveau de rémunération, l'aptitude professionnelle, les aptitudes physiques et psychiques, le trajet journalier* ».

³http://www.gouvernement.lu/publications/informations_gouvernementales/rapports_activite/rapport_activite2006/18trav/index.html

Chapter II: Access to employment

- *Règlement grand-ducal du 12 mai 1972 déterminant les mesures applicables pour l'emploi des travailleurs étrangers sur le territoire du Grand-Duché de Luxembourg - modifié*
- *loi modifiée du 18 juin 1969 sur l'enseignement supérieur et l'homologation des titres et grades étrangers d'enseignement*
- *Règlement grand-ducal du 27 octobre 2006 pris en exécution de l'article 4 de la loi modifiée du 18 juin 1969 sur l'enseignement supérieur et l'homologation des titres et grades étrangers d'enseignement*
- *Loi du 9 novembre 1990 ayant pour objet la création d'un registre public maritime luxembourgeois*

1. Equal treatment

Legislation

It must be emphasized that one piece of important legislation was nevertheless adopted in 2006, modifying the modified regulation of 12 May 1972 on the formalities with which foreigners visiting Luxembourg must comply.⁴ Article 1 of this Regulation provides that EU workers are exempt from the work permit requirement.

Indeed, on 22 August 2006, a 31 July 2006 Grand-Ducal Regulation modifying the modified Formality Regulation of 12 May 1972, was published in the Official Journal.⁵

⁴ *Règlement grand-ducal du 12 mai 1972 déterminant les mesures applicables pour l'emploi des travailleurs étrangers sur le territoire du Grand-Duché de Luxembourg Mémorial A, p.45*
<http://www.legilux.public.lu/leg/a/archives/1972/0312405/0312405.pdf?SID=6a53ba5381273843db3bf38d711edc77#page=9>

⁵ *Règlement grand-ducal du 31 juillet 2006 modifiant le règlement grand-ducal modifié du 12 mai 1972 déterminant les mesures applicables pour l'emploi des travailleurs étrangers sur le territoire du Grand-Duché de Luxembourg.*
<http://www.legilux.public.lu/leg/search/resultHighlight/index.php?linkId=2&SID=c9b783b8f644c11d782531015da5c678>

The main improvement in the legislation concerns the repeal of the work permit requirement for EU citizen workers' spouses. This means that spouses of EU citizens, whether they be themselves an EU citizen or a third country national no longer need a work permit. Incidentally, this principle also applies to Swiss nationals or nationals of EFTA countries and to recognized refugees.

It further covers the situation of a Luxembourger married to a third-country national, thus putting an end to any reverse discrimination.

Furthermore, while the splitting of work permits into 4 categories (A-1 year, B-4 years, C-unlimited, D-trainees) has been maintained as has the general prohibition from changing one's employer; however, the latter constraint has been somewhat attenuated. Article 3bis now allows workers having obtained a work permit to change employer freely and workers with a C-permit may even change profession.

Also, in accordance with Directive 2005/71/EC of 12 October 2005, scientific researchers are exempt from any work permit requirement.⁶

Finally, another positive change is the repeal of the bank guarantee requirement for an enterprise wishing to send workers on temporary assignment to another country for a limited time. This formality as well as the requirement for a collective work permit were an obstacle to the free movement of workers.

Collective work permits are no longer required for workers of a firm or company established in another EU country, if the activity is real and if all workers have a residence and a work permit in the other EU country, as long as the validity of the permits exceeds the time to be spent working in Luxembourg.

⁶ Article 7-5 (new) of Formality Regulation

Obviously the employees must respect the Luxembourg entry and residence requirements. This exemption does not apply to temporary workers and to loans of workforce members.

Case Law

A Yugoslav woman submitted a case to the administrative court, asking for the annulment of the refusal of a work permit. She claimed that, as a spouse of a Luxembourger, she did not need a work permit according to article 11 of Regulation 1612/68.

However, the court declared that the aforementioned Regulation does not apply to national situations, thus dismissing the case. This case represents an instance in which reverse discrimination against a Luxembourg national and the Luxembourg national's third country spouse was upheld.⁷

Another case was adjudicated by the same administrative court⁸. The employer of a Polish woman asked for a work permit, for her to be employed as a waitress. The administration rejected the request, arguing that there was an EU worker hiring priority, and that there are over 3000 unqualified workers registered with the unemployment agency.

The Polish woman argued that she should have benefited from the free movement of workers within the European Union and that she did not need a work permit.

Even were that not the case, she argued that as a shareholder and director of her own company, such a restriction was not applicable, as she could not be considered an employee.

The administration argued that since 1 May 2004, restrictions on free movement of workers were allowed by Poland's accession treaty to the EU. However, if the claimant were self-employed, a work permit would not be necessary.

⁷ Tribunal administratif, 9 octobre 2006, n°21224 du rôle

⁸ Tribunal administratif, 30 janvier 2006, n°20303 du rôle

The Court decided that the restrictions for Polish workers were allowed and therefore were not contrary to article 49 of the EC Treaty. Even if the grand-ducal regulation of 12 May 1972 had been amended by repealing the necessity for a work permit for Polish workers, the change only applied within the limits of the transitory provisions of the EU Treaty.

2. Language requirement - Private sector practice

Employers need qualified personnel for various jobs. One of the conditions is often the language requirement for white collar positions. Often this requirement is only met by candidates speaking French, German and English, and if possible, Luxembourgish.

When no candidates with the appropriate qualifications appear, the language requirement is often softened. Some jobs require two languages (like French and German) or some employers just take suitable candidates without these requirements.

For manual laborers, this requirement usually does not apply.

It is clear that in some cases this language requirement may create hidden instances of discrimination. An inquiry showed that 11% of discrimination cases involved the language issue.⁹

3. Recognition of Diplomas

The Grand-Ducal Regulation of 27 October 2006,¹⁰ amended the Grand-Ducal Regulation of 4 April 2005 which improved the recognition of diplomas by simplifying recognition of these diplomas for countries not having ratified the 11 December 1953 Council of Europe Convention and the 11 April 1997 Council of

⁹ Discrimination à l'emploi, Cahier PSELL n°151 du SESOPI, p.40, déc. 2005

¹⁰ *Règlement grand-ducal du 27 octobre 2006 pris en exécution de l'article 4 de la loi modifiée du 18 juin 1969 sur l'enseignement supérieur et l'homologation des titres et grades étrangers d'enseignement supérieur.* <http://www.legilux.public.lu/leg/search/resultHighlight/index.php?linkId=11&SID=aa940b9aa5362d7e92a436ebb385eaad>

Europe Convention of Lisbon, this latter Convention having been ratified by the Luxembourg law of 14 August 2000.

Until then it was very difficult to get an equivalence for a diploma that was issued outside the EU region and this could be a form of indirect discrimination against EU citizens who have lived and studied outside Europe were willing to work in a regulated profession in Luxembourg. The position of the Ministry of Education was that there is simply no legal basis to grant this equivalence.

This regulation, based on article 4 of the law of 18 June 1969 on higher education and the recognition of foreign diplomas, provides for the recognition as the equivalent of foreign secondary school, including baccalaureate, diplomas.

However point 4 of article 3 was added, and: this unclear provision requires submission to the Ministry of:

- either the foreign diploma issued in an EU country by a recognized institution of higher education for at least 3 years of studies,
- or a certificate of application for higher education issued by an EU Member State, including a list of courses of the year prior to the year of the issuance of diploma that is the subject of the recognition request.

It is unclear whether it is a mandatory requirement that these documents be submitted in addition to the other required documents.

It remains to be seen in practice whether this new regulation will make recognition of foreign diplomas more difficult or not.

4. Nationality Conditions Ship Captains

On 30 September 2003, the European Court of Justice issued a judgment, *Colegio dm Oficiales de la Marina Mercante Española v Administración del Estado*, concerning the discriminatory treatment of mariners, namely Masters and chief mates of merchant navy ships, due to the fact that these posts were reserved for nationals of the flag State.

In Luxembourg such an issue should not arise. The basic law is that of 12 November 1990 on the Luxembourg maritime register.¹¹ This law foresees, in Article 7, that the captain shall be an EU national, who has the required diploma. Therefore there is no restriction on nationals for such positions. There are indeed no Luxembourgers who are captains or sailors, according to the competent ministry.

Cross-Border Commuters

Luxembourg's cross-border commuters are numerous and they contribute greatly to the Luxembourg economy. In some sectors they account for 45 to 55% of the sector's workforce.

They also fill 79,8% of the temporary jobs. Out of this total, 88,4% are French workers mostly employed in the construction sector. Cross-border commuters are currently more successful than residents in a number of areas. They are employed in 70% of the new jobs created.

This does not mean that there are not objective problems. The biggest cross-border commuter discrimination issue is considered to be the lower wages that they are paid in comparison to residents. The usual explanation is that these workers request lower salaries when starting in a job, because in their home country the standard of living is lower than in Luxembourg and the salaries are also lower in these countries. However, often a Luxembourg employer's conduct in this respect is not a clear breach of the law or of EU legislation, but *de facto* discrimination.

Furthermore, some problems are related to social security matters.

¹¹ *Loi du 9 novembre 1990 ayant pour objet la création d'un registre public maritime luxembourgeois*, Mémorial A 1990, p.807 ; <http://www.legilux.public.lu/leg/search/resultHighlight/index.php?linkId=4&SID=c852141b207b98a07c87f7cb69487dca>

Chapter III : Equal Treatment on the Basis of Nationality (Working Conditions, Social and Tax Advantages)

Legislation

Some draft bills were introduced during 2006 on the labour market and the transposing of European Directives.

The first one is a draft bill transposing Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002, on the organisation of the work time of persons performing mobile road transport activities¹².

Another draft bill concerns the transposition of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation¹³.

A further draft bill relates to the transposition of Directive 2002/73/EC of 23 September 2002, amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions¹⁴.

¹² *Projet de loi portant transposition de la directive 2002/15/CE du Parlement européen et du Conseil du 12 mars 2002 relative à l'aménagement du temps de travail des personnes exécutant des activités mobiles de transport routier.*

¹³ *Projet de loi portant*
1. transposition de la directive 2002/14/CE du Parlement européen et du Conseil du 11 mars 2002 établissant un cadre général relatif à l'information et la consultation des travailleurs dans la Communauté européenne ; 2. modification des Titres I et II du Livre IV du Code du Travail

¹⁴ *Projet de loi portant*
1. transposition de la directive 76/207/CE du Conseil relative à la mise en oeuvre du principe de l'égalité de traitement entre hommes et femmes en ce qui concerne l'accès à l'emploi, à la formation et à la promotion professionnelles, et les conditions de travail telle que modifiée par la directive 2002/73/CE du Parlement européen et du Conseil du 23 septembre 2002 ; 2. modification du code du travail ; 3. modification de l'alinéa 1 de l'article 2 de la loi du 14 mars 1988 relative au congé d'accueil ; 4. modification de la loi modifiée du 16 avril 1979 fixant le statut général des fonctionnaires de l'Etat.

Finally, a draft Grand-Ducal Regulation was announced by the Ministry of Labour on vocational training and various social assistance measures.¹⁵ We emphasize that the Government promotes the learning of the Luxembourgish language, within the framework of the Lisbon strategy, by financially supporting language lessons, at the end of which a certificate is given to those who have completed the lessons.¹⁶

Chapter IV: Employment in the Public Sector

- *Loi du 16 avril 1979 fixant le statut général des fonctionnaires de l'Etat, telle qu'elle a été modifiée*
- *Loi du 22 juin 1963 fixant le régime des traitements des fonctionnaires de l'Etat, telle qu'elle a été modifiée*
- *loi du 10 août 1992 portant création de l'entreprise des postes et télécommunications modifiée*

Currently there are six (6) sectors (research, education, health, inland transport, posts and telecommunications and the water, gas and electricity distribution services), open to other EU nationals, unless the jobs are relating to posts involving direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the State or of other public authorities, where only Luxembourgers are entitled to become civil servants.

Furthermore, the requirement of knowledge of the three administrative languages (Luxembourgish, French and German) is still in force.

¹⁵ *Projet de règlement grand-ducal portant*
1. détermination des conditions et modalités d'attribution d'une aide à la formation professionnelle ;
2. modification du règlement grand-ducal modifié du 17 juin 1994 fixant les modalités et conditions
d'attribution 1. des aides à la mobilité géographique ; 2. d'une aide au réemploi ; 3. d'une aide à la
création d'entreprise ; 4. d'une aide à la création d'emplois d'utilité socio-économique

¹⁶ With a budget of 150.000 Euros

All others are closed sectors, where only Luxembourgers are entitled to become civil servants. Although these positions were not targeted by the infringement procedure launched by the Commission, the principle of free movement of workers should involve all public positions that are not closely linked to national sovereignty.

It must also be noted that through the annual budget law, the State is authorized to recruit foreign persons in the so-called open and closed sectors, and for positions linked to the service sector. The EU citizens are recruited as employees of the state, a separate category from civil servants.

The Government, in its 2004 coalition declaration stated that it would consider a wider opening of public service for posts where recruitment difficulties have been experienced, although the requirement of the knowledge of the three administrative languages remains.

A question has arisen concerning the recognition of **seniority**. In a Parliamentary question n°1454, the MP Claude Adam asked the Minister of Public Service following question:

the Luxembourg legislation on public service does not fully recognize seniority as the '*bonification d'ancienneté*' only occurs after 12 years of work for the public administration: this would be in contradiction with European legislation, as some persons may not acquire seniority under the same conditions, some civil servants having worked in the private sector before becoming a civil servant. The MP believed that such a situation is in contradiction with Directive 2000/78/EC on employment discrimination and the case law of the Court of Justice of the European Communities, which decided that periods of work acquired in public service in a previous country in the same area must be taken into consideration.

The Minister of Public Service, Claude Wiseler, responded that there is no situation of infringement of Community law, as article 7 of the modified law of 22 June 1963 on the salaries of state civil servants provides that seniority acquired in a similar institution in another EU member country shall be taken into consideration in the same way as seniority acquired in Luxembourg under the same conditions¹⁷.

Also, a new provision in the general statute of civil servants, article 2§4 of the modified law of 16 April 1979 allows for the exceptional recruitment of persons of the private sector. If they are confirmed in their position as a civil servant, the Government may excuse them from the 12-year seniority requirement.

Indeed, the parliamentary documents indicate that following a 30 November 2000 decision of the European Court, any period of time worked for a state in the European Union would be counted for seniority purposes, thus being counted as if the time had been spent working for the Luxembourg government, in order to set the initial salary. Therefore, it seems that this provision does not entail any discrimination as such for civil servants having started their career abroad.

As far as the conditions for entering public service are concerned, in Luxembourg, the question is whether the European Court decision of 9 September 2003, in *Burbaud*, could also apply in Luxembourg.

The Court had decided that *“where a national of a Member State holds a diploma obtained in one Member State which is equivalent to the diploma required in another Member State in order to take up employment in the hospital public service, Community law precludes the authorities of the second Member State from making that national's access to the employment in*

¹⁷http://www.legilux.public.lu/leg/textescoordonnes/compilation/code_administratif/VOL_3/FONCTIONNAIRES/B_TRAITEMENTS.pdf

question subject to his passing a competition such as the entrance examination of the École nationale de la santé publique”.

In Luxembourg, the general statute on civil servants stemming from the modified law of 16 April 1979 provides under article 2 the qualifications necessary to be recruited, of the law¹⁸. One of these is to have the required diplomas and professional training.

Then the admission is dependent on an examination, a *concours*. Several regulations describe how these *concours* are organized, depending on the career in question.¹⁹ If the candidate is admitted, then a two-year training period starts. All persons admitted are then considered trainees. Therefore, it does not seem that this procedure could be criticized as being created as a result of the *Burbaud* case.

Legislation

On 20 September 2006, the coordinated law on the government’s Postal and Telecommunications Company was published in the Official Journal. It refers to the grand-ducal regulation of 9 June 2005 concerning the recruitment for positions in the Postal and Telecommunications Company, which are subject to the statute on civil servants. Article 1-1 provides for the possibility for any EU citizen to be recruited, and is in line with EU law and the relevant ECJ case law.

¹⁸http://www.legilux.public.lu/leg/textescoordonnes/compilation/code_administratif/VOL_3/FONCTIONNAIRES/A_STATUT_ETAT.pdf

¹⁹ Carrière supérieure, carrière moyenne, carrière inférieure

Chapter V: Members of the Family

Legislation

In 2005, the Government announced that the amendments to the Formality Regulation of 1972 would entail the abolition of the work permit not only for Swiss workers, but also for third-country spouses of an EU national and third-country spouses of a Luxembourg citizen.

This has indeed been the case, through the enactment of the law of 32 July 2006, modifying the Grand-Ducal Regulation on the formalities to be complied with by foreigners coming to Luxembourg.²⁰

It must be noted that Directive 2004/38/EC of 29 April 2004 on the right of citizens of the union and their family to move and reside freely within the territory of the Member States still has not been transposed. However the transposition process has started, as the Directive will be transposed along with other Directives in the complete reshaping process of the law of 1972 on immigrants²¹.

The European Court of Justice has, in the meantime, condemned the Grand-Duchy of Luxembourg for failing to amend its legislation, by still imposing the requirement to obtain a work permit on third-country spouses married to an EU worker and thus for failing to adapt its legislation to Regulation 1612/68 EC of 15 October 1968 on the free movement of workers within the Community.²²

²⁰ See chapter II, access to employment

²¹ See chapter II, access to employment

²² ECJ, 27 October 2005 C-165/05

One case must be mentioned, in which the European Court of Justice decided that *“In circumstances such as those in the main proceedings, Article 11 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, as amended by Council Regulation (EEC) No 2434/92 of 27 July 1992, does not confer on a national of a third country the right to take up an activity as an employed person in a Member State other than the one in which his spouse, a Community national, pursues or has pursued an activity as an employed person in exercise of her right to free movement »*.²³

This judgment was issued in a case where both spouses were living in Belgium and the Belgian wife had undertaken some training in Belgium, while the third-country husband was seeking a job in Luxembourg. The Luxembourg administration refused to grant him a work permit and the issue raised by the national court was the question of whether a work permit could be asked from the husband, as he was married to an EU citizen. The case was dismissed because the tribunal reasoned that no right could be derived by the husband from the wife’s situation, since she had never worked in Luxembourg.

Chapter VI : Follow-up of Recent ECJ Judgments

- Règlement grand-ducal du 28 mars 1972 relatif aux conditions d'entrée et de séjour de certaines catégories d'étrangers faisant l'objet de conventions internationales-modifié

- Loi modifiée du 20 juin 1977 ayant pour objet 1) d'instituer le contrôle médical systématique des femmes enceintes et des enfants en bas âge; 2) de modifier la législation existante en matière d'allocations de naissance

²³ ECJ, 30 March 2006, C-10/05

The European Commission warned the Grand-Duchy of Luxembourg about its non-compliance with the judgment of the ECJ of 21 October 2004²⁴.

Companies established in another Member State faced problems when temporarily sending third-country workers in order to offer services. The problems concern the issuing of a visa, conditions for entry and employment and the return of the foreign worker after completion of the work.

This issue has now been solved with the amendments to the modified Formality Regulation of 12 May 1972 of 31 July 2006, which enable the sending of foreign workforce to Luxembourg without infringing the European provisions, i.e. article 49 of the Treaty²⁵.

Trojani, Collins, Ioannidis, van Lent, Commission vs. Denmark

As far as the author knows, there have been few decisions or cases in Luxembourg relating to issues decided upon in the abovementioned cases of the European Court of Justice.

Concerning the residence conditions for different allowances, we could not find any recent court decision or other document relating to problems arising from discriminatory situations in relation to nationality and unemployment benefits.

It could simply be stated that Luxembourg legislation could be in breach of the *Trojani* and *Collins* case law as far as the condition of domicile is concerned, in relation to article 12 of the modified law of 20 June 1977 on the medical supervision of pregnant women and small children. This article provides that part of the birth allowance will be paid only if the mother is domiciled in Luxembourg at the moment of the birth and, *intern alia*, the child is born either in Luxembourg or abroad during a reasonable, permissible and temporary absence of the

²⁴ ECJ, 21 Oct. 2004, Commission vs. Grand-Duchy of Luxembourg, case 445/03.

²⁵ See chapter II, access to employment

mother. The question arises whether the necessity to strictly justify the reasons for the birth abroad is proportionate to the requirements of free movement of citizens.

As concerns tax matters, two judgements from the administrative courts found²⁶ that a non-resident EU citizen would be the victim of discrimination based on article 39 of the EC Treaty if he could not deduct negative rent income from his tax declaration, when Luxembourg residents are allowed to such a deduction.

This means that foreign residents who earn all of their income in Luxembourg but who are the owners of a building abroad and who are usually subject to income tax in this foreign country cannot take advantage of negative rent income for the calculation of the income tax rate, while Luxembourg residents, who are owners of buildings abroad are allowed to do so. Therefore the judges decided that this difference of tax treatment is discriminatory.

Football

A court case was brought by a football player, Mr. Benoît Lang, against the football Club of Grevenmacher, a town in the east of the Grand-Duchy of Luxembourg. The player was dismissed from the club and he wished to play for a Belgian Club, FC Athus (neighbouring region).

The club refused to let him go and thus the player sued the club in the summons to the court of Luxembourg. He argued that he should be able to change the football club immediately, invoking that the statutes of the F.I.F.A. and the internal rulings of the F.L.F., the Luxembourg Football Federation, are hurting the freedom of movement of workers.

²⁶ TA 10-10-05 (19039 et 19664)

Indeed, the club refused to issue a certificate of transfer and the rulings of the F.L.F. indicated that in such case the transfer could not take place. However, the parties reached an agreement and in the end, the case was not submitted to national judges.

Pursuant to the holding in the *Bosman/Kolpak/Simutenkov* case, the Luxembourg football federation amended its rules and abides, according to the federation, to the UEFA rules. The statutes, §17 and §18 provide that a minimum number of 5 players shall be put on the match form, and that either they are Luxembourg citizens or they acquired their first university degree in Luxembourg. Since the 2006/2007 season, this number has been increased to 7.

If there had been a clause requiring a single nationality, this would have hurt the *Bosman* judgment. With this formulation, we believe that the free movement principle may not have been breached, because the goal is to have enough players who have already played in the Luxembourg championship and not a high number of players “imported” from other countries, given that that not enough players are being trained as footballers in Luxembourg.

Chapter VII : Policies, texts and/or practices of a General Nature with Repercussions on the Free Movement of Union Citizens

- Loi du 28 novembre 2006 portant 1. transposition de la directive 2000/43/CE du Conseil du 29 juin 2000 relative à la mise en oeuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique; 2. transposition de la directive 2000/78/CE du Conseil du 27 novembre 2000 portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail; 3. modification du Code du travail et portant introduction dans le Livre II d'un nouveau titre V relatif à l'égalité de traitement en matière d'emploi et de travail; 4. modification des articles 454 et 455 du Code pénal; 5. modification de la loi du 12 septembre 2003 relative aux personnes handicapées.

- Loi du 29 novembre 2006 modifiant 1. la loi modifiée du 16 avril 1979 fixant le statut général des fonctionnaires de l'Etat 2. la loi modifiée du 24 décembre 1985 fixant le statut général des fonctionnaires communaux.

Antidiscrimination Legislation and Case Law

The implementation process of Directives 2000/43/EC and 2000/78/EC has been long and drawn out. This process started on 21 November 2003, when two draft bills were introduced in Parliament (*Chambre des Députés*). One, No. 5248, was introduced by the Ministry of Justice and is about the transposition of Directive 2000/43. The second, No. 5249 was introduced by the Ministry of Labour and was on the transposition of Directive 2000/78. This bill also included the prohibition of discrimination based on racial and ethnic origin.

Although the two laws used the very definitions contained in the two Directives, concerning direct and indirect discrimination, harassment and instruction to discrimination, and thus, they were satisfactory in respect of the use of the legal definitions, many points remained to be resolved.

The Council of State issued a critical opinion on the two draft bills on 7 December 2004, stressing, for example, that no independent body for the promotion of equal treatment had been provided for.

This first draft was abandoned in the spring of 2005 and draft bill N°5518 was introduced in the Parliament on 22 November 2005. After the opinions of the professional chambers and another critical opinion of the Council of State, the Chamber of Deputies passed the law on 13 July 2006. But the Council of State refused to exempt the Chamber of Deputies from a second constitutional vote, mainly because civil servants were not included in this bill and because the amendments to the general statute of civil servants – included in a separate bill -

had not been adopted at the same time. This meant that the Chamber of Deputies had to vote again during the autumn session of 2006 on the draft bill and decide whether to amend it. After a few technical amendments, the law was finally passed.

Finally, on 24 October 2006, two bills were adopted transposing Directives 2000/43/EC and 2000/78/EC, i.e., bill No.5518 on private relations, including employment, and bill No.5583 on public service.

The first one is the law of 28 November 2006²⁷ (general discrimination law) which covers the entire scope of both Directives and all the relevant grounds apart from belief in criminal law of the two Directives (even race and ethnic origin in the employment area outside the public sector and the second one, the law of 29 November 2006 (public sector law) covers all public employees and employers (state administration, municipalities etc.) and all grounds covered by both Directives²⁸.

The new legislation may be seen as a drastic improvement compared to the former anti-discrimination legislation, which lacked many of the requirements of both Directives 2000/43 and 2000/78. Not the least was the introduction of the concept of indirect discrimination, as well as that of harassment, which does not exist yet.

²⁷ *Loi du 28 novembre 2006 portant*

1. *transposition de la directive 2000/43/CE du Conseil du 29 juin 2000 relative à la mise en oeuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique;*
2. *transposition de la directive 2000/78/CE du Conseil du 27 novembre 2000 portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail;*
3. *modification du Code du travail et portant introduction dans le Livre II d'un nouveau titre V relatif à l'égalité de traitement en matière d'emploi et de travail;*
4. *modification des articles 454 et 455 du Code pénal;*
5. *modification de la loi du 12 septembre 2003 relative aux personnes handicapées.*

<http://www.legilux.public.lu/leg/search/resultHighlight/index.php?linkId=3&SID=841cbd8d592e36e5ad8892e67b1f9292>

²⁸ *Loi du 29 novembre 2006 modifiant*

1. *la loi modifiée du 16 avril 1979 fixant le statut général des fonctionnaires de l'Etat*
2. *la loi modifiée du 24 décembre 1985 fixant le statut général des fonctionnaires communaux.*

As a result of the complex legislative procedure, Luxembourg now has one general law which forbids discrimination based on all the grounds provided for in both Directives, for all grounds combined.

The legislation has introduced some progress to civil law, allowing for example the sharing of the burden of proof.

It has introduced new provisions in labour law for the protection of victims of discrimination, such as the provision of legal assistance to trade unions in court cases or an expedited (summary) procedure to fight dismissal based on discrimination.

It has also amended the existing penal sanctions by incorporating age discrimination in the penal code and by amending several provisions such as the repeal of the terms “allowed discrimination” by “differentiations of treatment”.

Finally through the second law applicable to civil servants and public employees in their working relationship with their public employer, the administrative area has also been included in the scope of the legislation transposing the two Directives.

Chapter VIII : EU Enlargement

On 1 May 2004, 10 new States became members of the European Union. The Luxembourg Government opted for a two-years transitional period, during which a work permit would still be required for EU-citizens of the new member countries, except for Malta and Cyprus. Such a move was made especially considering the attitude of the neighboring countries on the same issue, which also requested work permits for these workers.

At the end of April 2006, the Government announced that the restrictions for the new member countries for access to the employment market would be maintained for the next three years.

However, it also announced that some flexibility would be used in granting work permits in the sectors of employment where recruitment is more difficult, i.e., in agriculture, viticulture and hotels/restaurants personnel.

For the other sectors, the procedure would be simplified and the deadlines for granting work permits reduced. An evaluation was to be made in May 2007.

Chapter IX :Statistics

It was not possible to get the 2006 figures for international migrations from the competent authorities. The number of work permits issued by the competent Ministry of Labour is not available either.

The figures that are available are those of the total number of employed workers per nationality as at 31 March 2006.

- *Figures on 31 March 2005:*

* Workers from EU countries (including Luxembourg): 279.168 out of which 1573 from the 10 new member countries.

* Workers from European countries outside EU: 4940

- *Figures on 31 March 2006:*

* Workers from EU countries (including Luxembourg): 289.849 out of which 1791 from the 10 new member countries.

* Workers from European countries outside EU: 5188

Furthermore, other statistics include data relating to the EC Regulation Nr. 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community

1. The total number of E 303 documents delivered to those workers leaving Luxembourg for another EC country in order to find a job is 120, out of which 47 have left for France or Belgium (39,2 %) and 33 for Portugal (27,5 %)

2. The total number of E 303 documents delivered to those workers arriving to Luxembourg from another EC country in order to find a job in Luxembourg is 69, out of which 42 have come from neighbouring countries (60,9 %).

3 The total number of E 301 certificates delivered concerning the periods which have to be counted for receiving unemployment benefits (useful to frontier workers to prove the working periods in Luxembourg in order for them to get unemployment benefits in their country of residence) 14.870.

Chapter X: Social security

Legislation

No new enacted law could be identified with any consequences on free movement of workers in the European Union.

Case law

No case-law was found as being in conflict with Regulation 1612/68 in 2006. The specialized services have not recorded case law with such issues, and such decisions could not be identified.

The following case law is relevant for matters relating to European movement of workers:

- A German physician asked for unemployment benefits. This claim was rejected by the director of the Employment Agency (*administration de l'emploi*). He appealed the decision at the specialised court on Social Security matters, the *Conseil arbitral des assurances sociales*.

A police enquiry found that he is domiciled in Germany and not in the Grand Duchy of Luxembourg. Therefore, the court decided that the benefits he cashed during a certain time were not due. This, in accordance with article 71 1 a) ii) of Regulation 1408/71, an unemployed frontier worker is submitted to the legislation of the country in which he is a resident²⁹.

- Another decision of the *Conseil arbitral des assurances sociales* of 24 April 2004 revoked a decision that suspended the payment of a retirement pension to a French citizen currently in prison³⁰.

The institution in charge of the pensions refused to pay him this pension because Luxembourg law provides for a suspension of the payment of a retirement pension in case of detention in a prison. The claimant argued that French law does not provide for such a restriction.

The court decided that, according to article 46-3 of the Regulation 1408/71, no suspension of the payment of pension benefits may occur, being in contradiction with the decision of the Court of Justice of the European Communities Albako (21 May 1987, 249/85, Rec. p.2345).

- In a decision of 23 May 2006, the *Conseil arbitral* had to decide upon the case of a Luxembourger whose daughter had to be urgently treated in Brussels in a hospital. The Belgian Sickness Fund refused to take over the costs of this hospital bill, arguing that according to article 22 §1 of Regulation 1408/71 and

²⁹ Conseil arbitral des Assurances Sociales, 5 mai 2006, Reg. N° F CH. 51/05

³⁰ Conseil arbitral des Assurances Sociales, 24 avril 2006, Reg. N° I 95/05

articles 21 and 34 of Regulation 574/72, it was up to the insured person to personally pay for these costs. The court decided that according to the case law of the Court of Justice of the European Communities Vanbraekel (12 July 2001, G 368/98) the payment of these supplementary costs must be allotted to the insured person, as medical activities are covered by article 50 of the EC Treaty³¹.

- The Sickness Fund refused to acknowledge a period of interruption of work for sickness reasons of a worker living in Luxembourg. The person consulted French doctors, but the medical certificates were not taken into consideration as being valid.

The Court analysed the legal situation and came to the conclusion that the case was not about a period of sojourn in France but only a medical visit to a physician. Therefore, according to the rules of free movement of workers, as provided in articles 18 (1) and 39 of the EC Treaty, as well as the case-law of the Court of Justice of the European Communities, the decision not to recognize this period of sickness was contrary to European legislation and was overturned³².

- Another case concerned the refusal to pay a pension to a widow of a Portuguese worker, whose husband, at the moment of his death, was not affiliated with any pension regime. The widows' wife argued that such a refusal constituted a violation of article 39 and following articles of the EC Treaty, by hindering free movement of workers. The claimant argued that after having paid dues for years in Portugal and Luxembourg, it was unfair, discriminatory treatment.

³¹ Conseil arbitral des Assurances Sociales, 23 mai 2006, Reg. N° CMEP 51/06

³² Conseil arbitral des Assurances Sociales, 20 juin 2006, Reg. N° CMO 63/06

However, the court found that the case law of the Court of Justice of the European Communities found it to be in accordance with EC law that a national law would foresee a minimal period of affiliation in order to get the payment of a pension, referring to the decision C-349/7 (Paraschi/Landesversicherungsanstalt Württemberg)³³.

- Another decision of the same court concerns a refusal to authorize transfer of a patient to Germany for treatment. The Social Security authorities refused the transfer on the grounds that this kind of treatment is commonly available in Luxembourg hospitals. A medical expert was appointed and confirmed this analysis. The *Conseil arbitral* decided to confirm this decision, after finding that the European case law like SMIT & PEERBOMS, DUPHAR, SODEMARE and KOHLL enable a country to refuse such a transfer to a foreign country for medical treatment, as long as the national conditions respect EC law. It refused to acknowledge a violation of article 22 §1 of Regulation 1408/71 and dismissed the case³⁴.

As far as supplementary pension schemes are concerned, no issues have been detected as being relevant to the free movement of workers.

³³ Conseil arbitral des Assurances Sociales, 17 mai 2006, Reg. N° I 34/05

³⁴ Conseil arbitral des Assurances Sociales, 9 juin 2006, Reg. N° UCM 113/05

Chapter XI : Establishment, provision of services, students

- Loi modifié du 9 décembre 1976 relative à l'organisation du notariat

- Loi modifiée du 13 novembre 2002 portant transposition en droit luxembourgeois de la Directive 98/5/CE du Parlement européen et du Conseil du 16 février 1998 visant à faciliter l'exercice permanent de la profession d'avocat dans un Etat membre autre que celui où la qualification a été acquise et portant: 1. modification de la loi modifiée du 10 août 1991 sur la profession d'avocat; 2. modification de la loi du 31 mai 1999 régissant la domiciliation des sociétés.

Establishment

Notaries

The European Commission has asked the Government of Luxembourg (and a few other countries) for a reasoned opinion because access to the profession of notary public is reserved to Luxembourg nationals.

Indeed, article 15 of the law of 9 December 1976 on the organisation of the profession of notary public³⁵ provides that one must be a Luxembourg national to become a notary public.

The Chamber of Notaries is of the opinion that this requirement shall be maintained, due to the distinctiveness of this profession. It opposes any change in the legislation, based on the fact that notaries are public officers and not members of a liberal profession subject to the rules of free establishment.

While the European Commission argues that notaries are subject to article 43 of the Treaty, the Luxembourg notaries believe that they are covered by article 45, as their profession exercises official authority.

³⁵ http://www.legilux.public.lu/leg/textescoordonnes/compilation/recueil_lois_speciales/NOTARIAT.pdf

9 Loi du 9 décembre 1976 relative à l'organisation du notariat

The Government of Luxembourg supports the notaries' position, according to the answer given by the Minister of Justice Luc Frieden on 31 October 2006, replying to parliamentary question n°1364 of 24 October 2006, posed by the MP Laurent Mosar.³⁶

Lawyers

Luxembourg was under scrutiny because knowledge of the Luxembourgish language was required for foreign lawyers to establish themselves in Luxembourg and be admitted on the list of foreign lawyers practicing under their home title.

Two judgments of the Court of Justice of the European Communities have condemned Luxembourg for failing to observe Directive 98/5/EC.

The first judgment of 19 September 2006,³⁷ decided that *“by making registration with the competent national authorities subject to a prior language test for lawyers who have obtained their qualification in a Member State other than the Grand Duchy of Luxembourg and who wish to practise under their home-country professional title in the latter Member State, by prohibiting those lawyers from being persons authorised to accept service on behalf of companies, and by requiring them to produce each year a certificate of registration with the competent authority of their home Member State, the Grand Duchy of Luxembourg has failed to fulfill its obligations under Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate the practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained”*.

³⁶<http://www.chd.lu/servlet/DisplayServlet?id=52636&path=/export/exped/sexpdata/Mag/047/502/054061.pdf>

³⁷ Case C-193/05

The second judgment of the Grand Chamber of the Court, of 19 September 2006,³⁸ took the view that *“by making registration with the competent national authorities subject to a prior language test for lawyers who have obtained their qualification in a Member State other than the Grand Duchy of Luxembourg and who wish to practise under their home-country professional title in the latter Member State, by prohibiting those lawyers from being persons authorised to accept service on behalf of companies, and by requiring them to produce each year a certificate of registration with the competent authority of their home Member State, the Grand Duchy of Luxembourg has failed to fulfill its obligations under Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate the practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained”*.

As a consequence, the Luxembourg Bar Association has decided to no longer impose this language test on foreign lawyers wishing to practice in Luxembourg under the home title Directive.

Students

There has also been a development for students of third countries. While students of EU countries may work without a work permit, the students from third countries did not have much chance of getting a job, often not being able to obtain a work permit, on the grounds that there is an EU citizen hiring priority in the labor market.

Therefore the Government announced in September 2006 that it would issue a work permit to these students, in order to allow them to work for a maximum of 10 hours per week, so that they may better support themselves.

³⁸ Case C-193/05

Provision of services

On 23 March 2006, the Minister of Labour and Employment, Mr. François Biltgen, has introduced a bill, No.5559, in Parliament, which shall transpose Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the work time of persons performing mobile road transport activities.

A court action was brought on 20 July 2006 by the Commission of the European Communities v. Grand Duchy of Luxembourg.³⁹ In its complaint, the Commission requested that the European Court declares that,

(1) by declaring that subparagraphs 1, 2, 8 and 11 of Article 1(1) of the Law of 20 December 2002 constitute public policy provisions falling within 'national public policy';

(2) by failing fully to transpose Article 3(1)(a) of Directive 96/71/EC - in Article 1(1)(3) of that Law;

(3) by setting out, in Article 7(1) of that Law, conditions which are not sufficiently clear to guarantee legal certainty;

(4) by requiring, in Article 8 of that Law, that documents necessary for controls be kept in Luxembourg in the hands of an ad hoc agent resident there, the Grand Duchy of Luxembourg has failed to fulfill its obligations under Article 3(1) and (10) of Directive 96/71/EC, and Articles 49 EC and 50 EC;

The Commission complains, essentially, that the Grand Duchy of Luxembourg interprets too widely the term 'public policy provisions' in the first indent of Article 3(10) of Directive 96/71/EC. In particular, the complaint regards: (1) the obligation imposed by the national legislature to employ only employees with whom undertakings posting workers to the Grand Duchy have concluded a written contract of employment or prepared a document deemed to be similar

³⁹ Case C-319/06

under Directive 91/533/EEC; ² (2) the national limitation period in respect of the automatic adjustment of pay to changes in the cost of living; (3) the limitation period in respect of rules governing part-time and fixed-term employment, and (4) the limitation period in respect of collective labour agreements .

In its second complaint, the Commission alleges that the Grand Duchy of Luxembourg failed fully to transpose Article 3(1)(a) of Directive 96/71/EC inasmuch as the national legislation restricts the concept of 'minimum rest periods' to weekly rest, excluding other rest periods such as daily rest or breaks.

By its third and fourth complaints, the Commission finally pleads infringement of Articles 49 EC and 50 EC attributable to the obligation imposed on undertakings whose workers carry on permanent or temporary activity in Luxembourg (1) to make available to the Inspection du Travail et des Mines 'before the start of the works', 'at the mere request' and 'as quickly as possible' the particulars necessary for an inspection, and (2) to designate an 'ad hoc' agent resident in Luxembourg responsible for keeping the documents necessary for monitoring the obligations on those undertakings.

It must be emphasized that the criticized provisions have been incorporated in the Labour Code, with new numbers, but they still exist as far as the contents are concerned.

Chapter XII : Miscellaneous - attachments

1. List of Internet sites

Legislation

Government: <http://www.legilux.public.lu/>
Council of State <http://www.ce.etat.lu/>
Chamber of Deputies <http://www.chd.lu/>

Court judgements

Administrative courts <http://www.jurad.etat.lu/>

2. Legal literature

1. Article, *Quelle politique sociale pour le Luxembourg en Europe ?*

Conférence du 14 avril 2005 organisée par le Conseil National des Femmes avec le soutien du Fonds National de la Recherche, in *Bulletin luxembourgeois des questions sociales*, 2006 Volume 20 ;

2. Article, Principales mesures de politique sociale intervenues entre le 1^{er} août 2004 et le 31 juillet 2005, Claude EWEN, *Bulletin luxembourgeois des questions sociales*, 2006 Volume 20 ;

3. List of attachments

1. Statistics 2005
2. Statistics 2006
3. Tribunal administratif, 9 octobre 2006, n°21224 du rôle
4. Tribunal administratif, 30 janvier 2006, n°20303 du rôle
5. Conseil arbitral des Assurances Sociales, 5 mai 2006, Reg. N° F CH. 51/05
6. Conseil arbitral des Assurances Sociales, 24 avril 2006, Reg. N° I 95/05
7. Conseil arbitral des Assurances Sociales, 23 mai 2006, Reg. N° CMEP 51/06
8. Conseil arbitral des Assurances Sociales, 20 juin 2006, Reg. N° CMO 63/06
9. Conseil arbitral des Assurances Sociales, 17 mai 2006, Reg. N° I 34/05
10. Conseil arbitral des Assurances Sociales, 9 juin 2006, Reg. N° UCM 113/05