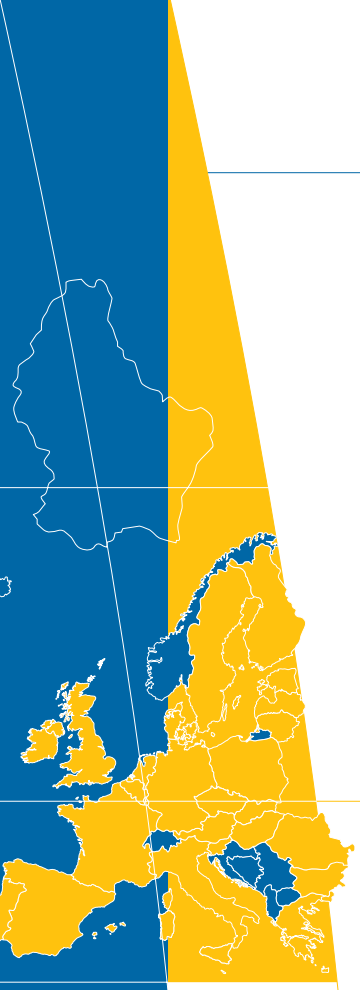


About…

Political Institutions in Luxembourg

The Grand Duchy of Luxembourg has been an independent sovereign state since the Treaty of London was signed on 19 April 1839. The country is a parliamentary democracy in the form of a constitutional monarchy. The crown is handed down through the House of Nassau. Luxembourg is located at the heart of Western Europe, between Belgium, France and Germany.

Grand Duchy of Luxembourg

Form of government: Constitutional monarchy

Neighbouring countries: Germany, Belgium, France

Area: 2 586 km^2

Population: 459 500 inhabitants, of which 181 800 are foreigners

Population density: 178 inhabitants/ km^2 (2006)

I. The three branches of power

As in every parliamentary democracy, the separation of powers is flexible in Luxembourg, since many links exist between the legislative and executive branches; the judicial power alone remains completely independent.

1) Legislative power

Legislative power resides in the joint action of Parliament (Chambre des députés), the government and the Council of State. Each entity serves a wholly separate function.

Parliament is made up of 60 members of Parliament (MPs) elected for a five-year term by means of mixed one-person-one-vote suffrage and a system of proportional representation. Its primary function is to vote on bills submitted by the government and to control the executive branch. The MPs also possess a right of parliamentary initiative which is exercised by bringing in bills *(propositions de loi)*.

Signature of François-Xavier Würth-Paquet, general administrator of justice, and seal affixed at the bottom of the Luxembourg Constitution of 1856

The parliamentary committee for controlling budget implementation, which is chaired by an opposition MP, the Court of Auditors and the ombudsman are all bodies assisting Parliament in the exercise of its right to inspect the administration of the state.

Weekly cabinet meeting

The government has a right of initiative in legislative matters known as governmental initiative, which allows it to bring in bills *(projets de loi)*. After being examined by the Council of State, bills are put to the vote before Parliament, where the government normally holds a majority. After the parliamentary vote, the Grand Duke exercises his rights of assent and of enactment. The legislative procedure concludes with the publication of the legislative text in the compendium of legislation known as the *Mémorial*, whereupon the text acquires legal status.

The Council of State is composed of 21 councillors. State councillors are formally appointed and dismissed by the Grand Duke on proposal by the government, Parliament or the Council of State.

In Luxembourg's unicameral system, the Council of State exerts the moderating influence of a second legislative assembly. It is required to voice its opinion on all items of legislation, that is to say on all bills brought in before the Parliament prior to voting by the MPs. Its opinion must entail a thorough examination to ensure compliance of the draft texts with the Constitution, international conventions and the rule of law. The role of the Council of State is one of persuasion rather than enforcement and is therefore advisory in nature.

Its main tasks include:

› giving its opinion on all bills, as well as on their amendments proposed during procedure;
› examining any draft grand-ducal regulation submitted to it;

The grand-ducal palace in Luxembourg City

› deciding whether to waive the second constitutional vote, that is to say the second vote of a law, cast at least three months after the first vote by Parliament. Its refusal of exemption is thus limited to the right of a suspensive veto.

2) Executive power

The Grand Duke is the head of state. His inviolable status means that he cannot be charged or prosecuted. The Grand Duke enjoys complete political immunity; political responsibility lies with ministers. Indeed, any measure taken by the Grand Duke in the exercise of his constitutional powers must be countersigned by a member of the government who assumes full responsibility. Moreover, any legislative document signed by the Grand Duke must have been submitted to the cabinet for prior consideration.

Formally the Constitution grants the Grand Duke the right to freely organise his government, i.e. to appoint ministers and secretaries of state, to establish ministerial departments and to confer powers on them. The number of ministerial departments generally exceeds the number of members of the government called upon to serve in office; thus a single minister normally holds more than one portfolio.

In practice the Grand Duke chooses the Prime Minister on the basis of election results; the Prime Minister himself then proposes the members of government. The government appointed by the Grand Duke presents its political programme to Parliament which takes a vote of confidence, thereby giving the newly appointed government a parliamentary majority on which it can rely.

Under the Constitution, the Grand Duke has the right to remove any member of the government from office, but in practice the resignation of a minister or of the whole government is tendered by the Prime Minister to the Grand Duke, who accepts it.

3) Judicial power

Under the Constitution, courts and tribunals are responsible for exercising judicial power. They are independent in the exercise of their functions. Luxembourg is home to a Constitutional Court and has two branches of jurisdiction: the judicial order and the administrative order.

The Constitutional Court

The Constitutional Court is composed of nine members and has its seat in Luxembourg.

As its name implies, the Constitutional Court rules on the constitutionality of laws, excluding those that approve treaties.

If a party questions the constitutionality of a law before a judicial or administrative jurisdiction, the matter must be referred to the Constitutional Court if the issue of constitutionality is deemed vital to the solution of a dispute.

It should be noted that the public has no direct recourse to the Constitutional Court. The Constitutional Court conducts concrete constitutional reviews *a posteriori* and cases are referred to it for preliminary rulings.

The judicial order

1) The various courts

A. The courts of conciliation

These constitute the first level of the judicial hierarchy. The three courts of conciliation have their seats in Luxembourg, Esch-sur-Alzette and Diekirch.

They have jurisdiction over minor civil and commercial cases, provided the object of dispute does not involve an amount exceeding 10 000 euro, subject to appeal. They have jurisdiction of last resort where the object of dispute does not exceed 750 euro.

In certain instances, special authority is conferred by law upon the courts of conciliation, granting them jurisdiction regardless of the amount in question. This involves matters relating to tenancy agreements or wage deduction orders, for instance.

In penal matters, the courts of conciliation function as a simple police court and have jurisdiction over violations or infringements of the law, which are punishable by a fine of up to 250 euro, as well as over other infringements defined by law as offences, referred to the police court by closed session.

B. The district courts

The country is divided into the two judicial districts of Luxembourg and Diekirch, each of which is home to a district court.

Simulation by computer of the future Cité judiciaire (judiciary quarter) on the Holy Ghost Plateau in Luxembourg City

These courts have jurisdiction in all civil and commercial matters that the law does not expressly assign to another jurisdiction.

In criminal cases, the district courts act as a correctional chamber and have jurisdiction over offences punishable under the Penal Code or a special law by imprisonment of a minimum of eight days to a maximum of five years, or by a fine exceeding 251 euro.

The correctional chamber also has jurisdiction over acts defined by law as crimes, acts that under the Penal Code or other legislation are punishable by life or fixed-term custodial sentences, or by imprisonment of more than five years.

Finally, the section known as the Juvenile and Guardianship Court has jurisdiction over child and youth protection cases, as determined by law.

The district courts also hear and adjudicate cases on appeal from the courts of conciliation where the object of dispute exceeds 750 euro.

C. The Supreme Court of Justice

This court has its seat in Luxembourg City and consists of:

- a Court of Cassation, consisting of one chamber in which five judges sit;
- a Court of Appeal, consisting of nine chambers to which 35 appeal judges are assigned.

The Supreme Court of Justice meets as a general assembly, primarily to rule on jurisdictional conflicts and on disciplinary action against judges. The general assembly also hears charges by Parliament against members of the government.

The Court of Cassation has jurisdiction over Court of Appeal rulings as well as judgements rendered in last resort by the district courts and conciliation judges.

Parliament

The appeal to the Court of Cassation does not constitute a third path of appeal, but an appeal may only be lodged on grounds relating to a violation of the law, abuse of power or the infringement of essential procedures or procedures falling under the statute of limitations, under penalty of being void.

The Court of Appeal has jurisdiction over decisions handed down at first instance by the district courts.

2) Public Prosecution Office

The members of the Public Prosecution Office are headed by the State Public Prosecutor and are responsible for representing the state before the courts and tribunals. They exercise their functions under the authority of the Minister of Justice.

The chief task of the members of the Public Prosecution Office is to investigate crimes, offences and misdemeanours, to implement the law and to ensure that judgements are enforced. The public prosecutors are assisted in their duties by judicial police officers, who record criminal activities, trace offenders and gather evidence.

The administrative order

Under the Constitution, the administrative order is assigned to hear and adjudicate administrative and fiscal disputes.

The Administrative Tribunal issues a first instance ruling in appeal proceedings brought on grounds of incompetence, abuse and misuse of power, violation of the law or of procedures protecting private interests, against any administrative decisions where no other recourse is admissible under the laws and regulations.

The Administrative Tribunal in principle rules on applications for annulments. Applications for rectification are heard in cases expressly provided for by law.

Supreme administrative jurisdiction lies with the Administrative Court. It is an appeal body, which primarily hears cases brought against the decisions of other administrative jurisdictions and arbitrates disputes between the government and the Court of Auditors.

II. Legislative procedure

Two types of legislative initiative are distinguishable:

› ***projet de loi.*** This preliminary draft of a law is drawn up by the relevant ministry, approved by the cabinet and then submitted to the Council of State for its opinion. It is then submitted to Parliament.

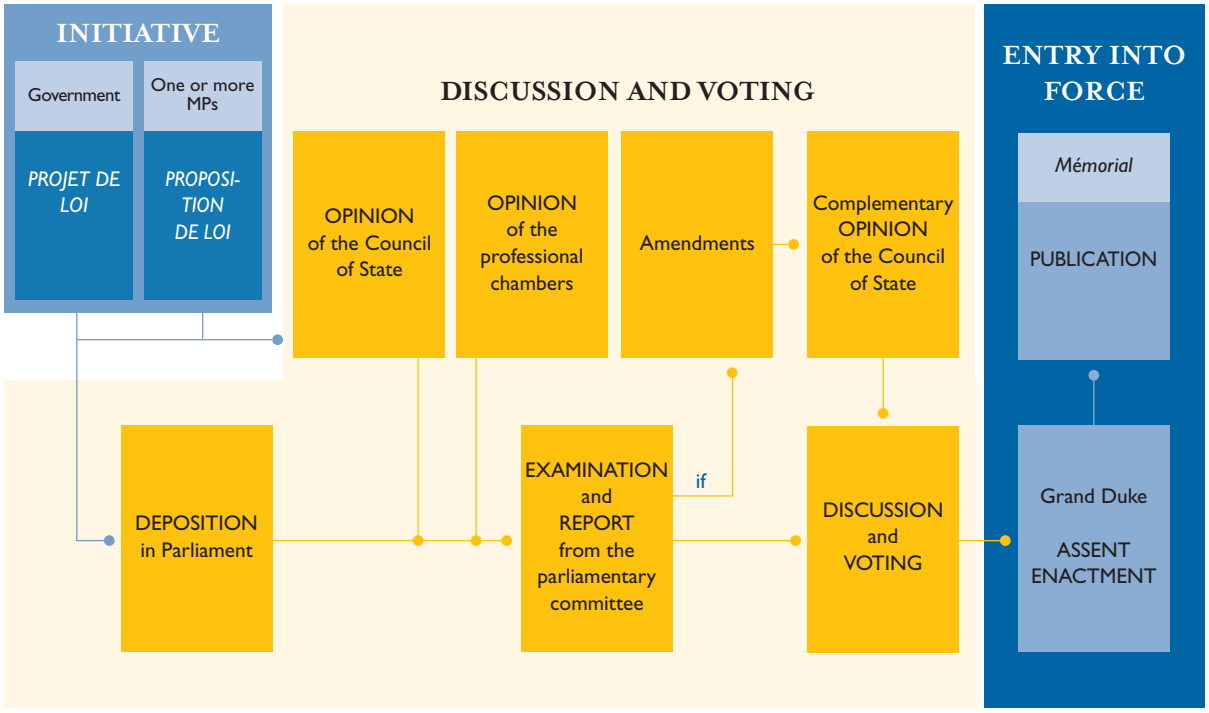
› ***proposition de loi.*** One or more MPs may bring in a bill, which is submitted to the Conference of Presidents of the Parliament, which decides on its referral to a committee. The text of the proposal is submitted to the Council of State for its opinion and sent to the government for its position.

Once the Council of State has given its opinion, the bill is sent to the relevant parliamentary committee which examines it and reports to Parliament.

The debate in plenary session of Parliament is conducted in two stages: a general discussion and a discussion article by article. Any deputy may propose amendments.

In Luxembourg's unicameral system, once Parliament has voted on the draft, it must vote a second time on the whole text after a period of at least three months. It can however dispense with this vote if the Council of State accepts the waiver. If the latter does not give its consent, Parliament must hold a second vote after a minimum period of three months.

The law finally adopted by Parliament enters into force only after it has been granted royal assent, enacted by the Grand Duke, and published in the *Mémorial* (compendium of legislation).



Source: http://www.scl.etat.lu

III. The electoral system

1) Parliament

Sixty MPs are elected every five years. If Parliament is dissolved, new elections are held within three months of the dissolution.

Elections are direct and by secret ballot. MPs are elected on the basis of a mixed one-person-one-vote suffrage and a party list system of proportional representation. Any Luxembourg citizen who satisfies the legal conditions is entitled to participate in the elections. Voting is compulsory for voters on the electoral registers.

To qualify as a voter a person must be a Luxembourg national, at least 18 years old and enjoy civic and political rights, which means never having been convicted of a criminal offence.

To stand for election a person must be at least 18 years old, be domiciled in the Grand Duchy and satisfy the same conditions as those applicable to voters.

The office of MP is incompatible with the duties of government member, judge or member of the Council of State.

Electoral constituencies

There are four electoral constituencies:

› the southern constituency
(the cantons of Esch-sur-Alzette and Capellen),
23 MPs;
› the eastern constituency
(the cantons of Grevenmacher, Remich and Echternach),
7 MPs;
› the central constituency
(the cantons of Luxembourg and Mersch),
21 MPs;
› the northern constituency
(the cantons of Diekirch, Redange, Wiltz, Clervaux and Vianden),
9 MPs.

Allocation of seats

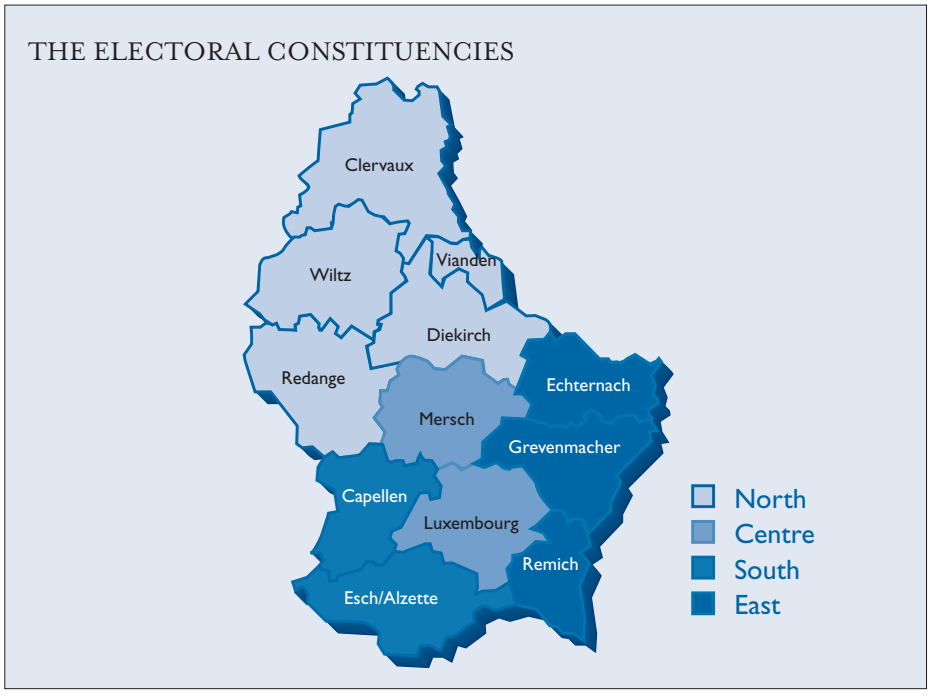
Elections are held using a system of proportional representation. The distribution of votes is peculiar to Luxembourg law. Voters in fact have a choice: they have as many votes on one or more lists as there are seats to fill per constituency; they can either put all their electoral weight behind the one list or give their preferential votes to the candidates of their choice.

The allocation of seats complies with the rules of proportional representation and conforms to the principle of the smallest electoral quotient. This system ensures that small political groups are fairly represented.

The political parties represented in Parliament (2004)

Christian Social Party (CSV)	24 MPs
Luxembourg Socialist Workers' Party (LSAP)	14 MPs
Democratic Party (DP)	10 MPs
The Greens (Déi Gréng)	7 MPs
Action Committee for Democracy and Equity in Pensions (ADR)*	4 MPs
Independent member	1 MP

* In April 2004 ADR changed its name from Aktiounskomitee fir Demokratie a Rentegerechtegkeet to Alternativ Demokratesch Reformpartei (Alternative and Democratic Reform Party).



2) The municipalities

There are no provinces or departments in the Grand Duchy. The only political subdivision of the country is the municipality.

The municipality is a legal entity. It manages its assets and raises taxes through local representatives, overseen by the central authority represented by the Minister of the Interior.

There are 116 municipalities. Each municipality has a municipal council directly elected for a six-year term by those inhabitants of the municipality who are entitled to vote. The day-to-day management of the municipality falls to the mayor, or indeed the municipal executive, bodies emanating from the municipal council.

In principle elections are held according to the relative majority system. However, if the number of inhabitants exceeds 3 000, elections are held by system of proportional representation, along the lines of general elections.

Acting through the government, the Grand Duke has the right to dissolve the municipal council, in which case elections are called within three months of its dissolution.

To be eligible to vote in municipal elections, one must satisfy the following conditions:

› be 18 years old on the day of elections;
› enjoy civic rights and not have forfeited voting rights in the Member State or in the state of origin;
› for Luxembourg nationals, be domiciled in the Grand Duchy;

› for foreign nationals, be domiciled in the Grand Duchy and have lived there for at least five years at the time of application for registration on the electoral roll.

To stand for election, one must be a Luxembourg citizen or national of another European Union Member State, be at least 18 years old, have been habitually resident in the municipality for six months and have been domiciled in the Grand Duchy for at least five years.

European elections

Since 1979 the representatives of the Grand Duchy of Luxembourg in the European Parliament have been directly elected for a five-year term. The Grand Duchy is entitled to six representatives in the European Parliament. The date of European elections is set by grand-ducal regulation. This regulation may choose the same date for European Parliament elections and national Parliament elections, as is usually the case.

Nationals of the European Union have the right to vote or stand for election, even if they are not living in their country of origin. A series of conditions are attached to this voting right.

To be eligible to vote one must:

› be a national of Luxembourg or of another Member State of the European Union;
› be at least 18 years of age on the day of elections;
› enjoy civic rights and not have forfeited the right to vote in the Member State of origin;
› for Luxembourg nationals, be domiciled in the Grand Duchy; however, Luxembourg nationals domiciled abroad are entitled to a postal vote;
› for nationals of another Member State of the European Union, be domiciled in the Grand Duchy and have lived there for at least five years at the time of application for registration on the electoral roll.

To stand for election one must:

› be a national of Luxembourg or of another Member State of the European Union;
› enjoy civic rights and not have forfeited political rights in the Grand Duchy of Luxembourg or in the Member State of origin;
› be at least 18 years of age on the day of elections;
› for Luxembourg nationals, be domiciled in the Grand Duchy;
› for nationals of another Member State of the European Union, be domiciled in Luxembourg and have lived there for at least five years at the time the list of candidates is submitted.

IV. The main advisory bodies

1) The professional chambers

The primary purpose of the professional chambers is to safeguard and defend the interests of the professional groups they represent.

They have the right to submit proposals to the government on matters for which they are competent. After examining these proposals, the government can forward them to Parliament. The opinion of the professional chambers concerned must be sought on any bills or grand-ducal and ministerial regulations relating to their sphere of competence.

The composition of the professional chambers is determined by elections within each socio-professional group represented. Any person working in a profession covered by one of the professional chambers must join that chamber and every member, whether a Luxembourg national or foreigner, is entitled to vote or abstain from voting.

The Chamber of Commerce on the Kirchberg Plateau

There are six professional chambers in the Grand Duchy, three of which represent employers and three represent workers:

- the Chamber of Commerce;
- the Chamber of Private Employees;
- the Chamber of Civil Servants and Public Employees;
- the Chamber of Trades;
- the Chamber of Labour;
- the Chamber of Agriculture.

2) The Economic and Social Council

The Economic and Social Council (ESC) is an advisory body responsible for studying, either on its own initiative or at the request of the government, the economic, financial and social problems affecting several economic sectors or the national economy as a whole. It may submit proposals to the government on the conclusion of its studies.

Each year the ESC delivers a report on the country's economic, financial and social situation, which the government forwards to Parliament.

Except in an emergency, the government requests the ESC's opinion on broad legislative or regulatory measures which it tends to take in areas concerning several economic sectors or professional groups or indeed the national economy as a whole.

The ESC is composed of representatives from heavy industry, small and medium-sized businesses, the commercial, trade, agriculture and viticulture sectors, as well as employee representatives from trade unions and government representatives.

Useful Internet addresses:

www.ce.etat.lu
The website of the Council of State presents its attributions and organisation, as well as recent notices relative to legal texts.

www.ces.etat.lu
The website of the Economic and Social Council.

www.chd.lu
The website of Parliament presents information on its organisation and role, as well as documents and session reports.

www.cour-des-comptes.lu
This website presents among others the attributions of the Court of Auditors, general and special reports, notices and reports on its activities.

www.legilux.lu
This is the judicial portal of the Luxembourg government, permitting access to the publications of *Mémorial A, B* and *C*.

www.mj.public.lu
The website of the Ministry of Justice presents notably information on services offered to citizens, jurisdictions and legal professions; it also includes downloads of forms.

www.scl.etat.lu
The website of the Service central de législation (Central Service of Legislation) presents among others its attributions, as well as the legislative procedure.

www.etat.lu
The directory of Luxembourg public websites.

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