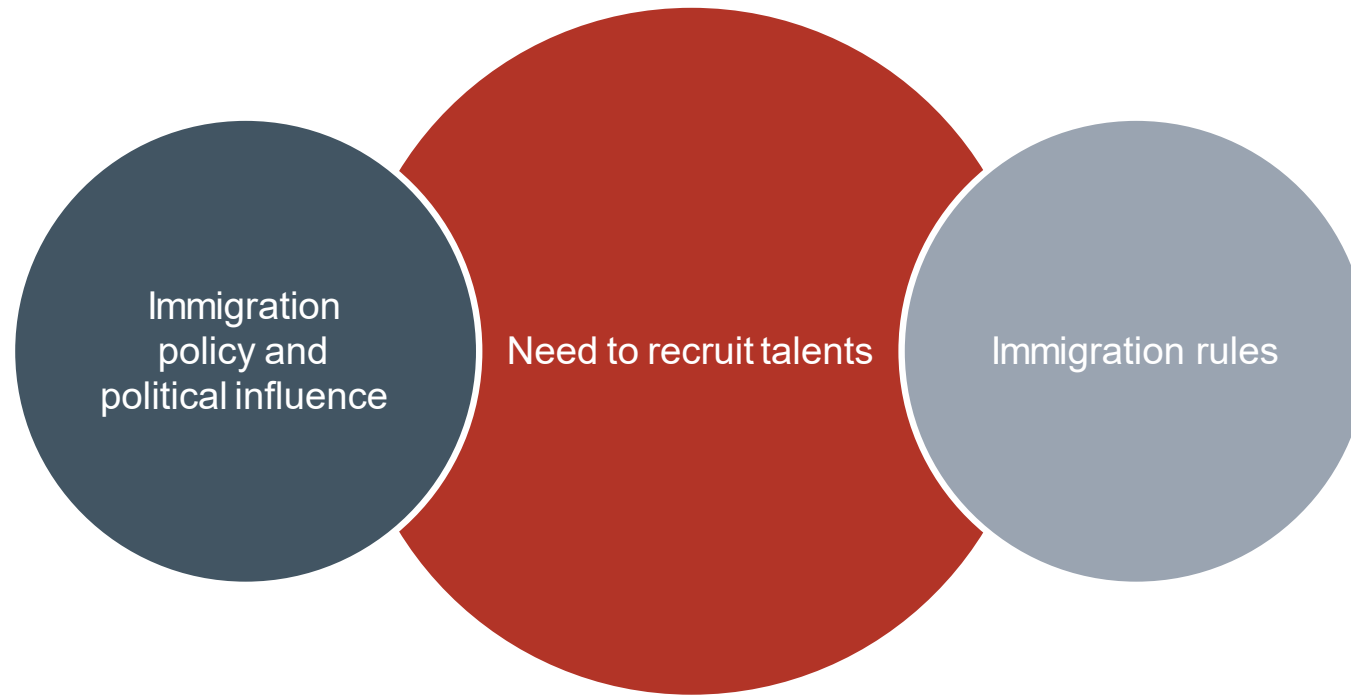


# Conference on immigration rules

19 October 2022



# Introduction

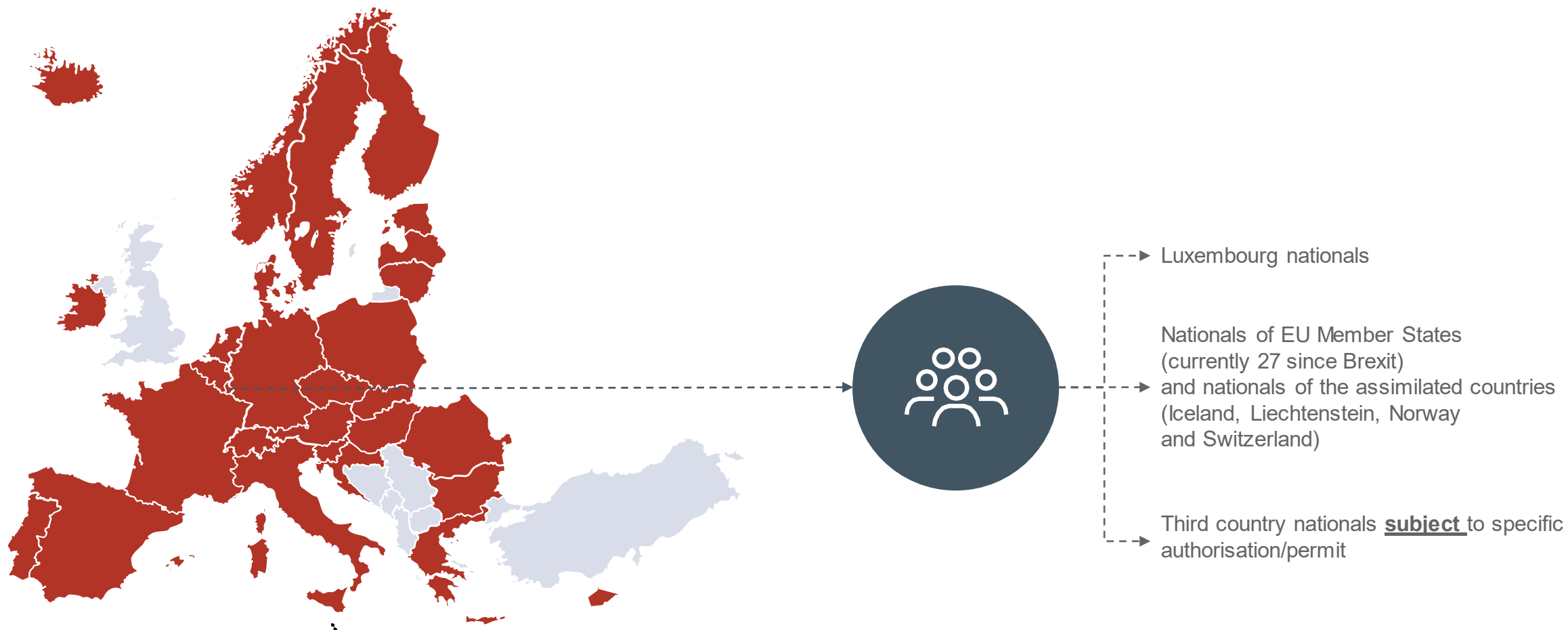


Who has the right to  
work in Luxembourg?

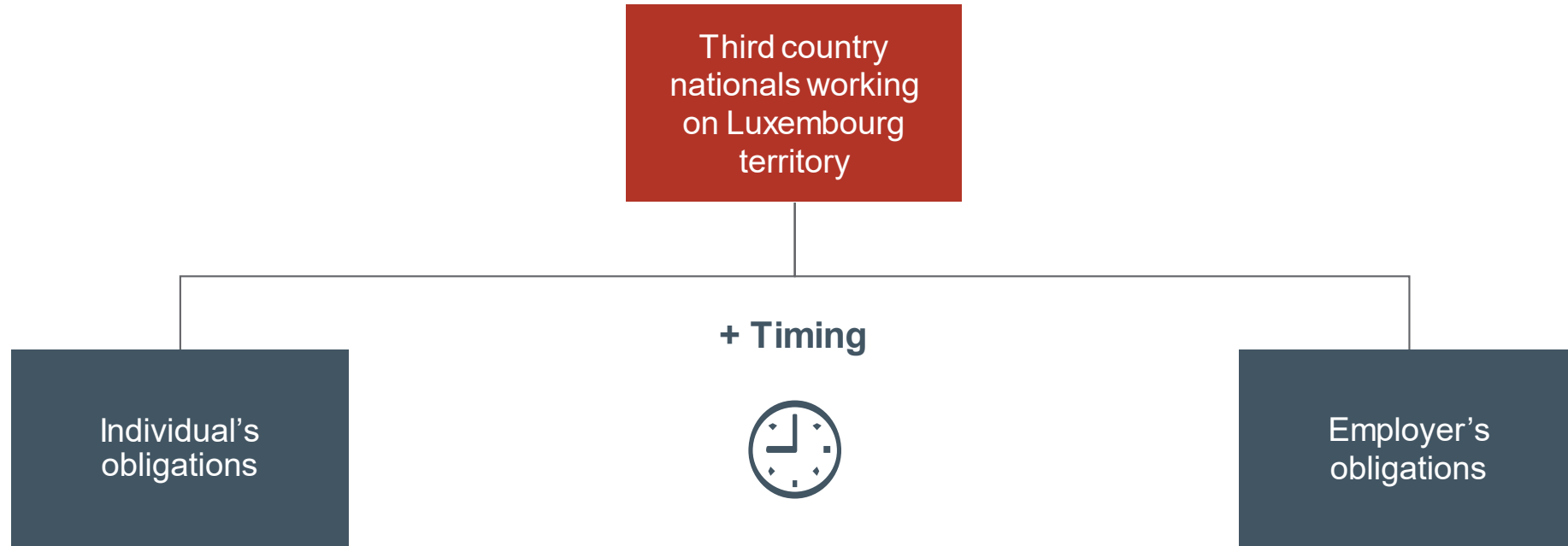




# Who has the right to work in Luxembourg?



# Why is it important for an employer to determine the immigration status?




# Main rule: The employment of third country nationals who are illegally staying on Luxembourg territory is prohibited



## Subsequent obligations for employers : 3 explicit obligations

- 1 Check that the individual, before taking up employment, has a valid residence authorisation/permit or a work authorisation;
- 2 Keep a copy of residence authorisation/permit or work authorisation for the purpose of potential inspection; and
- 3 Notify Ministry of Foreign & European affairs of beginning of employment period of each newly hired third country national within 3 working days



If employers comply with these 3 obligations they cannot be held responsible for a violation of the prohibition of employment of a third country national in an illegal situation

Importance to have relevant clause in employment contract to mitigate related **risks**

# Risks



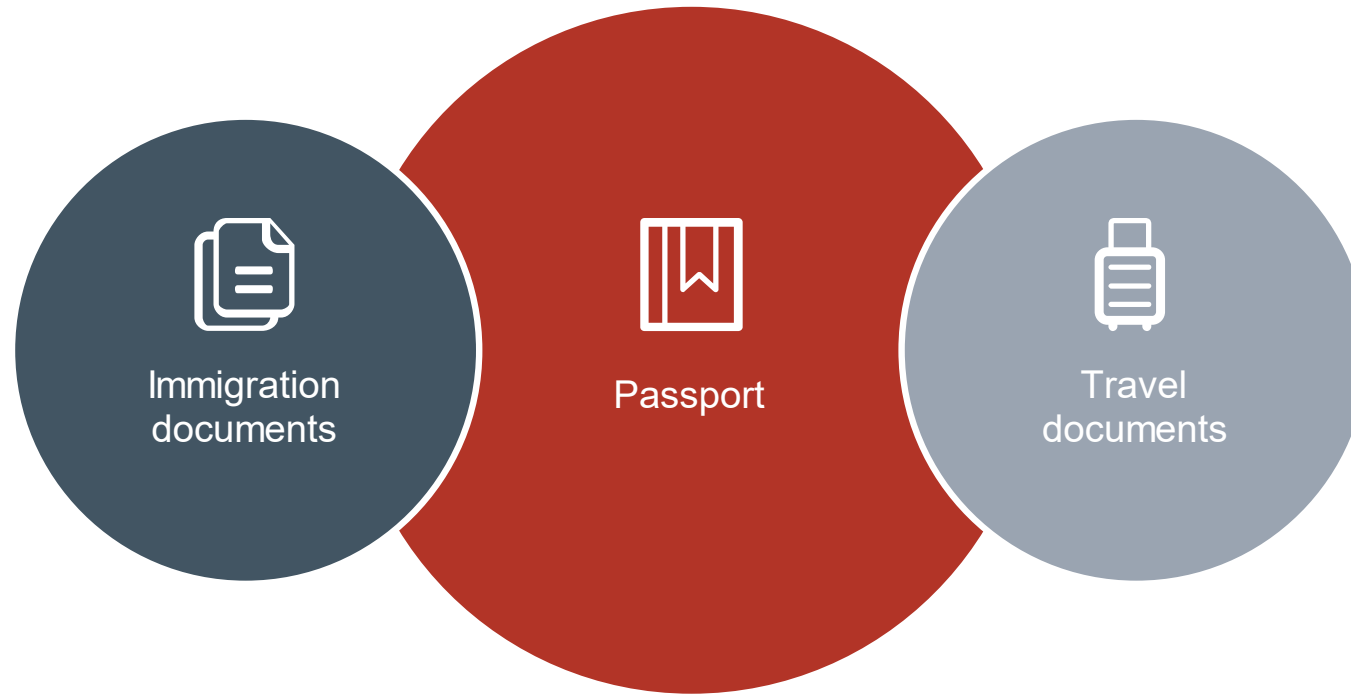
What is the relevant  
immigration category  
for the concerned  
candidate?



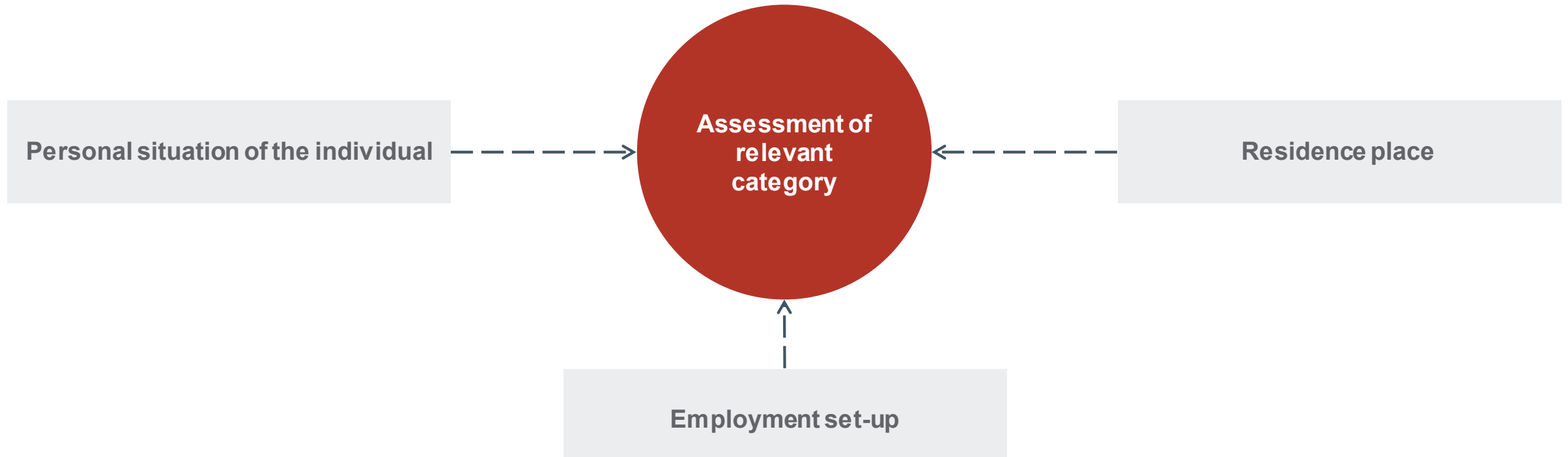


# Vocabulary clarifications

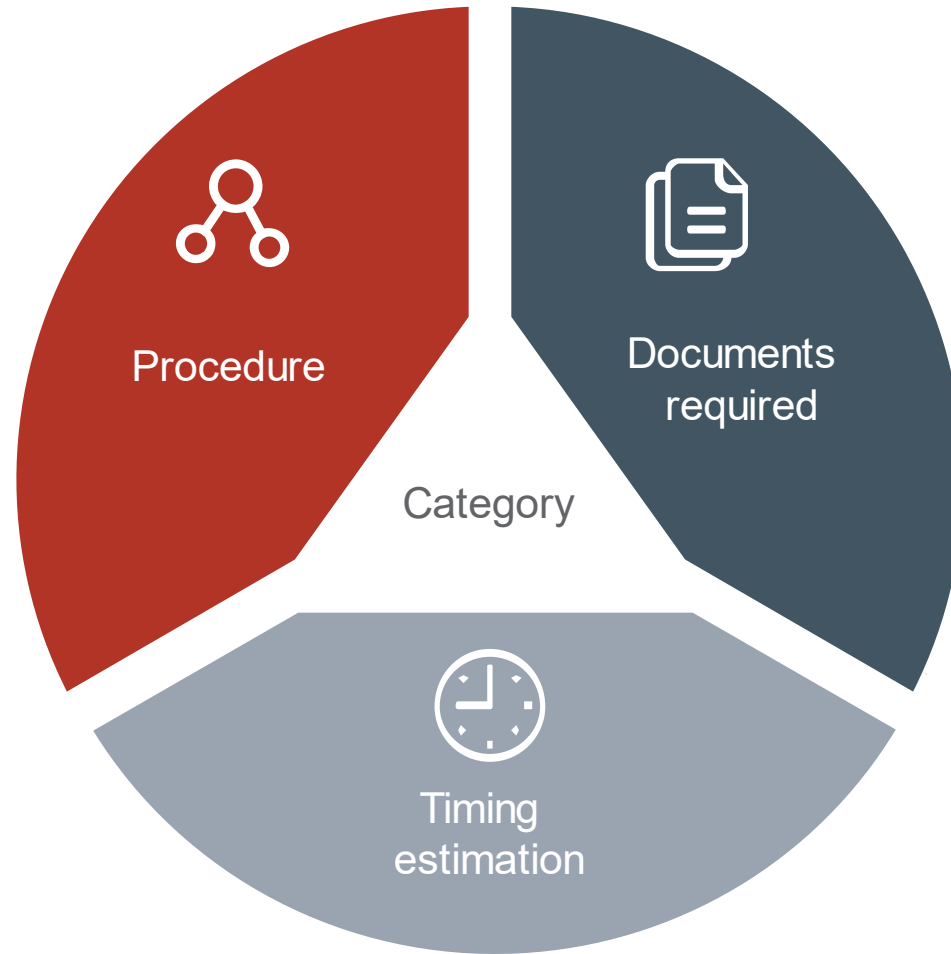
Distinctions between immigration (right to work and/or reside) documents and right to travel documents



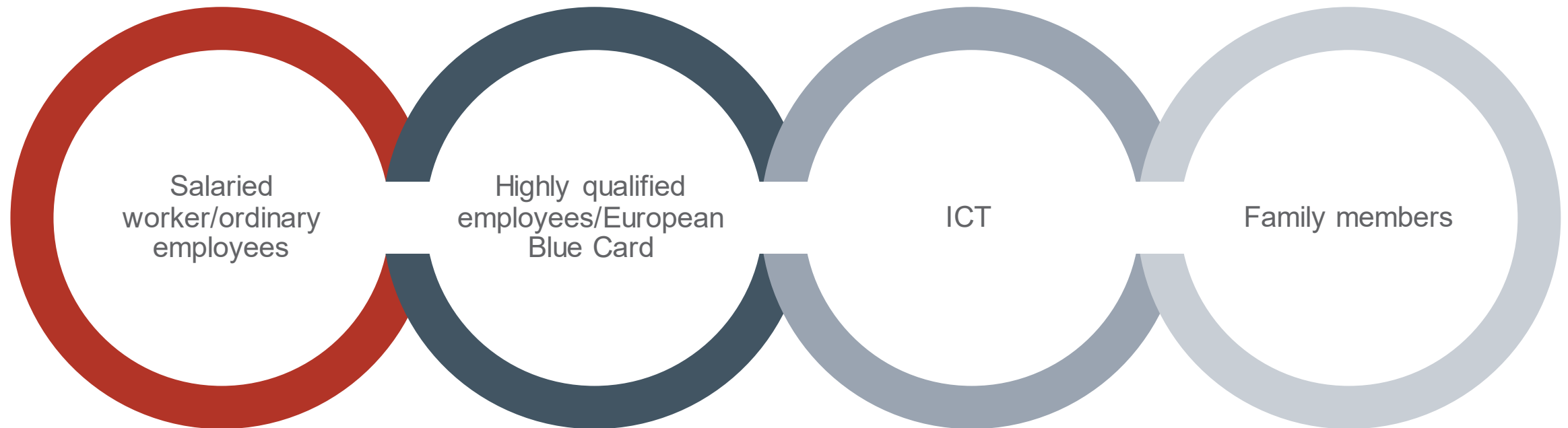
# Elements to take into account to determine the relevant immigration category



Once you have determined the relevant category...



# Main immigration categories for employment purposes



# Salaried worker / ordinary employees

## Subject to labour market test

- Declaration of vacancy
- Certificate to be issued by ADEM
- Impact on timing

## Applicable restrictions

- Valid for one role within one specific sector

## Limited duration

- Valid for one year maximum (renewable)



# Highly qualified employees / European Blue Card

## Subject to remuneration threshold and qualifications

- 83,628 EUR annual gross remuneration
- 66,902.40 EUR annual gross remuneration for specific roles
- Diploma evidencing professional qualifications for the contemplated role

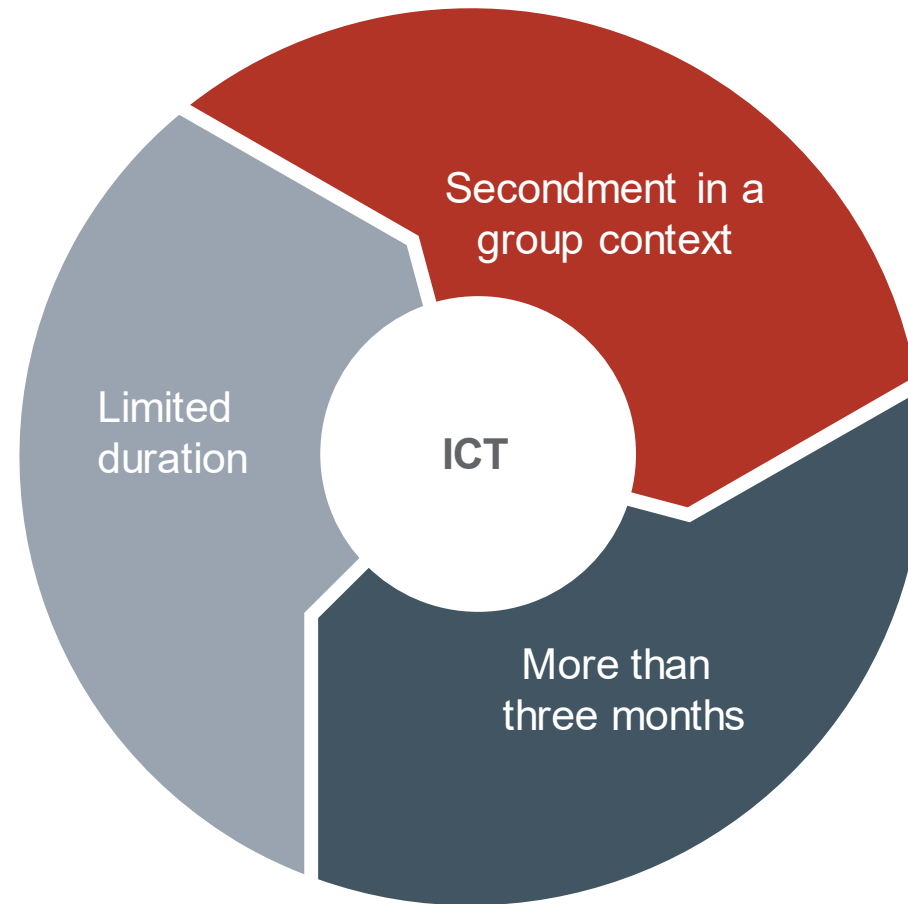
## Applicable restrictions

- During first 2 years, limited to one role within one specific sector

## Extended duration

- Valid for 4 years (or duration of the contract plus 3 months)

# Intra-corporate transfer (ICT)



## 3 categories

- “Intern”: transferred for vocational training purposes
- “Expert”: specific and technical tasks
- “Executive”: management position or in charge of a department within the host company in Luxembourg (such as a “*Head of*”)

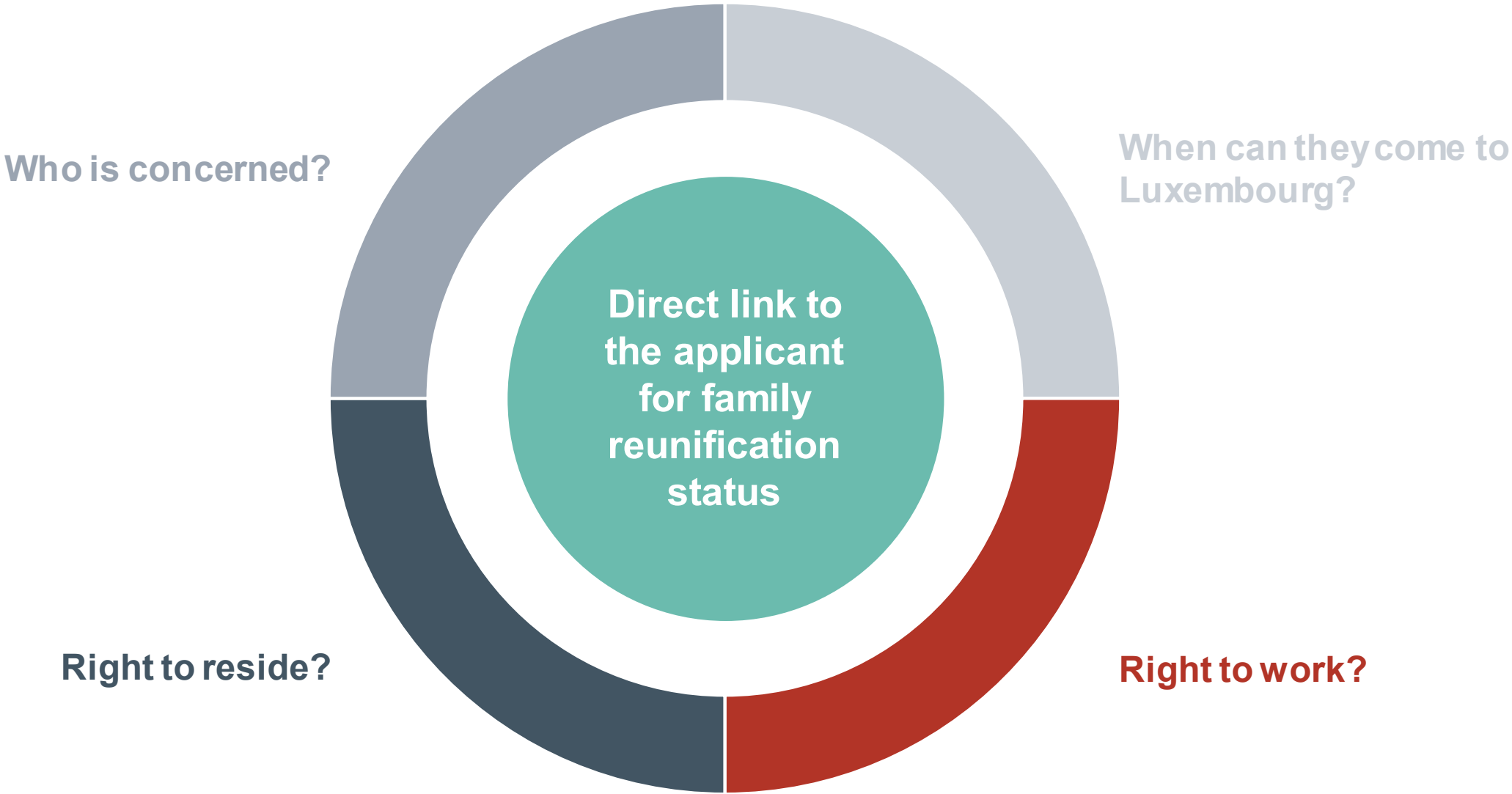
## Maximum duration

- 1 year, including renewals, for “interns”
- 3 years, including renewals, for “executives” or “experts”

## Conditions to be fulfilled

- Host company belonging to the same group than the home company
- Minimum duration of occupation by the home company of the employee

# Family Members



# Foreseeable changes ?





# Questions and Panel discussion

Q&A

# Key contacts



**Gilles Dall'Agnol**

Partner

+352 44 44 55 104

[gilles.dallagnol@allenoverly.com](mailto:gilles.dallagnol@allenoverly.com)



**Nathaël Malanda**

Senior Associate

+352 44 44 55 206

[nathael.malanda@allenoverly.com](mailto:nathael.malanda@allenoverly.com)



**Laurie Lounsami**

Associate

+352 44 44 55 299

[laurie.lounsami@allenoverly.com](mailto:laurie.lounsami@allenoverly.com)



**Laurent Peusch**

Head of Employer Services - ADEM

Allen & Overy is an international legal practice with approximately 5,600 people, including some 580 partners, working in more than 40 offices worldwide. A current list of Allen & Overy offices is available at [allenoverly.com/global/global\\_coverage](https://allenoverly.com/global/global_coverage).

Allen & Overy means Allen & Overy LLP and/or its affiliated undertakings. Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen & Overy (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen & Overy LLP (SRA number 401323) and Allen & Overy (Holdings) Limited (SRA number 557139) are authorised and regulated by the Solicitors Regulation Authority of England and Wales.

The term partner is used to refer to a member of Allen & Overy LLP or a director of Allen & Overy (Holdings) Limited or, in either case, an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen & Overy LLP's affiliated undertakings. A list of the members of Allen & Overy LLP and of the non-members who are designated as partners, and a list of the directors of Allen & Overy (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD.

© Allen & Overy LLP 2022. These are presentation slides only. This document is for general information purposes only and is not intended to provide legal or other professional advice.

© Allen & Overy LLP | Conference on immigration rules