

**The State of the  
Luxembourg's Welfare State:  
the Effects of the Crisis on a  
Corporatist Model Shifting to  
a Universalistic Model**

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## **Abstract**

Luxembourg was able to develop, enlarge and improve its corporatist welfare system with Scandinavian standards, creating one of, if not the most substantial regime in the EU/OECD. Several aspects are outstanding: expansion and improvement took place over the last two decades; important reserves for the pension insurance allowed replacement rates being on top within OECD countries; corporatist elements had been reduced in favour of a higher impact of the State; defamilization took place, thus a significant recalibration. There is no experience of cutbacks or significant cost containment measures leading to losses and a higher responsibility for the insured.

The question is, how did Luxembourg manage to increase and improve its welfare offer, while other developed countries have had to cutback since the 1970s? And what was the impact of the financial crisis on welfare policies up to the end of 2009.

Luxembourg has the most regulated labour market within OECD, but also the most diversified in terms of migration and cross border movements. Two factors are commonly considered putting welfare systems under pressure: globalisation and ageing effects. Luxembourg avoided the last one via its permanently rejuvenating immigration and cross border movement: age- and family-member-dependency ratios are extremely low for cross border commuters compared to those of residents. The extremely transnationalised labour force might be considered as an implicit 'globalising' answer. This small nation-state used its sovereignty taking advantage of the imbrication of national and transnational (EU) law: crossers contribute fully, but are not fully entitled to benefits. Immigration is sometimes considered to be a threat to the sustainability of welfare schemes; in Luxembourg however immigrants and crossers were the main factors for expansion.

*Mots clé:* Luxembourg's welfare system, Improvement, expansion, No cutback, Migration, Cross border movement

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## **1. Effects of the Financial crisis on corporatist and universalistic welfare model: the case of Luxembourg<sup>1</sup>**

Luxembourg has developed a generous and broad welfare regime over the last 100 years which has seen further important changes during the last two decades. Luxembourg was able to develop, enlarge and improve its welfare system, creating one of, if not the most substantial regime in the EU/OECD. During the last two decades, authorities have introduced new insurances and benefits such as parental leave in 1998, the care insurance in 1998, two other benefits for the elderly in 1998, a labour market maintenance measure (“incapacité de travail”, 2002), a minimum income scheme for disabled persons (2003) and financial help for child care (“chèques-service” introduced in 2009). On top of these new measures, standards have been considerably improved (Kieffer, 2008 and Hartmann-Hirsch, 2009) and an important service sector has been developped. These developments contrast with the retrenchment policies observed in other states (EU,OECD) (Leibfried and Pierson, 1995). Until now, authorities have avoided serious cutbacks - an outstanding situation.

Some elements should be briefly highlighted before starting with the main sections.

Luxembourg’s economy experienced a long period of a ‘virtuous spiral’, which relied upon a strong foreign and mainly a highly qualified labour force (Schuller, 2002). The following advantages have contributed to the ‘spiral’ evolution: a small economy with the opportunity to adapt quickly, to offer companies easy going relations with the administration, Luxemburg's status as a sovereign State, which grants it entitlement to define its own specific legislation and policies aimed at the use of niches, a specific knowledge, the attraction of a substantial immigration, etc. With regard to the competitiveness of the economy, the following elements should be highlighted: indirect labour cost is low, thus it weighs less on companies’ budgets and produces high net wages. However gross wages are high and automatic adaptation<sup>2</sup> takes place and is currently the main subject of political debate between employers and employees - in terms of retrenchment policies. The government contributes to social security insurances and benefits (table 1) to a higher extent than neighbouring member-states (MS), in a similar way as Scandinavian authorities do. Hence, some benefits are entirely financed by tax revenue. However, net wages are high<sup>3</sup>, amongst the highest within EU (and OECD), and more so those of the public sector. The automatic adaptation and the high wages are the critical points highlighted by the employers in terms of a loss of competitiveness, whilst unions defend the corporatist, highly protected legal framework and welfare model with outstanding standards, pleading against any type of ‘Sozialabbau’ (dismantling of the welfare system).

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<sup>1</sup> This paper had been presented at the EZA conference “The State of the Welfare State” on 19/20 April 2010 in University of Leuven under the direction of Prof Jozef Pacolet and will be published by J. Pacolet in “The State of the Welfare State”. Vanessa Di Bartolomeo, Franz Clément, Antoine Haag, Guy Schuller and Adrien Thomas provided precious criticism.

<sup>2</sup> Automatic increase of wages due to inflation via index calculation.

<sup>3</sup> But the living costs, mainly the rents are also very high; they represent an increasing share of household budgets.

Luxembourg's labour market provides on the one hand the most regulated corporatist legal framework (Haag, 2010) and is on the other the most transnationalised: two thirds are foreigners and one third are nationals. A steady net inflow of immigrants and a continuous increase of cross border commuters over the last decades produced a continuous labour force increase. This produced a parallel increase of the revenues of Bismarckian insurances, as they rely heavily on the evolution of the labour market.

The question is, how did Luxembourg manage to increase and improve its welfare offer during the last two to three decades, while other developed countries have had to cutback since the 1970s? We are looking for the reasons for this extraordinary evolution.

Coming to the main question of the impact of the financial crisis, retrenchment policies, and more so those with a specific 'answer' to the effects of the financial crisis have not been launched as of the end of 2009, but they have been discussed since autumn 2009. Discussion has also been more explicit since spring 2010 as a result of the clear opposition, between unions and employers. Whilst a compromise orientated consensual debate took place in former decades.

Within the following sections, we will provide a brief description of Luxembourg's welfare model, a short introduction to the particular labour market with an exceptional evolution of contributors, focussing only on elements which have a direct influence on the crucial sustainability of social security insurances.

For the three insurances, we will present a brief outline of each scheme, some legal *supranational* (EU) legal conditions which have an impact on the sustainability of the *national* schemes, the evolution of the financial situation, and important reforms of the last five years.

## 2. Which type of welfare model

We will briefly classify the system with Esping-Andersen's (1990) three welfare models, demonstrating a unique combination of a strong corporatist model with Scandinavian elements.

(i) **Corporatist principles:** Luxembourg started to adopt Bismarck's insurance models in 1901. Contribution-rates for employers and employees are the same - with the exception of the care insurance, which is only financed by the *employees* and the *State* (launched in 1999). Insurances are co-financed, to a great extent, by the State; parameters for social aid are the *household's composition* and its income – as opposed to the social-democratic criterion of the *individual's* situation. Providers of the main insurances (health and pension) were organised alongside professional categories, such as

manual workers, manual workers of the steel industry, agriculture (bringing together employers and workers), employees, three categories of civil servants, etc. Within this model, the State place a large role in financing the welfare model (Cichon, 2007) and has a broad responsibility. One of drawbacks of the model is the reliance of users on the State. Corporatist models are quite likely to sustain attitudes of “assistés” and hence OECD (1997) and later on EU (cf. different JER) highlighted the *high rate of broad unemployment* through people living on passive schemes – a phenomenon which concerns more nationals than foreigners (Hartmann-Hirsch and Amétépé, 2009). The impact of the Church is important, although it has decreased over the last decade (Hausman and Zählen, 2010). The State and the Church are not separate, and the female employment rates might be considered under this item: Ireland, Spain and Luxembourg presented the lowest female employment rate (Meulders et al., 1992) and are still below EU average (cf. JER and JRSPSI). Consequently, child care for Ireland and Luxembourg was the least developed within EU (Moss, 1988). A push for important child care provisions which aimed at increasing female labour market participation started in 1997 with the European Employment Strategy. This was stimulated by a *supranational* programme. Before 1997, social services were poorly developed: the main focus was on transfer provisions. Child care and the care for the elderly were considered to be the family’s responsibility. Meanwhile, services for both target groups have been strongly developed<sup>4</sup>) - a significant recalibration with a clear Scandinavian orientation.

**(ii) Social-democratic Scandinavian standards and philosophy:** Luxembourg adopted Scandinavian standards and went beyond these middle class levels. In corporatist as well as in liberal models, there is “equity amongst the poor” (Esping-Andersen, 1990). Scandinavian models and to an even greater degree Luxembourg developed middle class standards. The following examples might illustrate this:

**Child benefits** in Luxembourg are by far the highest in EU given the previous focus on transfer provisions and the poorly developed service sector (MISSOC and Hartmann-Hirsch, 2009). As a response to the financial crisis, transfer provisions were restricted with a re-commodification concerning cross border commuters (July 2010). Following these changes child benefits are paid up to the end of secondary school and study allowances have been introduced for *resident* students; they compensate the re-commodification. National schemes have been redefined (child benefits and study allowances) and launched (chèques-services for residents only) using the advantageous loopholes of national and supranational EU-legislation, excluding cross border commuters from certain parts of transfers they were entitled to previously.

The **policies for the elderly** are extremely generous: Long Term Care Insurance (LTCI) provides with generous monthly cash benefits plus a broad scope of benefits in kind (home and institutional care; Hartmann-Hirsch, 2007). Two other schemes balance out any danger of exclusion or of poverty in

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<sup>4</sup> cf. section 4.3.2. for the elderly and Bousselin, 2008 as well as the different National Action Plans within the European Employment and later on the Lisbon Strategy.

old age<sup>5</sup>, these provide sometimes elderly people with even higher standards in homes than those of their previous housing conditions (MISSOC and Hartmann-Hirsch, 2009).

**Pension insurance** provides retired persons with extremely high gross pension replacement rates (3<sup>rd</sup> / 4<sup>th</sup> position within OECD countries: OECD, 2009: 117).

Out-of-pocket money by patients for delivered **health services** is the lowest within OECD countries (OECD, 2008: 123).

For years, authorities have co-financed insurance schemes to an important extent, thus welfare is highly budgetised<sup>6</sup>. Furthermore, some benefits are financed on the basis of the state's budget alone (child and unemployment benefits); while in other corporatist countries they are financed on the basis of both: the employees and/or employers' contributions *plus* the state's budget.

**Table 1: Participation of the State to different welfare schemes (1995 – 2008; in %)**

Scheme	1995	2000	2005	2008
Fonds national de solidarité	96.2	94.4	99.9	
Fonds pour l'emploi (employment agency)	98.4	98.6	96.3	96.5
Family benefits	90.8	94.0	94.4	94.6
<b>Pension scheme for civil servants</b>	<b>77.0</b>	<b>70.7</b>	<b>77.0</b>	76.9
Other benefits	88.1	86.0	70.8	65.6
<b>Health insurance</b>	<b>39.6</b>	<b>37.9</b>	<b>41.5</b>	41.5
<b>Care insurance</b>	-	<b>46.0</b>	<b>46.1</b>	40.3
<b>General Pension scheme</b>	<b>32.4</b>	<b>32.8</b>	<b>33.2</b>	32.0
Accident insurance	16.8	10.5	15.0	10.2

Source: IGSS, 2000: 2005 and 2008. Graph 5.

For more than a decade, the objective of authorities was to provide *universal services and benefits*, thus avoiding a two tier welfare model. As opposed to Germany, there is no trend towards **competition amongst providers** by multiplying them, but a clear trend to *a unique national – universalistic – public provider* in order to increase membership and to reduce thus the risks, and, finally to protect citizens in the most egalitarian way. Hence, insurances were merged first in a less manifest way (health insurance reform of 1992) and now in an obvious way. Out of 9 health

<sup>5</sup> Act of 1998 concerning the “complément d'accueil gérontologique” providing those who cannot afford the full board price in homes for the elderly with the equivalent amount and the “tarification sociale” (without legal framework) which helps those who are not entitled to LTCI provisions and who cannot afford the high tariffs of the LTCI.

<sup>6</sup> “The tax share of the total financing of social security in Luxembourg is 40% higher than that of its direct neighbours that have simimilar (Bismarckian) systems of financing” (Cichon, 2007: 38).

insurances, four currently co-exist the “Caisse nationale de santé” (CNS), bringing together six previous insurances of the non-public sector; the three providers for civil servants (national public service, municipalities’ service and the “cheminots”, Luxembourg’s national public train company), remain autonomous. From the very beginning, *one national* care insurance (1999) has been launched, leaving behind the corporatist type of health and pension schemes.

**(iii) Liberal principles:** The relatively low indirect labour costs of Luxembourg (within EU-15 MS) might be seen as a liberal element as it gives incentives to companies’ settling in Luxembourg.. Until now, Luxembourg could afford these low indirect labour cost (table 4) due to high tax revenues - the effect of an excellent performance of the competitive sector – without neglecting the development of a broad corporatist-conservative welfare offer with higher standards than the Scandinavian models. In Luxembourg, the State compensates the low contribution of both partners by co-financing these systems in a substantial way. The attitude concerning economic development and the effects might be liberal ones; the underlying philosophy for the welfare regime was and still is corporatist, protective and highly regulated.

The recent care insurance (law of 19 June 1998) is financed by the *employees/independent or self employed only* plus by the state, whilst employers have not been asked to contribute. In the sense of a Beveridge tradition, the competitiveness of the economy should not be hindered by social policy obligations. Again, as opposed to liberal models, the state compensates with its own contribution the missing input of the employers’.

Thus in the beginning, insurances were launched and enlarged over decades alongside corporatist Bismarckian principles. Scandinavian objectives of high standards and egalitarian protection provided by universal schemes developed over the last two decades; liberal elements are marginal, or non-existent.

### **3. Luxembourg’s domestic labour market and the evolution of contributors to insurances and insured persons**

(i) The highly regulated labour market (Haag, 2010) produces typical corporatist low female labour participation and early exit patterns through exit paths into disability, unemployment<sup>7</sup> and early retirement. OECD (since the 1990s) and CCE (cf. JER, since 1998/9) notice since the 1990’s the following ‘weaknesses’: a high rate of inactivity in general (since OECD, 1997) and, more specifically, too low labour market participations for women and elderly workers (JER, JRSPSI and OECD). Within EU-15 in 1998, two MS presented the lowest employment rates of the 55 – 64 old,

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<sup>7</sup> also via a new measure which was launched in order to reduce early labour market exit: “incapacité de travail”, 2002, cf. Hartmann-Hirsch, 2007.

Belgium (22.9%) and Luxembourg (25.1); in 2007, Luxembourg is with 32 percent positioned as the third place MS at the bottom of the EU-27. Concerning a low female participation, Luxembourg was second at the bottom of the scale with 46.2 percent after Greece with 40.5% in 1998 and reached 9<sup>th</sup> place in 2007 within EU 27 (JRSPSI, 2009: 183). For both items, immigrants perform far better than nationals and are close or reach the EU objectives of the Lisbon Strategy for 2010, while nationals lag behind<sup>8</sup>. In other terms, inactivity and low labour market participation is mainly a phenomenon which concerns nationals (Hartmann-Hirsch and Amétépé, 2009).

(ii) Luxembourg's labour market is highly dependent on foreigners<sup>9</sup>. Amongst OECD countries, it is the most diversified domestic (68.3 percent) and national (42.5 percent) labour market and, to an even greater extent, the most diversified competitive sector (74.4 percent)<sup>10</sup>. Cross border commuters represent 41.9 percent of the domestic labour market and 47.3 percent of the competitive and semi-public sector, whilst the public sector is predominantly (90 percent) occupied by nationals.

#### **Box 1 : national and domestic labour market**

**The national labour market** includes all those persons, who are residents in the Grand-Duchy independently of the country of employment, including thus the very small group of cross border commuters who are residents in Luxembourg and work in the neighbouring regions : **700 persons** (juillet 2009).

**The internal labour market** includes all those persons who work in Luxembourg independently of their country of residence, including the numerous cross border commuters who are residents in the neighbouring MS and work in Luxembourg: **147.657 persons** (juillet 2009).

To distinguish both is extremely important for Luxembourg, because of different EU legal disposals concerning the residence and work countries, which affect membership, thus contributions as well as expenditure for residents and non-residents.

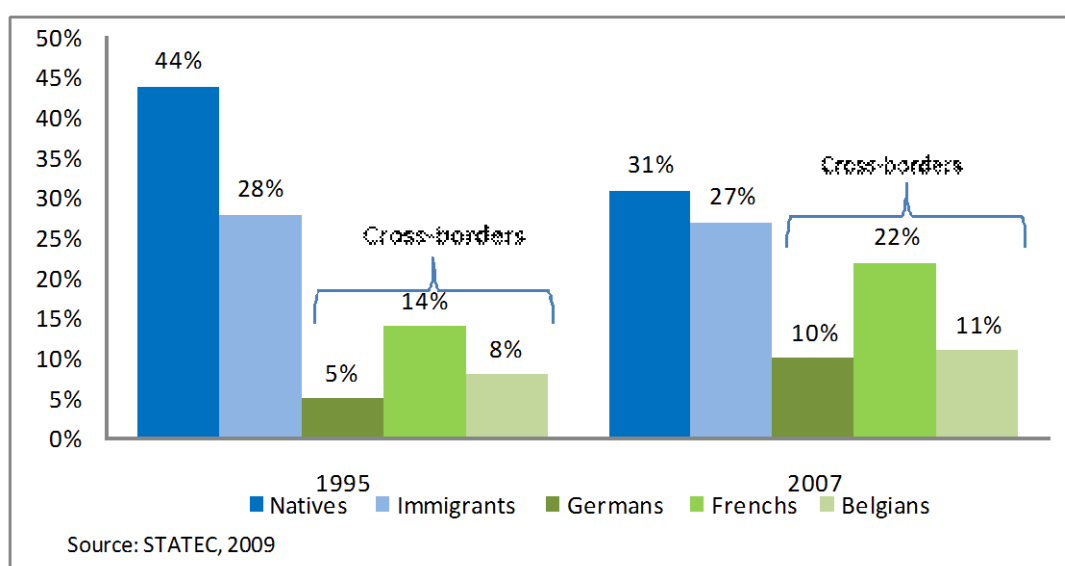
The impact of foreigners has developed considerably over the last 2 decades. The composition of the labour market has changed: the portion of Luxembourgers is falling and that of cross-border commuters is rising<sup>i</sup>:

<sup>8</sup> For the 55 – 64 old, nationals have an employment rate of 27.3 percent versus 39.9 percent for migrants. For women, nationals present an employment rate of 52.5 versus 60.5 percent by migrants. Cf. Plan National de Réforme, 2008: 44: [http://www.odc.public.lu/publications/pnr/Rapport\\_Plan\\_national\\_2008.pdf](http://www.odc.public.lu/publications/pnr/Rapport_Plan_national_2008.pdf)

<sup>9</sup> With this term we include both: migrants and cross border commuters.

<sup>10</sup> In 2008: <http://www.statistiques.public.lu/fr/population/index.html>

**Graph 1: Natives, immigrants and cross border commuters in the domestic labour force**



When compared with other EU states, Luxembourg was mostly on top of the EU scale with regard to GDP and employment increase (cf. JER and JRSPSI). There was an average annual employment increase of 3.7 percent between 1998 and 2008; for cross border commuters, the annual average was 8.8 percent, for resident migrants 3.7 percent and for nationals 0.3 percent<sup>11</sup>.

**Table 2: evolution of employed and employers: domestic labour market (table 17)**

	1988	1997	2007	2008	2009
<b>Resident nationals</b>	90.999	86.748	95.083	96.333	97.670
<b>Resident migrants</b>	38.530	57.702	83.854	88.727	90.994
<b>Inflowing cross border commuters</b>	24.567	62.370	132.744	143.716	147.400
<b>Total</b>	154.096	206.820	311.681	328.776	336.064

Source: IGSS, 2009: 45

<sup>11</sup>

[http://www.isog.public.lu/gbe/ergebnisse.prc\\_tab?fid=9102&suchstring=&query\\_id=&sprache=D&fund\\_typ=TX&methode=&vt=&verwandte=1&page\\_ret=0&seite=1&p\\_sprachkz=D&p\\_uid=rg2008&p\\_lfd\\_nr=4&p\\_news=&p\\_aid=36486993&hlp\\_nr=1&p\\_janein=J](http://www.isog.public.lu/gbe/ergebnisse.prc_tab?fid=9102&suchstring=&query_id=&sprache=D&fund_typ=TX&methode=&vt=&verwandte=1&page_ret=0&seite=1&p_sprachkz=D&p_uid=rg2008&p_lfd_nr=4&p_news=&p_aid=36486993&hlp_nr=1&p_janein=J)

On top of this, Luxembourg's immigration performs well. The top and the bottom of the socio-professional scale are mainly occupied by foreigners, while nationals are in a sandwiched position with on average, slightly lower educational levels than foreigners and an overall lower employment rate (Hartman-Hirsch, 2008).

(iii) Given the, on average, *younger immigrants* (Thill-Ditsch, 2010) and *cross border commuters* (Di Bartolomeo, 2009), Luxembourg has never experienced ageing effects which put other welfare regimes under pressure. The continuous increase of, on average, young active foreigners has a positive effect on the revenues of the three insurances as well as on the modest take-up (Hartmann-Hirsch and Amétépé, 2009); as a result of these two inflows (immigrants and cross border commuters). Luxembourg was able to maintain the age structure of 1998 with exception of a slight ageing trend for those aged 40 – 59:

**Table 3: composition of the resident insured population with regard to age in %**

	1998	2000	2005	2007	2008
0 – 19	24.5	24.8	24.5	24.2	24.0
20 - 39	31.1	30.6	28.7	28.1	28.0
40 – 59	25.5	25.9	28.2	28.8	29.0
60 – 79	15.9	15.7	15.4	15.3	15.3
= < 80	3.0	3.0	3.3	3.5	3.6
	100	100	100	100	100

Source: Di Bartolomeo, 2009: 171

(iv) However, for the first time at the end of 2008, the job increase for cross border commuters was below that of residents and negative from 2009 onwards. From January to December 2009, cross border commuters dropped from 147.630 to 145.249, a decrease of 1.6 percent<sup>12</sup> (cf. graph 71, STATEC, 2010: 65) as opposed to the annual average increase of 8.8 percent over the last 10 years.

Seventy six percent of Interim workers, quite a small group, are cross border commuters. They are the most fragile group of employees. They increased steadily over the last years, but strongly decreased in 2008 and to an even greater extent in 2009 with a loss of 25 percent, dropping from 7922 (2008) to 5938 (2009) contracts.

<sup>12</sup> STATEC, 2010, *note de conjoncture*, vol1: 65ss. Cf. also: [http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF\\_Language=fra&MainTheme=2&FldrName=5&RFPPath=37](http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?IF_Language=fra&MainTheme=2&FldrName=5&RFPPath=37)

Hence employers obviously ‘dismissed’ first all the interim workers and maintained those with full contracts. In a second stage, crossborder commuters with full contracts were dismissed. Given EU regulation (1408/71<sup>13</sup>, art. 71), in the case of unemployment cross border commuters, whether interim workers or not, register in the case of unemployment in their country of residence and unemployment benefits are paid by the neighbouring authorities. Thus, they do not appear within Luxembourg’s statistics and do not weigh on the budget of the national “Fonds pour l’emploi”.

(v) Given the excellent evolution of employment and hence of contributors and given the Bismarckian principle of dependency on welfare from the labour force, as well as the high financial participation of the State to insurances and other schemes, the sustainability of social security provisions’ (in cash and in kind) was guaranteed. This occurred even in view of the steadily increasing standards and the introduction of comprehensive new systems and benefits such as those for childcare and the elderly.

#### **4. Les régimes de maladie, de pension et de dépendance**

(i) Out of the different elements which have an impact on the sustainability of welfare systems and retrenchment policies, migration is sometimes considered a factor which increases the likelihood of cutbacks. It is expected that migrants will consume more than they contribute<sup>14</sup>. Migration is, alternatively, considered to be a positive element against ageing societies, at least in the intermediate term<sup>15</sup>. The evolution of Luxembourg’s welfare system (in terms of quality and quantity) is a perfect example of the positive input of a steadily increasing foreign labour force, combating ageing as well as providing insurances with permanently increasing revenues.

(ii) In terms of an overall introduction, we will briefly highlight the privileged contribution rates for employers and employees given the substantial input by the State. As contribution rates are defined in a different way –either by each individual scheme or as an overall rate – we will introduce the following comparative table on Luxembourg and the neighbouring corporatist countries *before* going into the specific situation of the three insurance schemes:

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<sup>13</sup> We consider only this regulation and leave out the future 883/2004 entering into force in May 2010 as the period of coverage for this report concerns mainly 2005 to 2009. In any case, we have no statistical data on 2010.

<sup>14</sup> Borjas (Borjas and Hilton, 1996 ) would be one of the best known researchers for this argumentation.

<sup>15</sup> Razin-Sadka demonstrate even a long term positive impact on sustainability of the pension schemes, but most researchers present the *current* positive impact, given the generally well known effects of an also ageing migration population and the quickly adapting fertility patterns.

**Table 4: contribution rates by employers (E – ers) and employees (E- ees)(Missoc , 2009)**

	Overall		Health insurance		Pension insurance		Care insurance	
	E - ers	E - ees	E - ers	E - ees	E - ers	E - ees	E - ers	E - ees
LU	10.95	12.35	2.7 0.25	2.7 0.25	8.0	8.0		1.4
FR	28.45	7.7	12.8	0.75	8.3	6.65	0.3	--
BE	24.7	13.07	--	--	--	--	--	--
DE	17.925	18.825	7.0	7.9	9.95	9.95	0.975	0.975

Source: [http://ec.europa.eu/employment\\_social/missoc/db/public/compareTables.do](http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do)

This table should be more detailed including also ceiling conditions, stating more precisely the inclusion of certain types of risk in the one or the other insurance<sup>16</sup> and more specific conditions, e.g. for civil servants in Belgium (cf. MISSOC). French and Belgium employers have higher contribution rates than their counterparts, the employees. Looking at the overall rate, Luxembourg provides the most favourable rate for both, employers and employees. Other benefits like unemployment are entirely financed by the State's budget. This explains the high net wages with low indirect labour cost, mainly because no other payments for social security are deducted.

Initially, welfare systems were developed within *Nation-states*, aiming at *nationals*. After World War II, national welfare regimes became more and more obliged by supranational (European and international) conventions to integrate *all* residents, to avoid exclusion of certain groups, e.g. migrants, thus providing all residents with equal opportunities (Bommers, 2007, Ette and Faist, 2007). Hence, “national citizenship is losing ground to a more universal model of membership, deterritorialized personal rights” (Soysal, 1994: 3). Luxembourg is much more “subject” to these supranational legal conditions than any other MS due to its highly transnationalised labour force. Effects of foreigners on the sustainability of welfare are, as we will demonstrate, are mainly positive given their high employment rates. Further the favourable old age dependency ratio and, in the case of cross border commuters, a favourable family-member dependency ratio also heightens immigrations overall contribution. ‘Negative’ effects can be mentioned, e.g. in the case of the arrival of foreigners or nationals at the end of their professional career, without a substantial previous contribution record. Obviously, up to now, the positive effects predominated.

For the three insurances, we will provide some illustration of the impact of supranational legal frameworks on national welfare schemes and their – in this case – extremely positive evolution.

<sup>16</sup> disability is either within the pension scheme, the case of Luxembourg, or within health insurance, the case of France.

Due to a higher dependency on welfare benefits with economic downturns since the Seventies, many MS modified their original systems, mostly in the sense of a liberalisation, which meant ‘cutback’ in comparison to the former more generous provisions with a shift of responsibility from the State and companies to the individual citizen. Ferrera (2005) demonstrated that there was a slight retrenchment for Scandinavian welfare models, a slowdown or a stabilisation for the corporatist and liberal ones, and an expansion for the Mediterranean systems, those with the previously ‘poorest’ provisions. Corporatist and Scandinavian regimes proceeded with cost containment and recalibration measures whilst liberal systems used cost-containment and re-commodification. Corporatist recalibration had to begin a serious up-dating process, whilst the Scandinavian models had to rationalize, which is to say no real dismantling took place. (Pierson, 2001) Adelanto and Calderon (2006) observe “convergence to a middle position” and no case of expansion within the three “traditional” regimes by Esping-Andersen (1990)<sup>17</sup>. With regard to several authors (Pierson, 2001; Sapir 2006), corporatist regimes offer equity, but lack efficiency given the early exit patterns and massive use of passive schemes, which endangers the sustainability of those schemes and social security provisions in general. Luxembourg offers equity with middle class standards, but produces high broad unemployment with too great a take-up of passive schemes (cf. OECD, JER, JRSPI). As we will see, foreigners make up for the loss of active nationals; though obviously, attitudes differ. Pierson (2001) proposes for those traditional schemes to enlarge massively the service sector, which means ‘up-dating’ to contextual conditions for the current need of labour participation. He also acknowledges the difficulties these systems have given the long standing cost containment orientation for welfare spendings. Luxembourg however was able to develop the social service sector in response to the aforementioned societal change – given the unique situation of a permanently rejuvenating mainly foreign labour force. Over the last few years, Luxembourg has increasingly adopted a service orientated reform agenda, mainly for the child care and old age sector through the reduction in a moderate way of transfer provisions (in summer 2010). The services were previously financed, to a larger extent, by users than is the case now (spring 2009) – thus a serious ‘up-dating’ of the welfare system happened (Pierson, 2001). The economic ‘virtuous spiral’ with its steadily increasing labour force allowed authorities to go for a Scandinavian orientation.

Thus, expansion and not retrenchment took place. We will present an exceptional case of important reserves (pension scheme), at a first glance a “quite comfortable” balance with the massive launching of services plus transfer (care insurance)<sup>18</sup>, as well as a long standing danger of imbalance (health insurance), even with steadily increasing revenues. Until now there has been no serious cutback which

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<sup>17</sup> Some enlargements took place in the mediterranean countries; however, these systems lag still behind those of the Northern MS.

<sup>18</sup> which however has been granted only by a considerable increase of the contribution rate after 4 years of existence of the scheme.

has affected patients, cared persons or pensioners and also employers enjoy the lowest contributions rates within this part of Europe (table 4).

In conclusion, we can say that the expansion and improvement of the welfare regime would not have been possible without the migrants' and cross border commuters' input (Hartmann-Hirsch, 2009).

#### *4.1. L'assurance maladie-maternité*

Luxembourg's health insurance is in a favourable situation as compared to other MS with an annual average increase of contributors of 3.7 percent over the last 10 years.

The main part of revenues are those of contributions by employers and employees, both with a current (cf. box 2) rate of 5.9 percent of wages up to a ceiling of 5 times the minimum wage (i.e. € 8.206,- 2009 up to June 2010). The contribution rates are low compared to neighbouring countries (table 4).

The State participates to an extent of 40 percent (last five years) to the health insurance budget. Its contribution is defined as a share of employers' and employees' contributions. Hence, for both parts of the revenues – contributions and State's co-financing –, the receipts depend nearly entirely on the evolution of the labour market. They are thus extremely volatile within a small open economy relying to an extent of three quarters on foreigners (competitive sector). On top of this, 80% of technical equipment and infrastructure is financed by the State. The remaining 20 percent plus running costs are financed by the health insurance, the "Caisse Nationale de Santé" (CNS). Health provisions are hence highly budgetised (Cichon, 2007).

The State's contribution is also defined with regard to the employees' and employers' contributions.

Out-of-pocket money is the lowest on an OECD scale (OECD, 2008: 123) with approximately 5 percent.

No two tier policy has taken place: tariffs are the same for all insured; doctors have to register and sign a convention, being thus bound with regard to their tarification. The only parallel system which exists is the one of international officials, having their own 'transnational' social security; a convention exists between these transnational health insurances and the CNS. Up to now, one unique "mutuelle" exists covering some residual elements. Private insurances (like DKV) have – it seems - a modest presence; however no figures are available .

Luxembourg's health provisions are amongst the most expensive in OECD countries (OECD, 2008: 107s). For total expenditure per capita, Luxembourg is the second most expensive on the ranking followed directly by the US. Considering the insured non-resident population, it still remains on the same level as Norway and Switzerland (OECD, 2008: 107s). In contrast, outcomes, namely the health

status of the population (OECD, 2008: 97) and the satisfaction of the insured (OECD, 2008: 105), are “only averages by international comparison” or in a middle range (OECD, 2008: 99ss).

Transfer to hospital treatment abroad is largely used; Luxembourg is on top of the EU scale, due to the fact that it has no university hospital and authorities consider the right of access to high level provisions. Furthermore, services provided abroad weigh less in terms of expenditure and are thus efficient for the balance of CNS.

The success story of Luxembourg relies on the outstanding evolution of highly performing contributors with a low dependency ratio for the inflowing foreigners (cross border commuters and immigrants) and modest consumptions given their age structure (table 3):

	1998	2000	2005	2006	2007	2008
<b><i>Residents</i></b>						
<b>Active Contributors</b>	176.355	186.681	206.083	209.544	213.436	219.298
<b>Their family members</b>	131.612	135.515	140.083	140.508	141.133	141.632
<b>Contributing pensionners</b>	72.125	72.511	75.602	76.816	78.108	79.216
<b>Their family members</b>	23.906	23.742	23.014	23.104	23.075	23.034
<b>Sub-total</b>	403.998	418.182	444.782	449.972	455.752	463.180
<b><i>Non-residents (cross border commuters)</i></b>						
<b>Active contributors</b>	72.310	89.744	122.619	130.667	140.945	151.232
<b>Their family members</b>	19.200	22.860	35.089	37.699	40.899	45.154
<b>Contributing pensionners</b>	3.526	3.700	4.391	4.725	5.147	5.594
<b>Their family members</b>	913	939	1.036	1.103	1.138	1.156
<b>Sub-total</b>	95.949	117.243	163.135	174.194	188.129	203.136
<b><i>Residents and non residents</i></b>						
<b>Total</b>	499.947	535.425	607.917	624.166	643.881	666.316

**Table 5: insured population with contributors and their co-insured family members**

Source: di Batolomeo, 2009: 174 (data: CNS)

There was an increase of resident insured persons from 1998 to 2008 of 14.9 percent, whilst the increase for resident and non-resident insured was 33.9 percent.

68.3 percent of the protected persons (contributors and co-insured family members) contributed in 2008 as compared to 64.9 percent in 1998<sup>19</sup>.

<sup>19</sup> Rapport general de l'IGSS, 2008: 28.

The dependency ratio of cross border commuters (e.g. in 2008) is significantly lower than that of residents for both categories with 60.7 versus 77.0 percent for the active and with 77.5 versus 82.8 percent for the pensioners (cf. also Langers and Schuller, 2006). The EU legislation (next section) explains this. With regard to pensioners, one could highlight the stronger female labour force participation in France (the majority of cross border commuters are from France), hence women are not co-insured but insured as contributors<sup>20</sup>.

For the first time in decades there was a decrease in new cross border commuters of 1.6%.

#### **4.1.1. Supranational and national legal framework**

Given the highly transnational composition of the contributors/members of health insurance, the supranational legislation has an extremely high impact on the sustainability of the insurance.

Currently, **migrants** and more so **cross border commuters** weigh less on health insurance for demographic reasons (being younger, thus using less health services) and due to EU legislation (regulation 1408/71 and 1612/68; Langers and Schuller, 2006).

**Migrants:** In the particular situation of Luxembourg, the strong participation of high performing foreigners in the labour force produces high revenues for the insurances and modest expenditure.

Once migrants - or cross border commuters - return (e.g. for retirement) and they had a *mixed career in Luxembourg and another or other MS* the burden is on the insurances of the other MS. This stipulation has a particularly important impact on the expenditures of insurances for the last and most expensive years of life.

For those with a *full career* in Luxembourg, who become residents of another MS during the years of retirement, the country of employment will have the burden of health provisions. Again a European disposal provides the high cost countries with a favourable sustaining outcome. The health insurance of the competent country (= Luxembourg) pays a flat rate (calculated as the average of annual consumption of these age groups) towards the health insurance for the MS of residence (abroad). The flat rate of a low wage country like Portugal is less expensive than flat rates of high wage countries like Luxembourg or Denmark and is certainly also less expensive than real costs enhanced by patients of this age group if they would remain in Luxembourg. In the case of Luxembourg, the sustainability of its health insurance is improved with each returning migrant and with each leaving retired national, even with the payment of the aforementioned flat rate (OECD, 2008: 128).

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<sup>20</sup> Cross border commuters are to a large extent male contributing employees (Rapport général sur la sécurité sociale, 2008: 147). Women often continue to work in the region of residence after the birth of the 1st child.

**Cross border commuters** do mostly use health services in their country of residence, where provisions are less expensive given the wage difference between Luxembourg and the neighbouring countries<sup>21</sup>. Children (family members) are co-insured in Luxembourg with the cross border commuter *only*, when both partners work in Luxembourg or when the only active partner of the couple is the cross border commuter. If one of the two parents works in the country of residence, children are co-insured with this parent. In many cases, once women give birth to children, they continue or restart working in the country of residence and children are then insured with them abroad – this explains the low family member dependency ratio of cross border commuters (table 5) and their sustaining contributions to social security with modest consumptions (OECD, 2008: 106, figure 4.5).

The EU **immigrant, who arrives at the end of his career** in Luxembourg (logically with a mixed career), and decides to stay in Luxembourg is fully entitled and will be a ‘burden’ to health and care insurance, mainly during the last years of his life.

As opposed to the aforementioned literature on migrants’ higher take-up (cf. note 10), in Luxembourg, migrants and cross border commuters contribute much more than they consume (Hartmann-Hirsch and Amétépé, 2009).

#### **4.1.2. Financial balance**

The financial situation of health insurance has been fragile for several years, although there was a steady increase of contributors with a favourable family member dependency ratio of cross border commuters as well as a modest consumption by foreigners due to their relative youth. Provisions are amongst the most expensive on an OECD scale; contribution rates are low and out-of-pocket money is the lowest amongst OECD countries. The favourable relation between cross border commuters’ contributions to social security and to taxes as compared to spending for them has been highlighted by OECD (2008: 106).

According to art. 80 of the law of 27 July 1992, an annual meeting of the quadripartite<sup>22</sup> (bringing together employers’, employees’ organisations, the government and health providers) has to examine the financial situation. In October 2009, quadripartite tackled the balance of CNS. The background papers by authorities (Ministère de la Sécurité Sociale (MSS), Sept. 2009 and October 2009)

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<sup>21</sup> Ministère de la Sécurité sociale, octobre 2009: 2: “il faut constater une forte dépendance à long terme d’une croissance élevée du PIB et du taux d’emploi, dépendant notamment des salariés frontaliers, qui ne recourent pas, au même titre que les résidents aux prestations de l’assurance maladie-maternité luxembourgeoise, et ceci pour des raisons de structure d’âge et d’une préférence pour leurs propres systèmes de prise en charge, *moins onéreux*.” (underlined by CHH). The win-win situation of Luxembourg is more due to the permanent employment increase than to the employment rate.

<sup>22</sup> Luxembourg’s famous social model relies more on corporatist concertation than on the Westminster model with a Parliamentary decision making process (cf. Hirsch, 2003).

provided a clear analysis of the situation. The viability of health insurance depends largely (cf. p. 9) on the evolution of employment. Employment and mainly that of cross border commuters decreased considerably after the financial crisis. Thus, first *revenues decreased* due to the missing cross border commuters' contributions<sup>23</sup>. Second, *expenditure will rise* due to *higher consumption by the, on average, older residents, mainly older nationals* and third, expenses will increase due to a higher family-member dependency ratio. Thus, the declining share of the very 'efficient' cross border commuters will have a significant negative **triple** impact on the viability of CNS' finances.

Independently of the crisis and the reduction in employment, authorities have shown for certain areas an increase of expenditure, which is higher than the increase of contributors. This is the case of provisions (doctors' visits), which increased between 2007 and 2008 by 2.3 percent as compared to an increase of 1.5 percent of insured persons (MSS, sept. 2009: 18).

The financial situation should remain in balance and has to rely on a reserve, which is defined by law: "réserve qui ne peut être inférieure à dix pour cent, ni supérieure à vingt pour cent du montant annuel des dépenses." (art. 28 of *Code de la Sécurité Sociale*). The financial balance of UCM / CNS has been a topos in and during quadripartite negotiations for years. In 2004, 130 million. € were transferred from the reserve of pension schemes (cf. section 4.2.2.) as part of the contribution revenues in order to tackle an important deficit. The deficit has been caused by unusual construction activities for hospitals in this year.

**Table 6 : revenues, expenditure and reserve (in million €)**

	2004	2005	2006	2007	2008	2009	2010
	<b>Décompte</b>					<b>Revised estimations</b>	
<b>Current revenues</b>	1.569,4	1.608,6	<b>1.709,6</b>	1.836,6	1977,5	1927,9	1971,6
Annual variation	14.9	2.5%	<b>6.3%</b>	7.4%	7.7%	-2.5%	2.3%
<b>Current expenditure</b>	1510,1	1662,2	1.707,7	1.827,5	1.944,7	1.965,3	2.039.9
Annual variation			2.7%	7.0%	6.4%	1.1%	3.8%
Positive/négative saldo	59,3	-53,6	1.9	9.0	32.8	-37.4	-68.3 ( + 3.2)

Source:

[http://www.isog.public.lu/gbe/ergebnisse.prc\\_tab?fid=10160&suchstring=&query\\_id=&sprache=D&f\\_und\\_typ=TXT&methode=&vt=&verwandte=1&page\\_ret=0&seite=1&p\\_sprachkz=D&p\\_uid=rg2008&p\\_lfd\\_nr=5&p\\_news=&p\\_aid=1163456&hlp\\_nr=1&p\\_janein=J](http://www.isog.public.lu/gbe/ergebnisse.prc_tab?fid=10160&suchstring=&query_id=&sprache=D&f_und_typ=TXT&methode=&vt=&verwandte=1&page_ret=0&seite=1&p_sprachkz=D&p_uid=rg2008&p_lfd_nr=5&p_news=&p_aid=1163456&hlp_nr=1&p_janein=J).

Cf. also Ministère de la Sécurité sociale, Sept. 2009: 9. \*includes € 130 mill. input from the reserve of the pension insurance.

<sup>23</sup> cf. EU disposals: unemployed cross border commuters register in the country of residence.

n 2009 and 2010, the situation became imbalanced again and there was an estimated deficit of 68.3 mill € for 2010. The decrease in employment had an obvious impact on the revenues of the CNS; this may well have serious consequences, given the still unknown level and duration of the ‘withdrawal’ of cross border commuters with immediate effects on decreasing revenues and increasing expenditure<sup>24</sup>. Quadripartite decided in October 2009 to use the legally required reserve, by allowing a reserve of only 5.5 percent instead of the legally foreseen minimum of 10 percent (art. 28 CSS). In the case of problems with liquidity, the CNS will rely on the reserve of the Long Term Care Insurance (LTCI; IGSS, 2009: 141). The lowering of the reserve conditions enhances immediate ‘positive’ effects: whilst with a reserve of a minimum of 10%, there will be the above indicated deficit. There is even a cumulated positive saldo with the lowered minimum reserve of 5.5 percent (in brackets), which does however not change the real financial balance of the CNS.

#### 4.1.3. Reforms - in the light of the crisis?

(i) A major reform took place at the beginning of 2009, the introduction of “statut unique” (law of 13 May 1998)<sup>25</sup>, which tackled the final<sup>26</sup> merging of *all non civil servant insurances*. The global objective of the reform is a typical universalistic one<sup>27</sup>. The specific objective was to merge 6 of the 9 health insurances which were organised according to corporatist socio-professional status (workers, workers of steel industry, etc.)<sup>28</sup> into one unique “Caisse Nationale de Santé”. This was meant to guarantee a) equal net wages (cf. box 2), b) less administrative work for the CNS and for companies, c) lower indirect labour cost at long term for companies, and d) economies for CNS on expenditure for sickness leave (draft bill n. 5750: 4)<sup>29</sup>.

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<sup>24</sup> cf. above the *triple* effect of the decreasing number of cross border commuters with a still sustaining effect on CNS’ financial balance. The necessarily ageing cross border commuters will rely much more - than this is currently the case - on CNS, once they will have had a *full* career in Luxembourg, but still they will weigh less on CNS’ budget due to supranational legal disposals such as the flat rate (cf. above p. 12ss, OECD, 2008 and CNS, 2010: 25).

<sup>25</sup> This can be considered as a result of the opinion of “tripartite committee” conclusions of 26 April 2006; the preparation of the draft bill took more or less two years.

<sup>26</sup> The reform in 1992 was a major step in the sense of universalisation, when Union des caisses de maladie (UCM) took over the overall responsibility of financial and organisational management leaving to the former 9 insurances the only reimbursement of provisions in kind.

<sup>27</sup> “L’assurance maladie a comme souci majeur la gestion optimale des ressources afin de garantir un accès équitable aux soins, maintenir un niveau de protection élevé tout en préservant la viabilité financière du système” (IGSS, 2008: 59).

<sup>28</sup> The three insurances aimed at civil servants remained autonomous.

<sup>29</sup> A higher consumption of the sickness leave benefit had been observed for manual workers as compared to employees (“absentéisme”).

**Box 2: Cost containment concerning cash benefit of manual workers**

The crucial point before the reform were different contribution rates companies had to face for *employees* and *manual workers*. Before 2009, contributions for sickness leave were fixed at 4.7 percent for manual workers and 0.2 percent for employees / self employed. For years, the workers' 'absentéisme' has been observed (Tchicaya, 2006). In the case of *workers regimes*, health insurance took over the cash benefit in the case of a sickness leave from the 1st day onwards, whilst the employers of *employees* carried on paying wages during the first 13 weeks of a sickness leave; from 14th week onwards, health insurance took over. This produced lower net wages for workers, lower indirect labour cost for employers with regard to employees. Authorities observed a certain abuse supposedly caused by the insured (who were not always in need of serious medical aid), by doctors (prescribing quickly) and/or by employers (suggesting sickness leave to their workers in order to compensate conjunctural problems). Now, a general contribution rate of 0.5 percent has been fixed and employers can register with a private insurance, a "mutuelle", which covers 80% of the cash benefit for workers during the first 13 weeks. As companies have to take over the remaining 20 percent, sickness leave might decrease.

This reform was launched in 2006 by quadripartite and cannot be considered as a measure responding to the effects of the financial crisis.

(ii) The *Rapport de stratégie nationale 2008 – 2010* (2008: 83 – 89) proposes different strategies. Some of them aim at an improvement of the system: the quality control for hospitals (EFQM), a study concerning patient satisfaction, procedures in favour of an 'evidence based medecine', improvement of the preventive medecine and awareness raising campaigns, etc. Others aim at reducing expenditure: a more economic medication, a more modest take-up of passive early exit (from labour market) measures such as "incapacité de travail" etc., a reduction of variable expenditure of hospitals. The report does not respond to nor is it based upon the economic downturn.

(iii) Other remedies have been launched during recent months with regard to the effects of the financial crisis (Ministère de la sécurité sociale, 2009a). Generally speaking, the objective to provide health services which are based on national solidarity with equal access for the insured – universal coverage - and with a high quality is not questioned at all. Authorities do not intend to increase contributions or out of pocket money and they do not intend to question the binding contracts for

doctors. No liberalisation will take place. Quality should remain the same and should even be improved (via quality control mechanism). National universalistic services – thus no multiplication of providers - should provide high quality for everybody (Klenk, 2010).

But the viability of the system should also be guaranteed. Problems with the financing of health provisions have existed for years and most of the proposals have already been presented previously – independently of the financial crisis.

The cash benefit (box 2 above) should have a positive effect on the balance - data for evaluation are however not yet available.

(iv) The **employers** (Bley, 2008, also Fontagné, 2004 and 2009) highlighted the negative effects of an increase of the employers' contribution rate on the competitiveness of the economy: given the already very high gross wages, exportation is significantly challenged and endangered by the neighbouring MS. Only a high performing economy can sustain a substantial and generous social security system like Luxembourg's – as Scandinavia demonstrates. If however there is too much weight on the employers, the competitiveness of the economy will be reduced within an international framework.

(v) The **unions** highlighted the good performance of the economy, which finally were less dramatic than expectations had suggested. For years, unions have defended their position with a discourse pleading against any measure which would enhance an eventual "Sozialabbau" (dismantling). One of the categorically refused proposals was the increase of contribution rates for the employees.

(vi) The quadripartite proposals in October 2009 (March 2010) focus on containment of expenditure with numerous measures – many of them had already been proposed during recent years.

- As a 'one shot' measure, the reserve of CNS (art. 30 of the Code (CSS)), will be lowered to 5.5 percent (cf. above).
- Containment of other expenses will be guaranteed via a *payment freeze* of tariffication of laboratories, of budgets for hospitals, the down grading construction activities for infrastructure, etc.
- Evaluation of providers (hospitals' activities, doctors) and users should be done in order to contain expenses.
- Further synergies mainly in the hospital sector should be developed aiming at cost containment but also at improving quality (via concentration of skills and equipment).

- Collective bargaining for medicaments should be pushed as well as the privileged prescription of generic drugs.

Two acts should be reformed in the following months: the act of 27 July 1992 (the last reform implementing the universal coverage of the 9 insurances) and the act of 1998 concerning hospitals – the reform had already been mentioned within the current government’s programme of 2009<sup>30</sup> and before and is not directly influenced by the financial crisis. Up to now, precise outlines of these coming draft bills are not yet available.

(iv) **OECD** (2008: 97ss) highlights the outstanding expenditure, the very expensive health services, the lowest out of pocket money as compared to a quite average outcome with an average life expectancy and mortality rates.

- a) There should be more cost-efficiency analysis being done. OECD also highlights the increase of contributors and the even higher increase of expenditure despite the aforementioned rejuvenating inflow of cross border commuters.
- b) The remaining 3 insurances of civil servants<sup>31</sup> should also be merged into CNS in order to gain maximum economies of scale.
- c) As Luxembourg has no university hospital, it is the country with the highest share of transfers to other EU-MS. A broader opening-up of health services in the Greater Region would be helpful in terms of
  - economies given the, on average, less expensive provisions for Luxembourg,
  - a hospital planification on the basis of the Greater Region, which would be more efficient, enhancing economies of scale and improvements of quality of the supply.

Astonishingly enough, point b) has not really been debated in the press. Civil servants benefit of an unquestioned specific legal framework including health (and pension) insurance.

The last recommendation c) is a politically delicate one, in so far as health systems – like welfare in general - consider themselves still to be related to Nation-States and that they award protection as non- competitive health sector (cf. the intense debate on the Bolkestein directive). Transnationalisation is imposed by supranational institutions, mainly by CJEU (decision Kohll/Decker,e.g.) and national systems defend themselves against opening-up. The hospital sector is

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<sup>30</sup> Elections took place in June 2009.

<sup>31</sup> In numerous legal texts, civil servants award specific frameworks. Astonishingly enough, there was nearly no debate concerning the fact that the three civil servants’ insurances did not participate in the merge.

a current object of ‘European’ debate, whilst opening-up for the ambulatory sector is fully accepted in Luxembourg. However, the reimbursement of services abroad leads again and again to discussion between patients and CNS (cf. reports by the Ombudsman). Luxembourg’s authorities proposed a greater degree of opening-up (Ministère de la Sécurité Sociale, 2009a). Transnational opening-up would – no doubt – introduce competitiveness into the universalistic national regimes and a higher sustainability of the budget.

Quadripartite proposals are ambivalent with regard to opening-up. On the one hand, the use of services abroad is mentioned; on the other side, a freeze of contracting (“conventionnement”) on incoming foreign doctors is mentioned, protecting those, who benefit from the current generous system. Cross border commuters’ input demonstrates the increasing and vital impact of supranational disposals on national legal frameworks and the positive financial impact of “*transnationals*”<sup>32</sup> on the sustainability of the national welfare schemes.

**In conclusion**, the negative effects of the financial crisis did not produce a wide spread debate. Up to 2009, policies rarely worsened the comfortable situation of the contributors (low contribution rates for employers and employees) and the patients (unchanged out-of pocket money). Improving quality is still on the agenda. The measures proposed are quite similar to those in former years; if we consider them on a “continuum from the status quo to a full-fledged neoliberal agenda of radical retrenchment” (Pierson, 2001: 419), the proposed measures remain quite close to the status quo. A radical change is not yet on the agenda. However, during the quadripartite debate in March 2010, the minister announced a future higher impact by the State. The State is the most important contributor amongst the three partners (State, employers and employees) and he announced the new draft bill restructuring health insurance in order to make the system sustainable.

Within corporatist insurances, Luxembourg’s offer is certainly still the most efficient for users. Contributors (employers and employees) contribute little, patients enjoy the lowest out of pocket money and providers benefited from guaranteed tariffications with high standards with however a middle position in terms of quality of services (OECD, 2008: 100ss).

With regard to policy changes – we cannot really use the term retrenchment – , the cash benefit for manual workers (box 2) can be considered as a cost containment measure and as a recalibration, implemented independently of the financial crisis.

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<sup>32</sup> We use of this term here in order to underline contrasts. Within the migration literature, this term is applicable just to a certain share of migrants.

#### 4.2. Pension scheme

Luxembourg's pension scheme covers three groups of users: the insured elderly, surviving partners or children (orphans) and the disabled<sup>33</sup>.

According to OECD, Luxembourg offers for old age one of the four highest replacement rates within OECD countries (OECD, 2007).

According to Bismarckian principles, revenues are composed out of equal contributions by employers, employees and the State with 8 percent of the gross wages for each of the three (93.1 percent of the total revenues in 2008). Some other revenues like (income of wealth, other revenues: 6.9 percent in 2008), are of minor importance. Again, contribution rates are the lowest within Greater Region (table 4). Effects of an economic immigration within a Bismarckian model produced the extraordinary evolution of Luxembourg's pension system due to a steady and strong increase of employment combined with a permanently rejuvenating group of contributors (table 3 and 5): the active foreigners of the private sector. The same principle also produces a favourable dependency ratio on the evolution of the economy and consequently of the labour force and enhances in times of economic down-turn an immediate automatic decrease in revenues.

For the following section, we will mostly limit our description to the general scheme (private sector) leaving out civil servants as they are awarded a different legal framework and are directly financed by the State. Out of 348.700 *active resident* and *non-resident* contributors in 2008, 8.9 percent were civil servants. In 2008, out of the total of 144.608 pensioners (old age, survivors and disability) 8.6 percent receive their pension directly by the State. Given higher wages for the public sector also replacement rates are higher.

Looking at average payments by the CNAP is not very conclusive as they contain numerous payments for some years of activity in Luxembourg for former migrants. Considering the *male residents* only, the average monthly payment was € 2.884,59 in 2008.

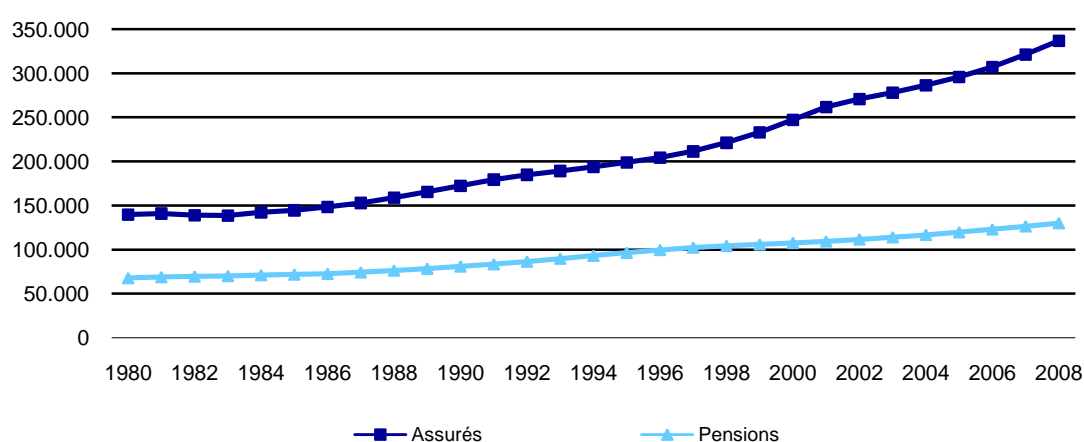
Over the last two decades, important adjustments to inflation and adapting to a level of *real* wages took place: Between 1985 and 2008, the first one produced an increase of 62.2 percent and the second one a supplementary increase of 35 percent (IGSS, 2009: 201). The adjustments to real wages have been developed in parallel with the introduction of the extremely generous LTCI and two other allowances for the elderly, providing elderly dependents with a large scope of provisions without any out-of-pocket money plus a health insurance asking for an out-of-pocket money of 5 percent only.

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<sup>33</sup>Given the high replacement rate of legal pensions, the sector of private pension developed in a minor way (Victor, 2009).

Since the Eighties, the group of contributors has increased more than that of pensioners providing Luxembourg with an extremely favourable old age dependency ratio, which is currently 38.6 pensioners / 100 contributors (2008) as compared to 48.6 in 1980 (IGSS, 2009: 198). The same ratio for the public sector amounted to 61.4 in 1980, 51.6 in 2005. The difference between the general and the public sector is due to a predominantly national<sup>34</sup> public sector which undergo the well known ageing effects of other affluent MS..

**Graph 2: Evolution of the average number of contributors and of pensioners**



Source: IGSS, 2009: 197

If there is not a similar continuous increase of contributors, i.e. of active persons (residents and non-residents, nationals or foreigners), the current ‘healthy’ financial situation will change in future as immigrants age. Furthermore cross border commuters will require their rights to a full pension or the equivalent segment for the years they have worked in Luxembourg according to international regulations.

The impact of foreigners on revenues is extraordinary: “En comparant le total des impôts et des cotisations sociales retenus sur la rémunération des frontaliers entrants au total des prestations revenant aux non-résidents, il ressort des excédents annuels très substantiels en faveur du Luxembourg (Bulletin du STATEC 03\_2010: 150). One also observes a growing share of payments transferred abroad: 20.1 percent in 2008 as compared to 12.1 in 1990, 15.9 percent in 2000 and 18.2 percent in 2005 (IGSS, 2009: 201; table 4). This will continue to increase considerably in the upcoming years given the supranational regulations.

<sup>34</sup> Occupied by 90 percent of nationals compared to 68 percent of the private sector.

#### 4.2.1. Supranational and national legal framework

Under EU regulations, the former active EU citizen is entitled to the pro rata of the years s/he was active in Luxembourg with or another MS. On top of this, Luxembourg - as well as other EU-MS - has signed social security treaties with numerous non-EU nations (e.g. US, Cape Verde, former Republic of Yugoslavia) that allow former employees to receive full or partial credit for their contributions, once they are back in their own or another country.

Some elements like the right to a minimum pension stipulated within EU legislation (art. 7 of regulation 1612/68) concern those with low wages and mixed careers in at least two MS. Retired EU immigrants who remain in Luxembourg, are entitled to the minimum pension of the MS of residence. In the case of a previous low wage in another or other MS(s), hence a 'mixed' career, Luxembourg is obliged to complement the pro rata from the other MS(s)<sup>35</sup> in order to reach the level of Luxembourg's minimum pension, which is the highest minimum pension scheme in EU by attributing the "complément pensions minima" (regulation 1612/68, art. 7). In a high wage MS this can either have a positive sustaining effect for health insurance in the case of a return / the choice of another MS or a negative effect with those remaining in Luxembourg.

**Table 7: minimum pension schemes in some EU-MS** (Missoc, 2008):

MS	Minimum pension/month
Luxembourg (highest in EU 27)	1.448,58
Denmark	928,90
Belgium	--
France	633,60
Germany	--
Portugal (biggest group of immigrants in LU)	407,41
Latvia (lowest in EU-27)	108,00

Missoc: [http://ec.europa.eu/employment\\_social/missoc/db/public/compareTables.do](http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do)

The payment of the "compléments pensions minima" weighs on the budget of the CNAP, however only with 3.3 percent (4.0) of the total expenditure in 2008 (2002).

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<sup>35</sup> E.g. if a Portuguese worker had worked over 10 years in his country of origin and 30 years in Luxembourg, the prorata from Portugal will be lower than the equivalent Luxembourgish prorata would be. The difference has to be paid by the CNAP

#### 4.2.2. Financial balance

Despite high replacement rates which have been permanently increased, the financial situation is currently very solid given the high impact of migrants and cross border commuters with a predominant positive age effect. Thus the general pension scheme presented a substantial reserve of 3.6 years in 2008. Migration and cross border movement had a permanent positive impact on the receipts with proportionnally modest consumptions.

**Table 8: courant operations**

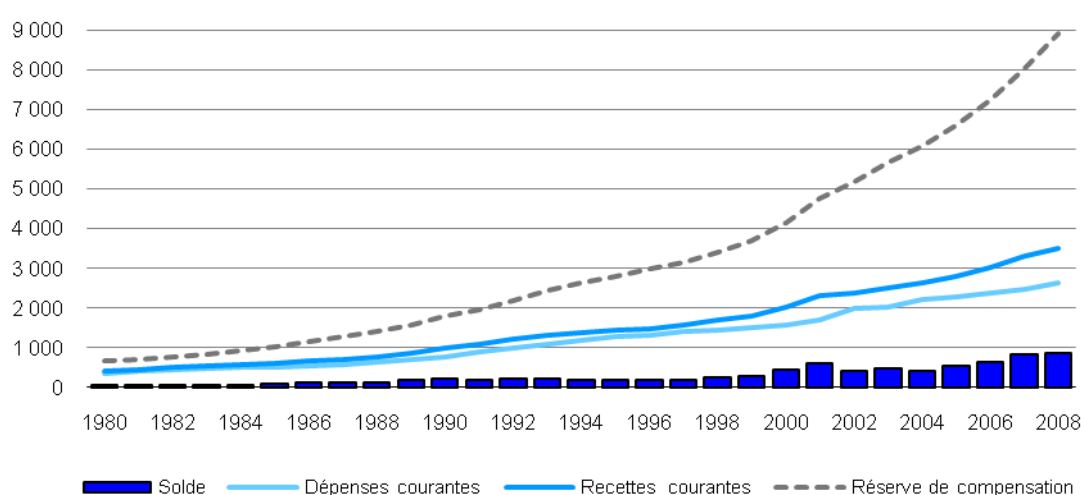
Année	Dépenses courantes	Variation nominale	Variation réelle	Recettes courantes	Variation nominale	Variation réelle	Excédent
1970	94 571,4			117 328,0			22 756,6
1975	196 331,7	15,7%	7,9%	235 746,7	15,0%	7,2%	39 415,1
1980	362 395,5	13,0%	6,4%	412 519,6	11,8%	5,3%	50 124,1
1985	517 304,2	7,4%	1,8%	618 717,4	8,4%	2,9%	101 413,2
1990	781 881,0	8,6%	6,6%	993 309,4	9,9%	7,9%	211 428,4
1995	1 265 694,8	10,1%	6,9%	1 449 954,0	7,9%	4,7%	184 259,3
1996	1 309 423,2	3,5%	2,6%	1 482 576,8	2,2%	1,4%	173 153,6
1997	1 411 927,1	7,8%	5,4%	1 586 369,8	7,0%	4,6%	174 442,7
1998	1 443 607,9	2,2%	2,0%	1 686 593,2	6,3%	6,1%	242 985,2
1999	1 509 763,3	4,6%	3,5%	1 798 556,6	6,6%	5,5%	288 793,3
2000	1 567 815,4	3,8%	1,1%	2 028 314,2	12,8%	9,8%	460 498,8
2001	1 695 595,7	8,2%	4,9%	2 315 128,2	14,1%	10,7%	619 532,5
2002	1 981 036,7	16,8%	14,5%	2 388	3,2%	1,1%	407 309,4

*				346,2			
20				2 501			
03	2 015 803,1	1,8%	-0,3%	530,1	4,7%	2,6%	485 727,0
2004				2 627			
**	2 229 130,6	10,6%	8,3%	720,9	5,0%	2,9%	398 590,3
20				2 798			
05	2 264 488,5	1,6%	-0,9%	570,4	6,5%	3,9%	534 081,9
20				3 023			
06	2 388 122,7	5,5%	3,3%	493,6	8,0%	5,8%	635 370,9
20				3 303			
07	2 487 196,9	4,1%	1,8%	755,0	9,3%	6,8%	816 558,1
20				3 491			
08	2 640 830,6	6,2%	4,0%	426,0	5,7%	3,5%	850 595,4

Source: IGSS, 2009: 202. Included in expenses in 2002: contributions for baby-year: \* and in 2004: transfer of 130 mill € to the health insurance: \*\*

The positive saldo increases steadily, producing the aforementioned reserve – despite important adjustments. In 2002, the increase of expenditure was due to the introduction of baby years introduced within a special round of tripartite negotiations, the so called “Rentendösch”<sup>36</sup>. The quite low increase of revenues in 2002 is probably due to the stagnating of the employment increase, following an economic downturn in 2000/01. Another significant growth of expenditure in 2004 is due to the transfer of 130 mill € to the health insurance covering the aforementioned deficit of the health insurance (cf. p. 13).

**Graph 3: Evolution of revenues, expenditure and the reserve**



Année(s) de référence: 1980-2008

Unité(s): millions EUR

Information(s) supplémentaire(s): montants arrêtés au 31 décembre

Source: IGSS, 2009: 202

<sup>36</sup> a negotiation round of a tripartite committee which, on top of high replacement rates, introduced a new measure for the child rearing of non-active women: act of 28 June 2002.

For pension schemes, the current reserve as well as the current positive dependency ratio (which will deteriorate on parallel with the ‘withdrawing’ cross border commuters) will still maintain a solid balance however with a ‘Rentenmauer’<sup>37</sup> which might approach quicker than foreseen, given the decrease of employment.

There is a broad awareness about the link between important contributions by foreigners and the high provisions for pension schemes: often the press highlights the sustaining effects of migration.

#### **4.2.3. Reforms in the light of the financial crisis**

With the reform of “statut unique” (act of 13 May 2008), the four former professionally organised<sup>38</sup> non civil servant pension insurances were merged into one scheme, the “Caisse Nationale d’Assurance Pension” (CNAP). The four former legal schemes for civil servants have not been included – just as for health insurance<sup>39</sup>.

Pension schemes were discussed during the recent tripartite negotiations (spring 2010), which failed in 2010. The measures introduced by the government during the following weeks concern pensions: Adjustments have been frozen for the coming years. However, if one looks into all the measures reacting to the effects of the financial crisis and the household’s deficit, many of them aim at child rearing benefits<sup>40</sup> and pensions of the elderly have not been concerned to the same extent. The shift away from social transfer payments *abroad* to a more substantial co-financing of services for the *resident* population (e.g. child care) has been highlighted by unions, the press and by different political parties with varying positive or negative criticism concerning the loss of cross border commuters. The crucial condition for this shift is the residence condition in the EU legislation. The shift from exported transfers to services for the residents might also be seen with regard to electoral reasoning for the predominantly national elderly (Pierson 2001, Schmidt, 2002).

In conclusion, we observe a moderate cost-containment measure, no recalibration, a financial balance which is still solid and which is due to the permanently rejuvenating affect of incoming foreigners.

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<sup>37</sup> A colloquial expression for the moment when – in the near or far future – expenditure will exceed revenues due to a future less favourable age structure of the contributors.

<sup>38</sup> “assurance contre vieillesse et l’invalidité des ouvriers (AVI”, “caisse de pension des employés privés”, “caisse de pension des artisans”, and “caisse de pension agricole”.

<sup>39</sup> For civil servants and employees of the State, for civil servants and employees of municipalities, for agents of the national railway, and for employees of public agencies.

<sup>40</sup> Aiming at families more than at the elderly might be explained by high child benefits and the child benefit exportation aimed at cross border commuters and children abroad. The introduced measures will reduce the export of child benefits and finance services which are, to a larger extent, aiming at the *resident* population.

### 4.3. Care insurance

Luxembourg has one of the most generous and expensive long term care insurances within EU (Di Bartolomeo, 2008: 22). In January 1999 (act of 19 June 1998) the “assurance dependence” replaced the former system of care services at home which were financed by authorities and an ‘out-of-pocket money’ by those who were in need of help. The price to be paid for delivered provisions was calculated according to the composition of the household and its income – just like for other services in Luxembourg, e.g. child care services.

The long term care insurance (LTCI) became a mandatory branch of Social Security. As opposed to the insurances launched at the beginning of 20<sup>th</sup> century alongside the Bismarckian corporatist principles, LTCI differs with regard to two principles. First, LTCI was initially conceived as a *universal insurance*, leaving behind the corporatist professional categories, including also civil servants. And secondly *employers do not contribute to LTCI* in order not to hamper the economy’s performance – a liberal principle. Contributors (those insured with health insurance: active or retired) contribute 1,4 percent of all their incomes (wages, revenue, pensions, income from inheritance) since January 2007. Between 1999 and December 2006, contributions were fixed at 1 percent. Since January 2007, the State’s contribution has been fixed to 140 mill € / year, which constituted 40 percent of the expenditure in 2009<sup>41</sup> and the contribution rate had been increased. CNS draws up budgets and controls expenditure of the LTCI.

For a ***home-based dependent person***, the LTCI pays for the help and care given by a care network or by a semi-stationary centre via benefits in kind. The long term care insurance also acknowledges services provided by an informal carer (family member e.g.) via a ***benefit in cash***. Thus both types of benefits can be used in parallel by those who are fully insured with Luxembourg’s social security.

For a ***dependent person within a care institution***, the long term care insurance pays for the services provided by a professional network taking over various types of assistance via ***benefits in kind***.

The monetary value of services provided by professional networks for assistance *at home* is currently € 57,62 / hour and *in institutions* for the elderly € 44,80 /hour. The maximum cash benefit for the informal carer is 262,50/week (since March 2009). In cases of a maximal need of assistance, the expenditure of LTCI for persons at home with ‘only’ professional assistance is € 2.362,42/week and in an institution € 1.859,20/week<sup>42</sup>. These provisions are outstanding in an international comparison (Hartmann-Hirsch, 2007)

As opposed to health insurance, there is no out-of pocket money for delivered provisions for the dependent person as long as s/he accepts the care plan by CNS. A Household’s contributions to LTCI

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<sup>41</sup> Both changes had been proposed by the “Comité de coordination tripartite” in 2006 and implemented via the act of 22 December 2006 “Tripartite” (art. 34 and 35; cf art. 375 and 376 of Code des Assurances Sociales).

<sup>42</sup> In extremely heavy cases, this can be enlarged to 56.5 h/week, thus 3.255,53/week at home (full professional help).

draw on more than wages and benefits, and are more bound to residence than is the case for health and pension insurances.

For the whole argument on contributors and their composition, we refer to the section on health insurance – given a similar work related legal membership with similar effects and the age dependency ratio. With regard to the EU residence stipulations for cross border commuters, LTCI benefits, to an even higher extent, from contributions and an extremely low share of consumptions than is the case for health insurance.

#### **4.3.1 Supranational and national legal framework**

With regard to the former regulation 1408/71, care insurances were not yet part of it, due to their recent development. However since care insurances or allowances for the elderly/disabled came into force, the CJEU operates as a preliminary legislator.

Some major stipulations should be mentioned here as they have a direct impact on the sustainability of LTCI.

The judgement of the Court (CJEU) ‘Molenaar and AOK’ (case C – 160/96) stipulates that “even if they (benefits of German “Pflegeversicherung”) have their own characteristics, such benefits must be regarded as ‘**sickness benefits**’ (art. 4(1) (a) of regulation 1408/71) (25). Furthermore, they have to be considered as a “sickness insurance ‘**cash benefit**’” (36). Cash benefits are exportable according to art. 19 (1/b) of regulation 1408/71.

MS are entitled to require contributions by those who work on their territory but reside in another MS: cross border commuters (cf. Molenaar and AOK; case C – 160/96).

Insured persons who live abroad and are still insured with Luxembourg’s health insurance and hence LTCI have two options. Either they award the benefits in kind of the country of residence and the competent country (e.g. Luxembourg) pays for it afterwards or they ask for the cash benefit to CNS in Luxembourg “even if the legislation of the State [of current residence] does not provide for benefits of that type” (judgement C – 160/96 (38). Abroad, cash benefit and benefits in kind *cannot be provided together*. This is again a win-win situation for Luxembourg: benefits in kind in other MS than Luxembourg weigh less on the budget of LTCI than services provided by LTCI in Luxembourg (cf. monetary value above).

Again according to European legislation, Luxembourg as a high wage country wins out of its important share of cross border commuters who are obliged to contribute fully, but are not fully eligible for provisions (not eligible for benefits in kind) and who are, on average, younger. Hence these same groups are less likely to be currently and in the near future in need. The European *residence condition* is the crucial disposal which allows national authorities to benefit of full

contributions and to offer provisions partly only. The impact of this disposal is significant with a strong group of foreigners, representing more than half of the contributors; returning migrants and, in any case, cross border commuters are net contributors.

Authorities observe immigrants arriving at the end of their career. They enjoy full health and care insurance through the work related Bismarckian membership. They will consume LTCI after some contributing years only; hence their potential consumption might be higher than that of the, on average, younger other foreigners.

Generally speaking, cross border commuters as well as immigrants contribute fully during the years of their professional career in Luxembourg. Returning to their country, they are awarded only a modest part of the existing benefits/services provided in Luxembourg.

#### 4.3.2. Financial situation

The evolution of LTCI has been outstanding. We will demonstrate this on the basis of the evolution of human resources since 1999; a radical change has taken place whereby women ceased to be the main carers for the elderly (Pierson, 2001):

**Table 9 : Human resources**

Human resources	2001	2002	2005	2006	2007	2008
professional care (FTE)	4.095,5	4.479,4	5.801,2	6.166,6	6.564,8	
Increase	+ % 60.3%					
Informal carers	2.919	3.446	4.445	4.584	4.607	4.752
Increase	+ 62,8%					

FTE: full time equivalent

With an increase of more than 60 percent between 2001<sup>43</sup> and 2007 / 2008, this sector of long term care experienced a significant evolution, which would not have been feasible without the equivalent increase of contributors (cf. table 4) and a high performing economy.

The emergence of this service sector led to an unknown degree of ‘defamilization’ in a previously a profoundly catholic society (Esping-Andersen, 1999). Mainly within the child care sector, authorities considered the public offer as a subsidiary one, which should help those who are not able to cope with

<sup>43</sup> we leave out the first two years of a new scheme, when the administration had to cope with an unusual number of applications

the family's responsibility; thus, responsibility was mainly with parents. The increase and the high degree of professionalization of both sectors produced a withdrawal by the family. More and more responsibility is shifted from the family to the State.

With the evolution of the financial situation, we observe the same phenomenon of an astonishing increase over the last seven years.

**Table 10: financial evolution of LTCI** (source: IGSS)

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
<b>REVENUES</b>										
<b>Contributions by households</b>	89 815 701	99 794 103	112 749 972	122 070 388	130 602 015	138 768 298	148 145 723	158 210 465	234 809 880	256 034 504
<b>Contribution by households</b>	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.4%	1.4%
<b>State's contribution</b>	69 410 187	64 223 730	84 294 962	83 525 695	100 118 401	112 690 896	137 923 118	149 408 420	140 000 000	140 000 000
Energy sector	3 141 873	2 391 219	2 797 735	4 176 928	3 792 895	4 435 852	3 926 486	2 184 298	1 582 686	1 751 996
Other revenues										
Prélèvement à la réserve	0	0	0	10 022 376	0	0	0	0	0	26 766 036
Découvert de l'exercice	0	0	0	0	0	22 295 333	19 517 13 515 709	789	0	0
<b>TOTAL of REVENUES</b>	163 301 775	258 117 254	320 630 149	325 360 069	308 417 351	317 301 908	380 180 110	379 700 922	472 866 633	580 834 508

<b>EXPENDITURE</b>										
<b>Administrative cost</b>	<b>2 280 620</b>	<b>2 641 240</b>	<b>2 464 678</b>	<b>2 403 567</b>	<b>3 185 122</b>	<b>3 034 374</b>	<b>4 032 008</b>	<b>4 066 409</b>	<b>4 449 522</b>	<b>5 591 565</b>
<b>Cash benefit</b>	<b>28 529 076</b>	<b>19 055 511</b>	<b>13 082 512</b>	<b>12 052 149</b>	<b>9 386 073</b>	<b>9 685 044</b>	<b>8 927 802</b>	<b>8 276 410</b>	<b>7 762 633</b>	<b>7 223 334</b>
<b>Benefits in kind</b>	<b>20 737 923</b>	<b>84 874 522</b>	<b>168 544 631</b>	<b>219 252 336</b>	<b>217 501 250</b>	<b>231 945 457</b>	<b>306 156 128</b>	<b>290 034 541</b>	<b>234 154 481</b>	<b>225 232 550</b>
Benefits in Luxembourg	20 737 923	82 519 532	163 884 164	216 387 073	211 980 487	227 262 901	297 454 521	281 799 404	224 568 290	216 035 384
<i>LTCI cash benefit</i>		<i>7 128 654</i>	<i>18 332 637</i>	<i>26 564 463</i>	<i>30 602 659</i>	<i>35 595 467</i>	<i>57 756 844</i>	<i>50 525 172</i>	<i>50 385 311</i>	<i>46 821 089</i>
Benefits abroad <sup>44</sup>	-	2 354 991	4 660 468	2 865 263	5 520 764	4 682 557	8 701 607	8 235 137	9 586 201	9 197 166
<b>TOTAL EXPENDITURE</b>	<b>163 301 775</b>	<b>258 117 254</b>	<b>320 630 149</b>	<b>335 382 445</b>	<b>308 417 351</b>	<b>339 597 241</b>	<b>393 695 819</b>	<b>399 218 712</b>	<b>472 866 633</b>	<b>607 600 544</b>

<sup>44</sup> This includes cash benefits transferred abroad and payments according to international conventions (for cross border commuters, for a temporary stay, for services provided within E 112, etc.).

The increase of revenues amounted to 128 percent and that of expenditure to 89 percent between 2001 and 2008<sup>45</sup>.

The necessity to increase the contribution by households might be explained with the “découvert de l'exercice” of the previous years. As a consequence, an immediate change can be observed in 2007, when revenues increased *beyond* expenditure. Given the positive evolution of the institutional and the home care sector developed by around 60 percent during 8 years<sup>46</sup>, already in 2004, current expenditure exceeded revenues producing a reduction of the reserve even with the ‘net’ benefit of the extraordinary input by young foreigners. In 2007, the increase of the contribution’s rate produced an equilibrium followed by another down-turn in 2008. OECD (2008: 108s) highlights the endangered sustainability of the LTCI with current and even more so future spendings for the necessarily ageing foreigners. According to the current EU law, cross border commuters however will only be entitled to the cash benefit and will not be eligible for the more expensive benefits in kind.

The section “cash benefits” decreased from 1999 to 2008. This concerns the former two allowances for elderly and disabled (acts of 22 May 1989 and of 16 April 1979). With the launching of LTCI, users of those allowances could either continue with them or ask for LTCI and hence renounce entitlement for the former regimes. No new allowance has been granted anymore.

One of the budget lines within expenditure concerns the “cash benefit” of LTCI: the increase of the cash benefit is in line with one of the main objectives: to privilege care at home as compared to institutional care.

Expenditure abroad constitutes 1.4 percent of the total of expenditure, whilst cross border commuters constitute 44 percent of the contributors (cf. [www.statec.lu](http://www.statec.lu): 2008). This demonstrates the win-win situation for Luxembourg. Definitively, cross border commuters contribute fully and consume in the most modest way<sup>47</sup>.

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<sup>45</sup> We leave out the first two years due to a slower pace at the beginning.

<sup>46</sup> cf. Evolution of HR in table 9; cf. also table 4.5 for long term care beds in OECD, 2008: 110.

<sup>47</sup> Cf. table 39:

[http://www.isog.public.lu/gbe/ergebnisse.prc\\_tab?fid=9547&suchstring=&query\\_id=&sprache=D&fund\\_typ=TX&methode=&vt=&verwandte=1&page\\_ret=0&seite=1&p\\_sprachkz=D&p\\_uid=rg2008&p\\_lfd\\_nr=3&p\\_news=&p\\_aid=86600980&hlp\\_nr=1&p\\_janein=J](http://www.isog.public.lu/gbe/ergebnisse.prc_tab?fid=9547&suchstring=&query_id=&sprache=D&fund_typ=TX&methode=&vt=&verwandte=1&page_ret=0&seite=1&p_sprachkz=D&p_uid=rg2008&p_lfd_nr=3&p_news=&p_aid=86600980&hlp_nr=1&p_janein=J)

#### 4.3.3. Reforms – in the light of the crisis?

(i) A first **major reform of the act of 19 June 1998** took place in 2005, entering into force on 1<sup>st</sup> January 2007: the **act of 23 December 2005**. The draft bill (n. 5146) had been introduced in June 2003. The following objectives have been implemented with the adoption of this draft bill: to privilege rehabilitation instead of long term care, home instead of institutional care, benefits in kind instead of benefits in cash and to provide continuous care. These objectives were initial ones and were hence *confirmed* with the draft bill (5164) and the act of 23 December 2005.

Some measures aim at *improving the existent provisions*: control and promotion of quality of the care (via “commission de qualité des prestations” ) have been introduced. The threshold of entry has been eased for adaptations of the flat/house; maximum hours for benefits in kind in the case of care at home have been enlarged. Other measures aim at *cost containment*: the monetary value of the cash benefit for the informal carer has been fixed at the level of 25,00 €/hour; fees for the replacement of the informal carer have been cutback. For ordinary cases in institutional care, household tasks have been abolished; in extraordinary cases, a cutback provides with a maximum of 1.5 hours/week for this task as compared to the former 2.5 hours/week.

Following the proposals of tripartite 2006, another draft bill (n. 5611) had been introduced in September 2006 aiming at two major measures: the increase of the contribution rate from 1.0 to 1.4 percent and the freezing of the State’s contribution to 140 million € in order to increase revenues and to contain an otherwise potentially excessive increase of the State’s input to LTCI. The law was adopted on 22 December 2006. The increase of household’s contributions resulted in an increase of nearly 50 percent between 2006 and 2007<sup>48</sup> as compared to 7 percent between 2005 and 2006 with an average increase of contributors of approximately 3.4 percent (table 5). This should provide users with the “right to a high level of benefits” (Di Bartolomeo, 2008: 22). As the minister pronounced at this conference, “The choice was made to limit the State’s participation and, in return, to raise deductions charged to insured individuals. This was not an insignificant increase. Individuals accepted the change without any great display of protest and dissatisfaction.” (ibid., p. 22). This cutback did obviously not produce a dramatic change and “blame avoidance” strategies (Pierson, 1996) which are used within other welfare cutback measures in other MS were not even needed (Schmidt, 2002): there was little debate in the press. Might this be due to the generally very generous provisions and the low contribution rates?

Both modifications have taken place *before the emergence of the financial crisis* within the context of an increasing labour force.

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<sup>48</sup> The increase of contributions due to inheritance were more than 50 percent.

(ii) The **Rapport de stratégie nationale** (2008: 90 – 92) presents different elements of the aforementioned modified act of 2005 such as the “commission de qualité” plus a study aiming at the satisfaction of users at home (CEO, 2007), which demonstrates the intention of authorities to satisfy the users’ needs and wishes to a maximum extent.

(iii) During the **recent quadripartite negotiations** on health insurance, the LTCI has only been mentioned regarding the reduction of the reserve from a minimum of 10 percent to 5.5 percent. In the case of problems of liquidity, the CNS could rely on the reserve of the LTCI. But no cutback measure concerned the LTCI directly.

(iv) During the **tripartite negotiations** in spring 2010, LTCI has not been mentioned.

Obviously, most of the reforms implemented since 1999 have not been inspired by the economic crisis the main quality objectives of the LTCI were confirmed; an important share of modifications aimed at an improvement. However, there were also measures aiming at cost containment, some of them within the draft bill n. 5164 introduced in 2003 and others with the draft bill n. 5611 introduced in December 2006 for the modification of LTCI. All of them have been taken *before* the economic crisis.

Since that reform, there is and was no political debate on the LTCI. There is an understanding concerning the sustaining contributions by cross border commuters as compared to their spendings for LTCI (articles in the press aiming at an educated public). But also this aspect is more discussed for the purpose of pension insurance than for LTCI. The difference between the 1.4 percent of exported spendings compared to the 44 percent of non-residents’ contributions has been quoted<sup>49</sup>. The aforementioned gap allowed authorities to develop the service sector, which aims at the residents only.

**Concluding**, one can say that LTCI – even with its outstanding provisions, which are not really perceived as outstanding – has not been questioned during the recent debates aiming at cost containment *after* the financial crisis. The enlargement of measures for the elderly rely on massive inputs by, on average, younger foreigners and a future take-up which is and will remain limited due to the current EU legislation. With the introduction of the LTCI, Luxembourg managed an important recalibration via an outstanding increase of social services, responding to the increased female labour force participation. Defamilization took place in a profoundly catholic society. Cost containment has never really been tackled: the introduction of an out-of-pocket money has never been discussed. That might have produced more important efforts in terms of legitimization discourse or negotiation, given a

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<sup>49</sup> Cf. e.g. D’Letzeburger Land

quite broad national electoral share of the elderly. The increase of the contribution rate has been negotiated within the usual ‘corporatist’ social partnership committees.

## 5. Conclusion

As opposed to other MS, Luxembourg’s corporatist welfare model with its universalistic objectives is outstanding with regard to several aspects: expansion and improvement trends going beyond Scandinavian standards have been implemented. Important reserves, mainly for the pension insurance allowed authorities to higher the replacement rates to top levels within OECD countries. In this highly budgetised system, corporatist elements have been reduced in favour of a higher impact of the State. The emergence and meanwhile the existence of an outstanding service sector for the elderly (and for children) demonstrates significant recalibration efforts and results. This responded to a new composition of the labour force with an increased female participation, enhancing an important societal change (Pierson, 2001). Child care services concern more immigrants than nationals as immigrant women have higher employment rates than their national equivalents. Services for the elderly concern more nationals. A clear social-democratic shift from family’s to State’s responsibility has thus been implemented. Defamilization took place within a profoundly corporatist, catholic country. Predominant transfer provisions were slightly cutback in favour of a broader service offer financed to a higher extent by authorities. In conclusion a significant recalibration aimed at expansion and improvement took place, moving the former corporatist model to a more and more universalistic Scaninavian system.

Moderate *cost containment* has been implemented for the health insurance, very moderate cost containment for the LTCI (plus an increase of revenues) and for the pension-schemes. Up to now, authorities did not really need to develop “blame avoidance” discourses in order to legitimate e.g. the increase of contribution rates (LTCI). No *re-commodification* took place for residents, as this was the case within other liberal or other corporatist systems. Cross border commuters are currently undergoing a significant re-commodification with regard to restricted and not compensated child benefits. The residence condition is the crucial stipulation wihtin this change as well as within other EU stipulations which are favourable for Luxembourg.

Luxembourg offers equity with middle class standards. Efficiency is the problematic aspect for corporatist regimes, as for Luxembourg. The high inactivity rates with early exit patterns and low female labour force participation do not providethe necessary contributions, but challenge the sustainability of the model with insufficient revenues and higher consumption. Considering the State to be the main protector and using early exit paths is a typical corporatist attitude. Up to now, foreigners compensated for nationals due to their higher labour force participation. With the - more or less important – withdrawel of cross border commuters, the traditional corporatist attitudes will gain

importance and produce decreasing labour force participation rates; this will challenge the sustainability of the insurances. Residents, mainly the long term residents experienced long years of a developing and improving welfare state; this will not ease legitimization negotiations aiming at retrenchment or recalibration with cost containment (e.g. measures aiming at late exit patterns). The launching of services can hardly be considered as a recalibration aimed at cost containment. There is no experience of cutbacks, radical recalibration and significant cost containment measures leading to losses and a higher individual responsibility. A certain share of the more active and 'more efficient' cross border commuters might be gone, and an important share of the active immigrants are less challenged by 'cutbacks' such as the increase of pension age as obviously they work, in any case, longer than nationals and were perhaps initially less influenced by corporatist patterns in their country of residence.

We observe no cutbacks which have been discussed in a broad way – with exception of the contribution rate for employers for their manual workers (box 2). The increase of the contribution rate for the LTCI was accepted without protest and needed little legitimization efforts. No liberalisation has taken place. The universalisation of national providers has been achieved for LTCI and is partly implemented for the health and pension insurances. Competition amongst providers has not yet been introduced.

As a small nation-state, Luxembourg used its sovereignty taking advantage of the imbrication of national and transnational legislation, given its overwhelmingly transnational labour force with an, on average, younger thus less consuming group of contributors. Age- and family-member-dependency ratio are extremely low for cross border commuters compared to those of residents. Cross border commuters contribute fully and only enjoy in part the benefits. Exportability of cash benefits (social assistance) and some benefits in kind (LTCI) is limited or impossible for cross border commuters and returning migrants due to the European legislation. The residence condition is the central disposal in the European legislation (regulation 1408/71), which produces a net gain in the case of a strong cross border movement and a returning migration, requiring full contributions and delivering a modest part of benefits – the most evident case is LTCI with important contributions and extremely modest consumptions by cross border commuters. It is the vast majority of *active non-nationals* which allowed authorities to go for expansion and improvement of their *national* welfare system, incorporating them according to a supranational legal framework with a limited access to the entire scope of benefits. Migration and cross border movement within an interesting imbrication of national and supranational legislation did not produce a supplementary charge, but were the motor for the 'virtuous spiral' of the welfare model.

The financial crisis was not immediately followed by a significant decrease of employment; unemployment always lags behind; the decrease became evident in 2009 only. On top of this, the unemployment of cross border commuters is not directly evident, as they are not registered and not paid for in Luxembourg. The decrease of employment and mainly that of cross border commuters had and will still have an important impact with its *triple* effect. The loss of cross border commuters will have a negative impact on the balance of Luxembourg's corporatist employment linked welfare insurances. The discussion concerning eventual cutbacks started only seriously with the current tripartite negotiations in spring 2010.

All this takes place in corporatist tri- and quadripartite negotiations and counseling bodies, where up to now, employers' and employees' organisations found a compromise mediated by the Government. The negotiation modus relies on strong legitimating procedures, which at the end achieve a consensus backed-up by nearly all political actors; this was the case for expansion policies. The last tripartite negotiations did not succeed given a first experience with still moderate, but retrenchment measures, an unknown and thus unacceptable experience mainly for unions. Employers demonstrated the growing loss of competitiveness and unions argued against any potential 'Sozialabbau'. Both partners could not find a compromise. And the government seems to be challenged as a *main* actor for future months.

Two factors are commonly highlighted which put welfare systems under pressure: globalisation and ageing effects. Luxembourg avoided the last one via its permanently rejuvenating immigration and cross border movement. The extremely transnationalised labour force might be considered as an implicit 'globalising' answer with an economy which is run by "transnationals" on the basis of – probably – more transnational than national patterns. Immigration and cross border movement, which are sometimes considered to be a threat to the sustainability of welfare schemes, where the main factors for expansion and improvement, for the outstanding evolution of this welfare model.

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<sup>i</sup>Plan national de réforme, 2008, p. 43







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