

# ANNUAL REVIEW

## Corporate immigration

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# LUXEMBOURG

**PHILIPPE SCHMIT**  
ARENDT & MEDERNACH SA



**Q WHAT ARE SOME OF THE MAJOR CORPORATE IMMIGRATION DEVELOPMENTS IN LUXEMBOURG OVER THE LAST YEAR OR SO, WHICH ARE SET TO IMPACT RECRUITMENT EFFORTS?**

**SCHMIT:** On 8 February 2017, the Luxembourg Parliament voted a new immigration law, which entered into force on 24 March 2017. The main objective of the Law is to implement two directives into national law which not only introduce four new categories of residence permits in Luxembourg – a residence permit as seasonal worker, a residence permit in case of temporary intra-company transfers, a residence permit for investors and a residence permit within the framework of a business continuity plan for non EU-companies – but also provide for various substantial amendments to the currently applicable immigration provisions which aim to increase Luxembourg's attractiveness as a host country for foreign talent. With the aim of encouraging highly-skilled employees to remain in Luxembourg for a longer period of time and in order to simplify the administrative process, the Law has, among others, extended the validity of the European Blue Card from a period of two to a maximum of four years. Furthermore, prior to the adoption of the Law, a waiting period normally applied to family members before they were allowed to apply for residence permits as family members and to join their non-EU family members in Luxembourg. The Law has removed this condition of one-year prior residence in the territory of Luxembourg, although certain limited exceptions remain.

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**Q TO WHAT EXTENT ARE COMPANIES IN LUXEMBOURG SEEKING TO TAP INTO THE GLOBAL TALENT POOL? WHAT ARE THE KEY BENEFITS OF DOING SO?**

**SCHMIT:** Immigration represents a major pillar of Luxembourg's economy, which has always relied on its foreign workforce to cover its growing manpower needs due to steady economic development over the past few decades. This growing need for foreign labour can further be explained by the fact that due to its low population, Luxembourg does not have sufficient highly-skilled employees to occupy vacant positions within Luxembourg companies or foreign companies operating in Luxembourg. In order to fill these positions with



highly qualified employees, and thereby contribute to the country's economic growth, the government continuously updates the legal and regulatory framework to encourage and facilitate further immigration of highly specialised and skilled employees to Luxembourg. Today, almost 46 percent of Luxembourg's inhabitants are foreigners and the multilingualism of the local population allows them to integrate rapidly into daily life.

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**Q** HAVE ANY RECENT LEGAL AND REGULATORY ISSUES HAD AN IMPACT ON CORPORATE IMMIGRATION PRACTICES IN LUXEMBOURG?

**SCHMIT:** The Law has updated the legal framework and will facilitate immigration to Luxembourg by easing administrative requirements and creating new types of residence permits. The most important development and innovation of the Law, primarily from an economic point of view, is undeniably the creation of a residence permit for investors which aims to diversify the national economy and encourage entrepreneurship in Luxembourg while at the same time boosting the financial industry. A third-country national interested in investing in Luxembourg may now choose between different investment plans in order to be granted a residence permit as an investor. It should be noted, however, in this respect that investments relating directly or indirectly to real estate are prohibited and investments must be made prior to the delivery of the temporary authorisation to stay.

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**Q** WHAT STRATEGIC ADVICE WOULD YOU GIVE TO COMPANIES ON MANAGING VISA ISSUES AND SPONSORSHIP SCHEMES, FOR EXAMPLE?

**SCHMIT:** Over the past few years, Luxembourg has experienced a steady rise in applications for residence permits. With the entry into force of the Law, it is very likely that in the near future the Luxembourg immigration authorities will be subject to a new wave of residence permit applications. This increase in applications may lead to certain



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delays in the processing of residence permit applications by the immigration authorities. Consequently, it is highly recommended to consult an immigration expert throughout the immigration process in order to ensure that applicants comply with the applicable immigration procedure and submit all the required documents in due time and due form to the immigration authorities in order to receive the requested residence permit on time.

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**Q TO WHAT EXTENT ARE COMPANIES USING TECHNOLOGY TO REDUCE COSTS AND INCREASE THE EFFICIENCY OF THEIR CORPORATE IMMIGRATION PROGRAMMES?**

**SCHMIT:** Using technology to process residence permit applications is not common practice in Luxembourg, as each application is specific and hence treated on a case-by-case basis by the Immigration Directorate of the Ministry of Foreign and European Affairs. In Luxembourg, residence permit applications are still filed by post. As the applicant must not be on Luxembourg territory during the immigration process, it is Luxembourg common practice to have recourse to an immigration expert in order to file the application for the residence permit in the name and on behalf of the applicant with the Luxembourg immigration authorities. The immigration expert, as the contact person in Luxembourg, will subsequently also follow-up with the immigration authorities and keep the applicant updated on a regular basis with regard to the immigration procedure.

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**Q WHAT STEPS CAN COMPANIES TAKE TO ENSURE THEIR IMMIGRATION PROGRAMMES ARE COMPLIANT AND UP-TO-DATE WITH POLICY CHANGES?**

**SCHMIT:** As Luxembourg immigration regulations are constantly updated in order to keep them attractive for continued immigration to Luxembourg, it is highly advisable to monitor the evolution of the legal framework on a regular basis and also to maintain regular contact with immigration experts in Luxembourg to receive further practical input on the immigration procedure.

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**Q GIVEN THE ONGOING VOLATILITY OF THE GLOBAL POLITICAL AND ECONOMIC ENVIRONMENT, HOW DO YOU FORESEE CORPORATE IMMIGRATION UNFOLDING IN 2017 AND BEYOND?**

**SCHMIT:** It is very likely that Luxembourg will experience further immigration in the near future due to its new legal framework and primarily due to the creation of new types of residence permits. Moreover, Brexit makes it very likely that new corporate entities, including branches and subsidiaries of foreign companies, will be set up in the Grand Duchy of Luxembourg, which is the leading eurozone financial centre and second in the European Union after London – and this will raise further immigration issues. Indeed, foreign companies which set up their branches and subsidiaries in Luxembourg often have recourse to highly-qualified third-country nationals in order to fill their vacancies. Moreover, third-country nationals may further be transferred from the company's headquarters in the United Kingdom to Luxembourg in order to perform work within one of the branches or subsidiaries set up in the Grand Duchy. Consequently, corporate immigration is likely to gain further importance in the Grand Duchy of Luxembourg, which has always heavily relied on its foreign workforce.

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### Philippe Schmit

Partner  
Arendt & Medernach SA  
[philippe.schmit@arendt.com](mailto:philippe.schmit@arendt.com)  
+352 40 78 78 240

Philippe Schmit is a partner in the Employment Law, Pensions & Benefits practice at Arendt & Medernach SA. Mr Schmit advises employers in the financial and industrial sectors on all aspects of the employment relationship. He also specialises in all matters related to restructuring and reorganisation, negotiation in the context of collective dismissals and collective bargaining procedures, as well as any other HR aspects triggered by corporate restructuring, including M&A. Mr Schmit also has extensive knowledge of expatriation matters and provides legal advice with respect to business immigration and all related aspects.



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