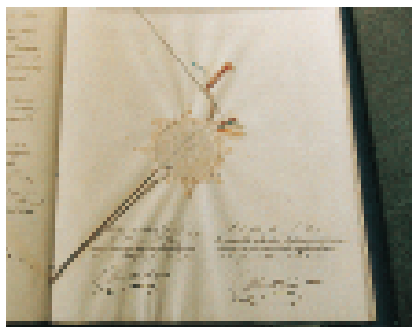




# About...

## Political Institutions

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.



“It is in our interests to invest more in bilateral relations with the other member states of the European Union. What we sow bilaterally will flourish in the European garden where fifteen countries today - and even more tomorrow - will harvest the flowers of the future. For Luxembourg, there is no alternative to the European Union, either today or tomorrow. The Government will help to make progress on the enlargement of the European Union to include countries in Central, Eastern and Southern Europe”

Extract from the Government statement made by Prime Minister Jean-Claude Juncker in Parliament on 12 August 1999

## 1. Three Branches of Power

As in many countries, the separation of powers is flexible in Luxembourg. Like all parliamentary democracies, there are many links between the legislative and executive branches, the judiciary alone remaining completely independent.

### I) Legislative Power

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

**Parliament** is made up of 60 Members of Parliament (MPs) elected for a 5-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 tabling private bills.

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

Grand Duchy of Luxembourg

Regime:  
Constitutional Monarchy

Neighbouring countries:  
Germany, Belgium, France

Area:  
2,586 km<sup>2</sup>

Population:  
448,300  
of which  
170,700  
are foreigners

Population density:  
170 inhabitants/  
km<sup>2</sup> (2000)

Unemployment rate: 4,1%  
(December 2003)



Cabinet Meeting

**The Government** has a right of initiative in legislative matters known as *governmental initiative*, which allows it to table draft bills. After being examined by the Council of State, draft 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 its 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, namely on all draft and private bills tabled before the Chamber prior to voting by the deputies. Its opinion must entail a thorough examination to ensure compliance by 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.

The Grand Ducal Palace

Its main tasks include:

- › giving its opinion on all draft and private bills;
- › examining any draft Grand Ducal regulation submitted to it;
- › deciding whether to waive the second constitutional vote, that is to say the second parliamentary vote cast at least three months after the first vote by Parliament. Its refusal of the waiver is tantamount to halt the legislative process for a period of three months but does not amount to a right of 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 for prior consideration to the cabinet.



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, so 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 the 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) The Judiciary

Under the Constitution, courts and tribunals are responsible for exercising judicial power. They are independent in the exercise of their functions. There are two branches of jurisdiction in Luxembourg: the judicial order and the administrative order. The Constitutional Court ranks on top of the judicial hierarchy.

### The Judicial Order

#### 1. The Magistrates Courts

This is the first rank of the judicial hierarchy. The three magistrates' courts have their seats in Luxembourg, Esch-sur-Alzette and Diekirch. They have jurisdiction over minor cases, as defined by law, in civil and commercial matters.

#### 2. The District Courts

The country is divided into the two judicial districts of Luxembourg and Diekirch, each of which has a district court. These courts hear and determine civil, commercial and criminal cases in the criminal or correctional division. In civil and commercial cases, they have jurisdiction over all cases not expressly assigned by law to another court.

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

#### 3. The Supreme Court of Justice

This court has its seat in the City of Luxembourg and includes:

- a Court of Cassation, consisting of a chamber in which five judges sit;
- a Court of Appeals, divided into chambers where some thirty appeal-court judges sit.

The Supreme Court of Justice meets in a general assembly primarily to rule on jurisdictional conflicts and disciplinary measures against judges. The general assembly also hears charges by Parliament against members of the Government.





## The Administrative Courts

The administrative courts are assigned by the Constitution to deal with administrative and fiscal cases.

The Administrative Tribunal hears and determines in the first instance appeals against any administrative decisions where no other recourse is admissible under the laws and regulations. It rules on appeals to set aside or alter a decision.

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

## Public Prosecutor's Department

The members of the Public Prosecution Office are headed by the State Public Prosecutor and are responsible for representing the State in the Courts and Tribunals. Accordingly, the Public Prosecution Office reports to the Minister of Justice. The chief task of the members of the Public Prosecution Office is to investigate crimes, offences and misdemeanours, enforce the law and ensure that judgements are enforced. The prosecutors within the Public Prosecutor's Department are assisted in their work by judicial police officers who record the committing of a criminal offence, trace the culprits and gather evidence.

## The Constitutional Court

The Constitutional Court is composed of nine members and sits in Luxembourg. As its name suggests, it rules on the conformity of laws with the Constitution, apart from those laws approving treaties. The public has no direct recourse to the Court. The Court exercises control ex post and cases are referred to it for preliminary rulings.



Parliament in plenary session

## 2. Legislative Procedure

Two types of legislative initiative are distinguishable:

**the draft bill.** The 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.

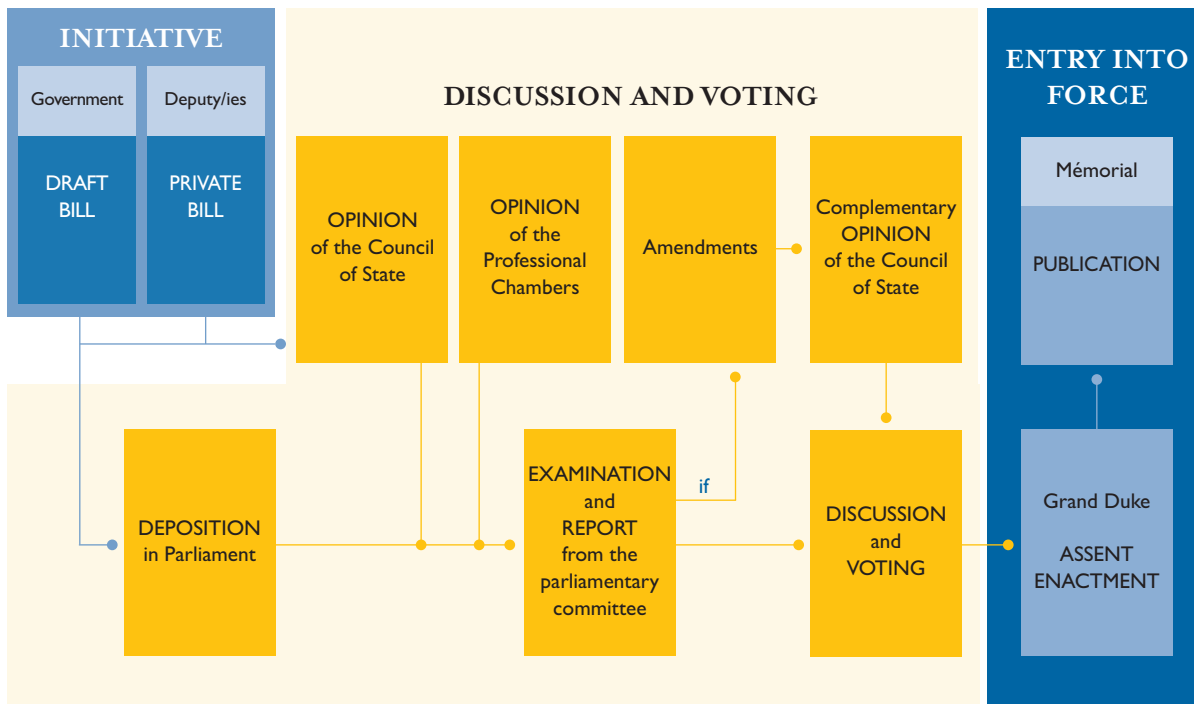
**the private bill.** One or more MPs may table a private bill, which is submitted to the Conference of Presidents of the Parliament, which decides on its referral to committee. The text of the proposal is submitted to the Council of State for its opinion and sent to the Government for its position.

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

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* (Official Journal)



Source: <http://www.etat.lu/SCL>

## 3. The Electoral System

### Parliament

60 MPs are elected every 5 years. If Parliament is dissolved, new elections are held within 3 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 with 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 4 electoral constituencies:

- › the SOUTHERN constituency (the cantons of Esch-sur-Alzette and Capellen), with 23 Deputies
- › the EASTERN constituency (the cantons of Grevenmacher, Remich and Echternach), with 7 MPs
- › the CENTRAL constituency (the cantons of Luxembourg and Mersch), with 21 Deputies
- › the NORTHERN constituency (the cantons of Diekirch, Redange, Wiltz, Clervaux and Vianden), with 9 MPs.

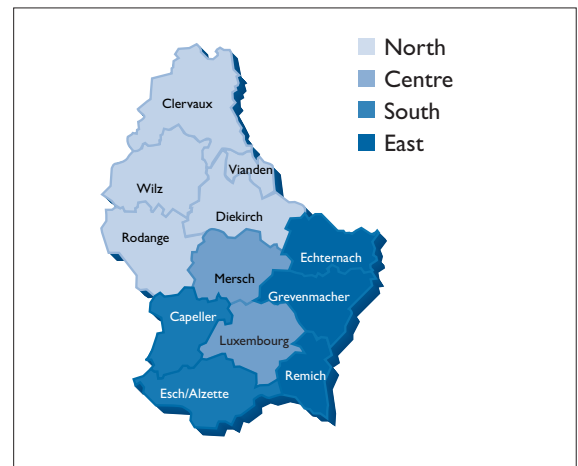
#### Allocation of Seats

Elections are held using a party-list system. 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 (1999)

Christian Social Party (CSV)	19 deputies
Democratic Party (DP)	15 deputies
Luxembourg Socialist Workers' Party (LSAP)	13 deputies
Action Committee for Democracy and Fair Pensions (ADR)	7 deputies
The Greens	5 deputies
The Left	1 deputy



## The Communes

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

The commune 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 118 communes. Each commune has a communal council directly elected for a six-year term by those inhabitants of the commune who are entitled to vote. The day-to-day management of the commune falls to the mayor, or indeed the municipal council, bodies emanating from the communal 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 party list with proportional representation, along the lines of general elections.

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

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

- › be 18 years old on the day of the election;
- › 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 5 years, at the time of application for registration on the electoral roll.

To stand for election, one must be Luxembourg citizens or nationals of another European Union member state, at least 18 years old and have been habitually resident in the commune for six months and have been domiciled in the Grand Duchy for at least 5 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 6 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 general elections Parliament, as is usually the case.

Nationals of the European Union have the right to vote, actively or passively, 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 election day;
- › 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 of the past six 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 residence or in the member state of origin;
- › be at least 18 years of age on the election day;
- › 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 5 years, at the time the list of candidates was submitted.



## 4. 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 draft bills or Grand Ducal and ministerial regulations relating to its 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.

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 Handicrafts;
- › 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 Council 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 Council's opinion on broad legislative or regulatory measures which it is considering taking 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 and handicraft, agriculture and viticulture sectors, as well as employee representatives from trade unions and Government representatives.

### Bibliography

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