

Country Fiche for Luxembourg

Final version (information stated as at 30.04.2021)

This country fiche is being used to collect information on residence formalities for EU citizens and their family members in selected Member States.

The information for the country fiche has been collected by the research team through desk research based on available public reports and official information.

Please note that this country fiche is only intended to address the situation of EU citizens seeking registration as workers, self-employed persons, jobseekers, together with their family members, whatever their nationality. It does not address residence formalities that apply to other categories of EU citizens such as students and self-sufficient persons.

Section A: Legal framework	Information collated for this Member State
<p>1. How has Directive 2004/38 been transposed in this Member State?</p>	<p>The Directive has been transposed into the law of Luxembourg by the Law of 21 August 2008 on the Free Movement of Persons and Immigration¹ (hereafter referred to as ‘the Immigration Law’) together with the Grand-ducal regulations of 5 September 2008 implementing certain provisions relating to administrative formalities contained in the law of 29 August 2008 on the free movement of persons and immigration² (hereafter referred to as ‘the Immigration Regulations’). Further regulations include the Grand-ducal regulations of 5 September 2008 defining the criteria on resources³ (hereafter referred to as ‘the Implementing Regulations’). In addition, the law of 19 June 2013 on the national and municipal population registers is also relevant⁴ (hereafter referred to as the ‘Law on Population Registers’). These instruments have all been amended on several occasions.</p>
<p>2. Which legal instruments regulate residence formalities in this Member State?</p>	<p>Residence formalities are regulated by Articles 1-33 of the Immigration Law and Articles 2-8 of the Immigration Regulations, which transpose Articles 7 to 11 and Articles 16-20 of Directive 2004/38 and Article 2 of the Implementing Regulations.</p>
<p>3. Do the national measures explicitly extend to nationals from Iceland, Liechtenstein, Norway and Switzerland?</p>	<p>Yes, these nationals are explicitly included in by the Immigration Law⁵.</p>

¹ Loi du 29 août 2008 portant sur la libre circulation des personnes et l’immigration <<http://legilux.public.lu/eli/etat/leg/loi/2008/08/29/n1/jo>>.

² Règlement grand-ducal du 5 septembre 2008 portant exécution de certaines dispositions relatives aux formalités administratives prévues par la loi du 29 août 2008 sur la libre circulation des personnes et l’immigration <<http://legilux.public.lu/eli/etat/leg/rgd/2008/09/05/n6/jo>>.

³ Règlement grand-ducal du 5 septembre 2008 définissant les critères de ressources et de logement prévus par la loi du 29 août 2008 sur la libre circulation des personnes et l’immigration <<http://legilux.public.lu/eli/etat/leg/rgd/2008/09/05/n1/jo>>.

⁴ Loi du 19 juin 2013 relative à l’identification des personnes physiques, au registre national des personnes physiques, à la carte d’identité, aux registres communaux des personnes physiques <<http://legilux.public.lu/eli/etat/leg/loi/2013/06/19/n3/jo>>.

⁵ Immigration Law, Art. 33.

4. Do the national measures explicitly extend to the family members of this Member State's own nationals?	Yes, family members of Luxembourg nationals also benefit from the residence rules for EU citizens and their family members ⁶ .
5. Have any problems been noted as regards the transposition of residence formalities in this Member State?	Compared to other Member States ⁷ , Directive 2004/38 was relatively well transposed by Luxembourg ⁸ . Problems in the transposition of provisions relating to residence formalities which were noted in 2008 ⁹ appear to have mostly been addressed by amending laws and regulations ¹⁰ .
6. Have any problems been noted as regards the practical application of residence formalities in this Member State?	Problems regarding the issuance of entry visas to non-EU family members have been reported ¹¹ . As regards residence formalities, it has also been reported that municipal authorities sometimes impose excessive documentary requirements. ¹²

Section B: Nature of residence formalities	Information collated for this Member State
1. Is registration compulsory for EU citizens and their family members? If registration is not obligatory, is voluntary registration possible?	Registration for EU citizens and their family members (whatever their nationality) is compulsory under national law ¹³ .
2. What is the deadline for EU citizens and their family members to register?	EU citizens and their family members (whatever their nationality) are required to register within three months of their arrival ¹⁴ . It should be noted that Luxembourg has made use of the option contained in Article 5(5) of Directive 2004/38 and requires EU citizens and family members to who intend on taking up 'habitual residence' in Luxembourg to report their presence by making a declaration of arrival within eight days of entering the country ¹⁵ . Failure to make a declaration of arrival is sanctioned by an administrative fine ranging from €25 to €250 ¹⁶ .

⁶ Immigration Law, Art 12(3).

⁷ Report from the European Commission to the European Parliament and Council on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, COM(2008) 840 final, p. 12.

⁸ Serge Gutwirth, Paul De Hert and Pieter Paepe, 'Conformity Study for Luxembourg - Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (Report for the European Commission), p. 7 <https://200438ecstudy.files.wordpress.com/2013/05/luxembourg_compliance_study_en.pdf>.

⁹ *ibid*, pp. 7-11.

¹⁰ See consolidated texts of the Immigration Law and the Immigration Regulations, as at 3 July 2013 <<http://legilux.public.lu/eli/etat/leg/memorial/2013/113>>.

¹¹ Anna Nicolau, 'Freedom of Movement in the EU: A look behind the curtain' (ECAS, 2018), pp. 31 and 34 <<https://ecas.org/wp-content/uploads/2018/03/ECAS-Long-report-final.pdf>>.

¹² *ibid*, p. 54.

¹³ Immigration Law, Art. 8(1) as regards EU citizens and Art. 15(1), as regards family members, whatever their nationality.

¹⁴ *Ibid*.

¹⁵ Law on Population Registers, Art. 21. It should be noted that the obligation to make a declaration of arrival within a period of eight days is likely to be considered a reasonable period of time in view of the Court of Justice's ruling in Case C-265/88 *Messner* EU:C:1989:632.

¹⁶ Law on Population Registers, Art. 43.

3. What penalty applies for failure to register within the deadline?	Failure to register is sanctioned by an administrative fine ranging from €25 to €250 ¹⁷ .
4. What authority makes the decision?	Registration certificates are issued to EU citizens by the local municipality ¹⁸ . A residence card is issued to non-EU family members by the Ministry of Foreign and European Affairs ¹⁹ , which also has sole jurisdiction to issue a decision refusing recognition of a right of residence of EU citizens and their family members. ²⁰

Section C: Preparatory phase	
1. What on-line information is available to EU citizens and their family members?	Information on registration formalities for EU citizens and their family members is available on the Luxembourg government's portal for public services ²¹ . The websites of the Ministry of Foreign Affairs ²² and the various municipalities ²³ link back to the relevant site on this portal. The website provides a step-by-step overview of registration formalities and a comprehensive listing of the documentation required from workers and the self-employed ²⁴ as well as what documents family members ²⁵ . However, no information is given on the registration of jobseekers. The information contained on the portal is relatively user-friendly and provides detailed instructions. The website's user-friendliness and comprehensiveness are considered a "best practice". ²⁶
2. In what language is this information available?	The information is available in the official national languages French and German as well as English.
3. What other means of assistance are available EU citizens and their family members wanting to obtain information on registration procedures?	No additional means of assistance appear to be available at national level. At municipal level, information can usually be obtained by email and sometimes by telephone.

¹⁷ Immigration Law, Art. 139(1) as regards EU citizens and Art. 139(2) as regards family members who are third country nationals.

¹⁸ Immigration Regulations, Art. 4 as regards EU citizens and family members who are also EU citizens.

¹⁹ Immigration Law, Art. 15(3) and Immigration Regulations, Art. 5(2) as regards family members who are third country nationals.

²⁰ Immigration Law, Art. 109.

²¹ This page is entitled *Immigration* <<https://guichet.public.lu/fr/citoyens/immigration.html>>.

²² The linking website is entitled *Visa et Immigration* <<https://maee.gouvernement.lu/fr/services-aux-citoyens/visa-immigration.html>>

²³ See for example, the website of Luxembourg City relating to registration formalities <<https://www.vdl.lu/fr/vivre/demarches-administratives/declarer-sa-residence-depart-et-arrivee>>.

²⁴ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html>>.

²⁵ See *Séjourner plus de 3 mois au Luxembourg en tant que ressortissant de pays tiers membre de famille d'un citoyen de l'Union européenne ou d'un ressortissant luxembourgeois* <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-tiers-membre-famille-UE/carte-sejour-membre-famille-UE/carte-sejour-membre-famille-ue.pdf>>.

²⁶ ECAS, 'User-friendly Gateways for Mobile EU Citizens' <<https://ecas.org/projects/epim-project/act4freemovement-map/>>.

Section D: Application phase	Information collated for this Member State
<p>1. What procedure applies to the lodging of an application for registration of EU citizens and their family members?</p>	<p>An application for registration under EU law has to be submitted at the local municipality²⁷. EU citizens must apply for a registration certificate²⁸ using the standard application form which is available online²⁹.</p> <p>Non-EU family members who apply for a residence card must do so using the standard application form which can also be found online³⁰. Their file is then transmitted by the municipality to the Ministry for a decision³¹.</p> <p>It should be noted that EU citizens and family members who intend on taking up 'habitual residence' in Luxembourg must have first made a declaration of arrival within eight days of arriving in the country³². This obligation is not related to the right of free movement and is also required for nationals³³.</p>
<p>2. Does an application for registration by EU citizens and their family members have to be made in person?</p>	<p>An application for registration under EU law has to be submitted in person³⁴.</p>
<p>3. Does an application for registration by EU citizens and their family members require a prior appointment to be made?</p>	<p>Depending on the municipality, there may be a need to arrange an appointment beforehand³⁵.</p>
<p>4. What is the average waiting time for obtaining an appointment for registration by EU citizens and their family members?</p>	<p>No information on average waiting times is available.</p> <p>No specific problems in practice have been identified in this regard.</p>
<p>5. What information and documentation do EU citizens and their family members have to produce to start the registration process?</p>	<p>It is anticipated that EU citizens and their family members submit all their documentation at the time of registering³⁶. EU citizens must present a valid passport or identity card together with proof of their right of residence as a salaried or self-employed worker³⁷, student³⁸ or self-sufficient person³⁹, or,</p>

²⁷ Immigration Regulations, Art. 2 as regards EU citizens, Art. 3 as regards family members who are also EU citizens, and Art. 5(1) as regards family members who are third country nationals.

²⁸ Immigration Regulations, Art. 2 as regards EU citizens and Art. 3 as regards family members who are also EU citizens.

²⁹ The form is entitled 'Déclaration d'enregistrement d'un citoyen de l'Union' <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-citoyen-UE/declaration-enregistrement-citoyen-UE/declaration-enregistrement-ue.pdf>>

³⁰ The form is entitled 'Demande de carte de séjour de membre de famille d'un citoyen de l'Union ou d'un pays assimilé' <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-tiers-membre-famille-UE/carte-sejour-membre-famille-UE/carte-sejour-membre-famille-ue.pdf>>.

³¹ Immigration Regulations, Art. 5(1).

³² Law on Population Registers, Art. 21(2).

³³ Law on Population Registers, Art. 21(1); see also, ICF GHK/ Milieu (n Fout! Bladwijzer niet gedefinieerd.), p. 1.

³⁴ ICF GHK/ Milieu 'Evaluation of EU rules on free movement of EU citizens and their family members and their practical implementation – Country Fiche for Luxembourg' (Report for the European Commission, 2013), p. 8.

³⁵ See for example, Luxembourg City which does not require a prior appointment <<https://www.vdl.lu/fr/vivre/demarches-administratives/declarer-sa-residence-depart-et-arrivee>> or the municipality of Steinsel which requires a prior appointment <<https://www.steinsel.lu/demarches-administratives/attestation-denregistrement/>> .

³⁶ Immigration Regulations, Art. 2 as regards EU citizens, Art. 3 as regards family members who are also EU citizens and Art. 5(1) as regards non-EU family members.

³⁷ Immigration Regulations, Art. 2, point 1^o.

³⁸ Immigration Regulations, Art. 2, point 2^o.

³⁹ Immigration Regulations, Art. 2, point 3^o.

	<p>alternatively as their family member⁴⁰. Family members must also present a copy of their EU relative's registration certificate⁴¹.</p> <p>It should also be noted that, when making a declaration of arrival within 8 days of entering Luxembourg⁴², EU citizens and family members are required to produce travel documents⁴³ and civil status documents, such as marriage and birth certificates⁴⁴.</p> <p><i>see Section G below for further details on documents required</i></p>
<p>6. Are non-EU family members required to produce an entry visa when applying for registration?</p>	<p>No. There is no obligation contained in the law which requires non-EU family members to furnish an entry visa when applying for registration.</p> <p>However, it has been reported that non-EU family members are sometimes required to show that there is an entry visa in their passport, in the event they have travelled from outside the Schengen zone. In circumstances where they have arrived from another EU Member State, they will be asked to produce a copy of their residence permit or long-stay visa. These requirements are likely to be contrary to the case law of the EU Court of Justice.⁴⁵</p>
<p>7. Are EU citizens and their family members issued with a certificate of application?</p>	<p>EU citizens are issued with a registration certificate immediately upon making an application.⁴⁶</p> <p>Non-EU family members are issued with a certificate of application immediately upon making an application for a residence card.⁴⁷ The certificate of application is deemed to be equivalent to a residence card for up to six months⁴⁸ to coincide with the deadline to issue a residence card.⁴⁹</p>
<p>8. Following the lodging of an application, do EU citizens and their family members benefit from a further deadline to submit all relevant documentation proving their right of residence?</p>	<p>No. EU citizens and family members have to provide all supporting documents at the time they submit their application for registration.</p>

⁴⁰ Immigration Regulations, Art. 3, point 2^o as regards family members who are also EU citizens and Art. 5(1) as regards non-EU family members.

⁴¹ *ibid.*

⁴² Law on Population Registers, Art. 21(2).

⁴³ Law on Population Registers, Art. 21(3).

⁴⁴ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union > Entrée sur le territoire: La déclaration d'arrivée* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html - bloub-6>>.

⁴⁵ Case C-459/99 *MRAX* EU:C:2002:461 and Case C-508/03 *Commission v Spain* EU:C:2006:287.

⁴⁶ Immigration Regulations, Art. 4, as regards EU citizens and family members who are also EU citizens.

⁴⁷ Immigration Regulations, Art. 5(1). This is referred to as '*un récépissé*'.

⁴⁸ *ibid.*

⁴⁹ Immigration Regulations, Art. 5(2).

Section E: Verification of domicile	
1. Does the registration process involve a physical verification of the domicile of the EU citizens and their family members?	No. EU citizens and family members have to provide proof of domicile at the time they make their declaration, which may be adduced by any available means. ⁵⁰ It is only in case of doubt as to a person's domicile that the mayor of the municipality may request the police to undertake a physical verification. ⁵¹
2. In practice, how long does the verification of domicile typically take to complete?	No specific information could be obtained.

Section F. Registration phase	
1. What is the deadline for making decisions of applications?	EU citizens should be issued with a registration certificate on the spot at the time they submit their application. ⁵² A residence card should be issued to non-EU family members within six months of their application being submitted. ⁵³
2. In practice, how long does the registration procedure typically take to complete? Have any specific problems been identified in practice?	According to the Luxembourg authorities, ⁵⁴ registration certificate is issued to EU citizens on the same day that an application is made. As regards applications for a residence card submitted by non-EU family members, the card is usually delivered before the six-month deadline has elapsed. ⁵⁵ No specific delays have been reported in practice.
3. What kind of residence documentation is issued to EU citizens and their family members?	Upon submitting an application, an EU citizen immediately receives a registration certificate which contains their name, address, date of registration and registration certificate number ⁵⁶ (no photo or indication of nationality is included). ⁵⁷ The registration certificate is valid for an unlimited period. ⁵⁸ This is issued in paper format. ⁵⁹ Non-EU Family members should be issued with a residence card labelled ' <i>Carte de séjour de membre de famille d'un citoyen de l'Union ou d'un ressortissant d'un des</i>

⁵⁰ Law on Population Registers, Art. 22(2).

⁵¹ *ibid.*

⁵² Immigration Regulations, Art. 4, as regards EU citizens and family members who are also EU citizens.

⁵³ Immigration Regulations, Art. 5(2).

⁵⁴ ICF GHK/ Milieu (n **Fout! Bladwijzer niet gedefinieerd.**), p. 9.

⁵⁵ *ibid.*

⁵⁶ Immigration Regulations, Art. 4, as regards EU citizens and family members who are also EU citizens.

⁵⁷ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union > Après l'entrée sur le territoire : la déclaration d'enregistrement* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html#bloub-7>>.

⁵⁸ *ibid.*

⁵⁹ CSES, 'Study to Support the Preparation of an Impact Assessment on EU Policy Initiatives on Residence and Identity Documents to Facilitate the Exercise of the Right of Free Movement' (Report for European Commission, 2017), p. 19 <https://ec.europa.eu/info/sites/info/files/dg_just_final_report_id_cards_and_residence_docs_cses_28_august_2017_2.pdf>.

	<i>autres Etats ayant adhéré à l'Accord sur l'Espace économique européen ou de la Confédération suisse</i> '. ⁶⁰ This label appears in French and English. ⁶¹ The residence card is issued in paper format ⁶² and is valid for five years. ⁶³ The document contains the family member's name, address, date of issue, nationality, file reference number and a photo ⁶⁴ .
4. What additional functions (if any) do the different types of residence documents have in relation to public services (e.g. in relation to tax, health, social security, use as an electoral card)?	No. The residence card serves no additional functions in respect of public services. ⁶⁵
5. What additional functions (if any) do the different types of residence documents have in relation to private-sector services (e.g. in relation to the right to work, access to banking or transport services)?	No. The residence card serves no additional functions in respect of private-sector services. ⁶⁶
6. What is the cost to the individual citizen applying for residence documents?	None. No fees are imposed for registration certificates or residence cards. ⁶⁷
7. Can the registration procedure be completed on-line?	No. There is a standardised application form available online for EU citizens ⁶⁸ and for non-EU family members. ⁶⁹
8. Is there an expedited registration procedure or premium service available?	No expedited or premium application service exists.

Section G: Documentary requirements	Information collated for this Member State
1. What documentation is required from EU citizens and their family members in order to prove their identity? Have any specific problems been identified in practice?	EU citizens must provide a valid passport or national identity card when applying for a registration certificate. ⁷⁰ Non-EU family members must present a valid passport when applying for a residence card. ⁷¹

⁶⁰ Immigration Regulations, Art. 5(2).

⁶¹ See sample LUX-HO-07001 available on the Council's Public Register of Authentic travel and identity Documents Online <<https://www.consilium.europa.eu/prado/en/LUX-HO-07001/index.html>>.

⁶² CSES, (n 59), p. 19.

⁶³ Immigration Regulations, Art. 5(2).

⁶⁴ See sample LUX-HO-07001 (n 61).

⁶⁵ CSES, (n 59), p. 62.

⁶⁶ *ibid*, p. 64.

⁶⁷ ICF GHK/ Milieu (n **Fout! Bladwijzer niet gedefinieerd.**), p. 9.

⁶⁸ The form is entitled '*Déclaration d'enregistrement d'un citoyen de l'Union*' <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-citoyen-UE/declaration-enregistrement-citoyen-UE/declaration-enregistrement-ue.pdf>>

⁶⁹ The form is entitled '*Demande de carte de séjour de membre de famille d'un citoyen de l'Union ou d'un pays assimilé*' <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-tiers-membre-famille-UE/carte-sejour-membre-famille-UE/carte-sejour-membre-famille-ue.pdf>>.

⁷⁰ Immigration Regulations, Art. 2 as regards EU citizens and Art. 3 as regards family members who are also EU citizens.

⁷¹ Immigration Regulations, Art. 5(1).

<p>2. What documentation is required from EU citizens applying to register as workers? Have any specific problems been identified in practice?</p>	<p>An EU citizen applying as a salaried worker must provide an employment contract or a letter of engagement from the employer.⁷²</p> <p>The Luxembourg government's public services portal specifies this can be 'an employment contract (permanent, fixed-term or interim) compliant with Luxembourg employment law, dated and signed by both parties, or a letter of engagement, dated and signed by the future employer'.⁷³</p> <p>However, the website states that 'an ancillary activity (less than 10 hours per week) is not sufficient for the purposes of receiving a registration certificate as a salaried worker', which appears contrary to the caselaw of the EU Court of Justice on the concept of a worker under EU law.⁷⁴</p>
<p>3. What documentation is required from EU citizens applying to register as self-employed persons? Have any specific problems been identified in practice?</p>	<p>An EU citizen applying as a self-employed worker must provide proof of self-employment.⁷⁵</p> <p>While the Luxembourg rules do not specify how proof of such activity is to be adduced, the Luxembourg government's public services portal provides the following examples: 'a business licence or a letter from the Ministry of the Economy confirming that a business licence is not required for the activity carried out; (...) an authorisation to practice a self-employed activity (doctor, physiotherapist, etc.); (...) a contract for the provision of services'.⁷⁶</p>
<p>4. What documentation is required from EU citizens applying to register as jobseekers? Have any specific problems been identified in practice?</p>	<p>The situation of jobseeker is not explicitly addressed by the Luxembourg rules.⁷⁷</p> <p>No information is given on the Luxembourg government's public services portal on the documents which jobseekers should provide in order to register.</p>
<p>5. What documentation is required from family members to prove the existence of a family relationship? Have any specific problems been identified in practice?</p>	<p>Family members must provide documentary proof of their marriage or registered partnership or other family relationship as the case may be, a copy the registration certificate of their EU relative⁷⁸. Depending on the circumstances, they will also</p>

⁷² Immigration Regulations, Art. 2, point 1.

⁷³ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union > Après l'entrée sur le territoire : la déclaration d'enregistrement* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html#bloub-7>>

⁷⁴ See for example, Case C-14/09 *Genc* EU:C:2010:57 in which the Court of Justice ruled that there is nothing to prevent a person employed as a cleaner who worked on average 5.5 hours per week from being considered a worker under EU law because that person was paid €7.87 per hour (approximately €175 per month representing 25% of the living wage), was entitled to sick pay and was entitled to 28 days paid leave a year, and had been employed for over five years (paras. 25-28).

⁷⁵ Immigration Regulations, Art. 2, point 1.

⁷⁶ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union > Après l'entrée sur le territoire : la déclaration d'enregistrement* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html - bloub-7>>.

⁷⁷ Gutwirth, De Hert and Paepe (n 8), pp. 23-24 and 29. Art. 14(4)(b) of Directive 2004/38 on protection from expulsion for jobseekers who demonstrate 'a genuine chance of being engaged' has been transposed by Art. 24 of the Immigration Law.

⁷⁸ Immigration Regulations, Art. 3 as regards family members who are EU citizens and Art. 5(1) as regards non-EU family members.

	<p>have to provide proof of dependence or proof of being members of the same household⁷⁹. They must also furnish one recent passport-sized photograph⁸⁰.</p> <p>The Luxembourg government's public services portal provides further explanation of the proof required from family members who are EU citizens depending on their situation⁸¹: 'for the spouse or registered partner, their marriage or registered partnership certificate, or extract of their family record book must be provided; for a descendant, proof of the family relationship with the EU citizen being accompanied or joined (e.g. birth certificate or family record book); if the descendant is aged over 21, proof they are dependent on the person being accompanied or joined (e.g. proof of financial support, proof of education of the descendant) must be provided; for an ascendant, proof of the family relationship with the EU citizen being accompanied or joined (e.g. birth certificate or family record book) and proof that the ascendant dependent on the person being accompanied or joined (e.g. proof of financial support); for a partner with whom the EU citizen has a duly attested durable relationship: proof of the existence of a long-term relationship with the EU citizen, duly attested by the Minister responsible for immigration (which must be requested using a standard form⁸²); applications made by children under the age of ten may be submitted on their behalf by their legal representative'.</p> <p>The portal contains similar information as regards the documents to be provided by non-EU family members⁸³.</p>
<p>6. What requirements apply as regards translation and legalisation? Have any specific problems been identified in practice?</p>	<p>Any official civil status certificate drawn up abroad is required bear an apostille⁸⁴ or to be legalised⁸⁵ (unless exempted under an international agreement).⁸⁶</p>

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union > Après l'entrée sur le territoire : la déclaration d'enregistrement* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html#bloub-7>>.

⁸² The form is entitled 'Demande de constatation d'une relation durable' <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-docs-communs/reconnaissance-relation-durable/reconnaissance-relation-durable.pdf>>.

⁸³ See *Séjourner plus de 3 mois au Luxembourg en tant que ressortissant de pays tiers membre de famille d'un citoyen de l'Union européenne ou d'un ressortissant luxembourgeois > Après l'entrée sur le territoire : demande de la carte de séjour* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/membre-famille-UE/conditions-entree/membre-famille-UE.html-bloub-5>>.

⁸⁴ This is the means of officially certifying public documents pursuant to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, which Luxembourg has ratified <<https://www.hcch.net/en/instruments/conventions/full-text/?cid=41>>.

⁸⁵ This is confirmed on the following site *Séjourner plus de 3 mois au Luxembourg en tant que ressortissant de pays tiers membre de famille d'un citoyen de l'Union européenne ou d'un ressortissant luxembourgeois > Après l'entrée sur le territoire : demande de la carte de séjour* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/membre-famille-UE/conditions-entree/membre-famille-UE.html-bloub-5>>.

⁸⁶ An indicative listing of the agreements which Luxembourg has ratified can be found here <<http://legilux.public.lu/search/A/?thematique=l%c3%a9galisation>>.

	Documents drawn up in French, German or English do not need to be translated, ⁸⁷ but documents written in other languages need to be translated ⁸⁸ by a sworn translator. ⁸⁹
7. Have any other specific problems been noted as regards the documentary requirements concerning residence formalities in this Member State?	Municipal authorities have been reported to request documents which are not contemplated by the EU rules, such as a certificate of celibacy from EU citizens who register without family members. ⁹⁰

Section H: Permanent residence	Information collated for this Member State
1. Is permanent residence recognized to EU citizens and their family members in this Member State?	Yes. Article 16(1) of Directive 2004/38 has been transposed. EU citizens acquire a right of permanent residence after a continuous period of five years of lawful residence in Luxembourg. ⁹¹ Family members also acquire a right of permanent residence after a continuous period of five years of lawful residence with their EU relative in Luxembourg. ⁹²
2. Is permanent residence documentation automatically issued, or must EU citizens and their family members make a specific request for such documentation?	No. EU citizens and their family members who want to obtain a permanent residence document must apply for it. ⁹³
3. What is the procedure that applies when EU citizens and their family members request permanent residence documentation?	EU citizens may apply for a permanent residence document at any time after having completed five years of continuous residence. ⁹⁴ Non-EU family members are required to apply before expiry of their residence card. ⁹⁵ In practice, they may do so up to two months before their residence card is due to expire. Their file is then transmitted by the municipality to the Ministry for a decision. ⁹⁶

⁸⁷ See *Séjourner et / ou travailler plus de 90 jours au Luxembourg en tant que citoyen de l'Union* > Présentation <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/conditions-entree/sejour-travail.html#bloub-5>>.

⁸⁸ *ibid.*

⁸⁹ This is a translator who has sworn an oath before the Superior Court of Justice of Luxembourg.

⁹⁰ Nicolau (n 11), p. 54.

⁹¹ Immigration Law, Art. 9.

⁹² Immigration Law, Art. 20.

⁹³ Immigration Regulations, Art. 6(1) for EU citizens, Art. 6(2) for family members who are EU citizens and Art. 7(1) for non-EU family members.

⁹⁴ Immigration Regulations, Art. 6(1) for EU citizens and Art. 6(2) for family members who are EU citizens.

⁹⁵ Immigration Regulations, Art. 7(1).

⁹⁶ *ibid.*

	Applications for permanent residence documents can be submitted by post. ⁹⁷ The physical attendance of EU citizens or their family members is not required when applying for permanent residence documents. ⁹⁸
4. What documentation is required to apply for permanent residence documentation?	<p>According to the Luxembourg rules, EU citizens who apply for a document attesting to permanent residence must provide proof of lawful residence for a continuous period of five years.⁹⁹ In addition, family members must also demonstrate residence with their EU relative.¹⁰⁰</p> <p>In practice, the only document that is required of applicants who are EU citizens is a copy of a valid passport or identity card¹⁰¹. Non-EU family members have to provide a full copy of their valid passport (together with a translation by a sworn translator in the event the passport was not issued in French, English or German)¹⁰² as well as one recent passport-sized photograph.¹⁰³</p>
5. Are EU citizens and their family members issued with a certificate of application?	<p>The Luxembourg rules do not provide for the issue of a certificate of application to EU citizens who apply for a document attesting permanent residence.</p> <p>When an application for a permanent residence card is lodged by a non-EU family member, they should immediately be issued with a certificate of application.¹⁰⁴ If their original residence card has expired, the certificate of application is deemed to be equivalent to a residence card for up to six months¹⁰⁵ to coincide with the deadline to issue a permanent residence card.¹⁰⁶</p>
6. What is the deadline for making decisions of applications?	<p>EU citizens should be issued with a document certifying permanent residence within one month of their application being submitted.¹⁰⁷</p> <p>A permanent residence card should be issued to non-EU family members within six months of their application being submitted.¹⁰⁸</p>

⁹⁷ See *Demander une attestation de séjour permanent en tant que citoyen de l'UE* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/sejour-5-ans/attestation.html>> and *Demander une carte de séjour permanent en tant que ressortissant de pays tiers, membre de famille d'un citoyen de l'UE* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/membre-famille-UE/sejour-5-ans/carte-sejour-permanent-membre-famille.html>>.

⁹⁸ ICF GHK/ Milieu (n **Fout! Bladwijzer niet gedefinieerd.**), p. 8.

⁹⁹ Immigration Regulations, Art. 6(1) for EU citizens, Art. 6(2) for family members who are EU citizens and Art. 7(1) for non-EU family members.

¹⁰⁰ Immigration Regulations, Art. 6(2) for family members who are EU citizens and Art. 7(1) for non-EU family members.

¹⁰¹ See *Demander une attestation de séjour permanent en tant que citoyen de l'UE* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/citoyen-UE/sejour-5-ans/attestation.html>>.

¹⁰² See *Demander une carte de séjour permanent en tant que ressortissant de pays tiers, membre de famille d'un citoyen de l'UE* <<https://guichet.public.lu/fr/citoyens/immigration/plus-3-mois/membre-famille-UE/sejour-5-ans/carte-sejour-permanent-membre-famille.html>>.

¹⁰³ Immigration Regulations, Art. 7(1).

¹⁰⁴ Immigration Regulations, Art. 7(1). This is referred to as '*un récépissé*'.

¹⁰⁵ *ibid.*

¹⁰⁶ Immigration Regulations, Art. 7(2).

¹⁰⁷ Immigration Regulations, Art. 6(3) as regards EU citizens and family members who are also EU citizens.

¹⁰⁸ Immigration Regulations, Art. 7(2).

<p>7. In practice, how long does an application for permanent residence typically take to complete?</p>	<p>Permanent residence documents are reportedly issued to EU citizens within one month of the application being submitted.¹⁰⁹</p> <p>As regards non-EU family members, it has been reported that permanent residence cards are issued within three months of the application being submitted.¹¹⁰</p>
<p>8. What kind of permanent residence documentation is issued to EU citizens and their family members?</p>	<p>EU citizens should be issued with a document certifying permanent residence (<i>'attestation de séjour permanent'</i>).¹¹¹ The document is issued in paper form.¹¹² While the Directive does not provide for a period of validity of such documents, a document certifying permanent residence is issued with a period of validity of five years.¹¹³</p> <p>A permanent residence card should be issued to non-EU family members bearing the label <i>'Carte de séjour permanent de membre de famille d'un citoyen de l'Union ou d'un ressortissant d'un des autres Etats ayant adhéré à l'Accord sur l'Espace économique européen ou de la Confédération suisse'</i>.¹¹⁴ This label appears in French and English¹¹⁵. The card is issued in paper form.¹¹⁶ It is valid ten years and renewable upon request.¹¹⁷ The document contains the family member's name, address, date of issue, nationality, file reference number and a photo.¹¹⁸</p>
<p>9. What is the cost to the individual citizen applying for permanent residence documents?</p>	<p>None. No fees are imposed for permanent residence documents.¹¹⁹</p>
<p>10. Can the application be completed on-line?</p>	<p>No. There is a standardised application form available online for EU citizens¹²⁰ and for non-EU family members.¹²¹</p>
<p>11. Is there an expedited registration procedure or premium service available?</p>	<p>No expedited or premium application service exists.</p>

¹⁰⁹ ICF GHK/ Milieu (n **Fout! Bladwijzer niet gedefinieerd.**), p. 10.

¹¹⁰ *ibid.*

¹¹¹ Immigration Regulations, Art. 6(3).

¹¹² CSES, (n 59), p. 19.

¹¹³ See sample LUX-HO-06002 available on PRADO <<https://www.consilium.europa.eu/prado/en/LUX-HO-06002/index.html>>.

¹¹⁴ Immigration Regulations, Art. 7(3).

¹¹⁵ See sample LUX-HO-08001 available on the Council's Public Register of Authentic travel and identity Documents Online <<https://www.consilium.europa.eu/prado/en/LUX-HO-08001/index.html>>.

¹¹⁶ CSES, (n 59), p. 19.

¹¹⁷ Immigration Regulations, Art. 7(4).

¹¹⁸ See sample LUX-HO-08001 (n 115).

¹¹⁹ ICF GHK/ Milieu (n **Fout! Bladwijzer niet gedefinieerd.**), p. 9.

¹²⁰ The form is entitled *'Demande d'attestation de séjour permanent d'un citoyen de l'Union'* <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-citoyen-UE/attestation-sejour-permanent-supprimer/attestation-sejour-permanent-UE.pdf>>.

¹²¹ The form is entitled *'Demande de carte de séjour permanent de membre de famille d'un citoyen de l'Union ou d'un pays assimilé'* <<https://guichet.public.lu/dam-assets/catalogue-formulaires/immigration-tiers-membre-famille-UE/carte-sejour-permanent-membre-famille-ue/demande-carte-sejour-permanent.pdf>>.

12. Have any other problems been noted as regards applications for permanent residence in this Member State?	No. No specific problems have been reported in practice.
Section I: Appeals	Information collated for this Member State
1. In case of a refusal, can EU citizens and their family members have recourse to an administrative review process? If so, what administrative authority is competent to conduct such a review? What is the deadline for requesting administrative review?	Yes. It is possible to make a request for administrative reconsideration ¹²² of a decision refusing to issue a residence card (<i>'recours gracieux'</i>). ¹²³ Such a request for reconsideration should be lodged before the same authority which took the decision within three months of the decision having been notified. A request for administrative reconsideration suspends the three-month deadline for lodging a judicial appeal. ¹²⁴ If no decision is taken within three months, the request for reconsideration is deemed rejected. ¹²⁵ This implicit refusal can be the subject of a judicial appeal within three months.
2. In case of a refusal, can EU citizens and their family members have recourse to a judicial appeal process?	Yes. An administrative decision may be challenged before the administrative courts directly ¹²⁶ or following a request for administrative reconsideration. ¹²⁷
3. What judicial authority is competent to hear such appeals?	A judicial appeal against a decision refusing the issue of a residence document lies before the administrative tribunal (<i>Tribunal administratif</i>). A subsequent right of appeal lies before the Administrative Court (<i>Cour administrative</i>). ¹²⁸
4. In case of a refusal, what is the deadline for lodging a judicial appeal?	A judicial appeal against a decision refusing the issue of a residence document must be filed within a three-month deadline for filing a judicial appeal. ¹²⁹ The deadline starts to run from the date when the decision is notified. ¹³⁰ Where an administrative review has been requested, a judicial appeal must be brought within three months of the date on which a decision on the administrative review was taken ¹³¹ or, if no decision is taken, within three months of the date on which the administrative review is deemed to have been rejected. ¹³²

¹²² Administrative Court Procedure Law (*Loi du 21 juin 1999 portant règlement de procédure devant les juridictions administratives*), Art. 13(2)

<<http://legilux.public.lu/eli/etat/leg/tc/2011/09/19/n2/jo>>.

¹²³ For a summary of the procedure, see <<https://guichet.public.lu/fr/citoyens/citoyennete/voies-recours-reglement-litiges/contestation-decision-administrative/recours-decision-administrative.html>>.

¹²⁴ Administrative Court Procedure Law, Art. 13(2).

¹²⁵ Administrative Court Procedure Law, Art. 13(3).

¹²⁶ Immigration law, Art. 113 and Administrative Court Procedure Law, Art. 13.

¹²⁷ Administrative Court Procedure Law, Art. 13(2)-(3).

¹²⁸ For an overview of the judicial review process in administrative cases, see <<https://justice.public.lu/fr/organisation-justice/juridictions-administratives.html>>.

¹²⁹ Administrative Court Procedure Law, Art. 13(1).

¹³⁰ *ibid.*

¹³¹ Administrative Court Procedure Law, Art. 13(2).

¹³² Administrative Court Procedure Law, Art. 13(3).

<p>5. What is the nature of the judicial review process? Does it suspend the effects of the decisions under appeal? What are the fees for lodging a judicial appeal?</p>	<p>The administrative tribunal has the power to review the legality of decisions taken by the Luxembourg administrative authorities.¹³³ The tribunal does not have the power to remake administrative decisions.¹³⁴ A judicial appeal does not suspend the decision under challenge.¹³⁵ There are no fees for lodging an administrative appeal.¹³⁶</p>
---	--

Section J: Impact of residence formalities on equal treatment	Information collated for this Member State
<p>1. Has Article 25 of Directive 2004/38, which provides that the exercise of a right or completion of an administrative formality should not be conditional upon possession of a residence document, been accurately transposed in this Member State?</p>	<p>This provision has been explicitly transposed.¹³⁷</p>
<p>2. Have any problems been noted as regards the impact of residence formalities on equality of treatment for EU citizens and their family members?</p>	<p>No specific problems have been reported in Luxembourg. However, there are reports of the Luxembourg courts upholding what appears to be a restrictive interpretation of worker status by the administrative authorities in respect of EU citizens claiming benefits.¹³⁸ This includes a decision to consider a person who was working 10 hours per week and earning around €210 per month over the course of 14 months as not being in genuine and effective employment.¹³⁹</p>

¹³³ Law on the Organisation of Administrative Courts (*Loi du 7 novembre 1996 portant organisation des juridictions de l'ordre administratif*), Art. 2(1)

<<http://legilux.public.lu/eli/etat/leg/loi/1996/11/07/n1/jo>>.

¹³⁴ Gutwirth, De Hert and Paepe (n 8), p. 37, who confirm that according to Art. 3(1) of the Law on the Organisation of Administrative Courts, an explicit legal provision would be explicitly needed to provide a full right of appeal, which would then endow the administrative tribunal with the power to remake administrative decisions (*recours en reformation*). This is currently not the case.

¹³⁵ Immigration law, Art. 113.

¹³⁶ Information confirmed by legal practitioner.

¹³⁷ Immigration Regulations, Art. 8.

¹³⁸ Susanna Greijer, 'Living in another Member State: barriers to EU citizens' full enjoyment of their rights - Luxembourg', Study for the Fundamental Rights Agency (2017)

<https://fra.europa.eu/sites/default/files/fra_uploads/luxembourg-living-in-another-member-state_en.pdf>.

¹³⁹ *ibid*, pp. 13-17, citing a judgment of the Administrative Court of 22 November 2016 (case No 34238C) <<https://ja.public.lu/30001-35000/34238C.pdf>>.