

## OPAL Country Reports

# The Luxembourg Parliament and EU Affairs

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**To cite this report:** A. Spreitzer (2012), *OPAL Country Reports: The Luxembourg Parliament and EU Affairs*, weblink

# OPAL Country Report on the Luxembourg Parliament<sup>1</sup>

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<b>I. General Position of Parliament in the Constitutional Balance of the Member State: Constitutional and institutional factors</b>	
This section looks at the role of Parliament in the political system, to help us understand the relative power position of the legislature.	
1.1	What is the type of government in the political system of your member state? (i.e. parliamentary or semi-presidential)
	Parliamentary
1.2	Is it a uni- or bicameral Parliament? If bicameral, is one house dominant or are both equally strong? Please briefly explain.
	Unicameral
1.3	Is the state federal, decentralized or unitary? If applicable, is it a form of asymmetrical federalism?
	Unitary
1.4	Briefly describe the electoral system, if applicable, for each chamber.
	Legislative elections take place every 5 years, and since the first direct elections to the European parliament in 1979, they are held at the same date with European elections. The country is divided into four constituencies. The electoral law attributes the number of seats based on the share of population living in the respective constituency (23 South, 21 Centre, 9 North, 7 East). Voting is obligatory, from 18 up to the age of 75 and the electorate may cast their votes for a single party (list vote) or for candidates from one or more parties (this personal vote is referred to as inter-party “panachage”).
1.5	What (f)actors can prevent the parliament agreeing on EU legislation and/or treaty reform? (e.g. a constitutional court, or public referenda on questions of EU integration)
	Neither the Constitutional Court, nor referenda may formally prevent parliament from ratifying EU treaties or legislation: The Constitutional Court may be evoked regarding all laws, except laws ratifying international treaties (Constitution luxembourgeoise (2009), Article 95ter.). Referenda are not binding in Luxembourg, however, politically decisive. The Council of State checks the constitutionality of bills ex ante and has a suspensive veto of three months.

<sup>1</sup> This country report provides some basic data that has been collected in the context of the research for a chapter to be published in C. Heffler, C. Neuhold, O. Rozenberg, J. Smith & W. Wessels (Eds.). (forthcoming in 2014). *The Palgrave Handbook of National Parliaments and the European Union*. London: Palgrave, Macmillan.

## 2. General Position of Parliament in the Constitutional Balance of the Member State: Political Factors

This section is about the basic political factors which might influence parliament's strength in relation to the government.

2.1	What is the type of government after the most recent elections e.g. single party, minority, coalition, oversized coalition government?		
	Coalition government		
2.2	When were the most recent general elections and what were the results? Could you please give a short list of the parliamentary groups, their no. of seats in parliament and ideological position?		
	Latest election:	2009	
	Name of the party	No. and percentage of seats in parliament	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, Christian democrat, extreme right, ethnic minority or regionalist party)
	CSV	26 (43.3%)	Conservative
	LSAP	13 (21.7%)	Socialist
	DP	9 (15%)	Liberal
	déi gréng	7 (11.6%)	Green
	ADR	4 (6.7%)	Sovereignist
	Déi Lénk	1 (1.7%)	Leftist
2.3	How polarized was parliamentary debate over ratification of the Lisbon Treaty? Which parliamentary party groups supported and which opposed ratification?		
	<p>The Lisbon Treaty was ratified with 47 votes for (CSV, LSAP, DP, and déi gréng), 1 against (independent deputy Aly Jaerling, former ADR) and 3 abstentions (ADR)<sup>2</sup>.</p> <p>The debate was consensual rather than polarized, as European integration is clearly supported by the main Luxembourgish parties. The <u>Conservatives</u> touched future enlargements during the debate. The discussion revealed that it is internally split when it comes to the accession of Turkey to the EU<sup>3</sup>. The <u>Socialists</u> did not see any controversy the treaty brought along, and rather criticised the liberal policies introduced by the European Commission<sup>4</sup>. The <u>Liberals</u> declared to "vote unconditionally for the Lisbon Treaty"<sup>5</sup>. The <u>Greens</u> saw the Treaty as a "necessary step in order to close the 15 year-debate on reform in Europe and to make the Union capable of acting and ready for the future"<sup>6</sup>, but criticised that the debate about Europe was not</p>		

<sup>2</sup> 5833 - Projet de loi portant approbation du Traité de Lisbonne modifiant le Traité sur l'Union européenne et le Traité instituant la Communauté européenne, des Protocoles, de l'Annexe et de l'Acte final de la Conférence intergouvernementale, signées à Lisbonne, le 13 décembre 2007.

<sup>3</sup> Cf. comment of Jean-Claude Juncker concerning the speech of Laurent Mosar, Compte rendu de la Séance 43, jeudi, 29 mai 2008, p. 546.

<sup>4</sup> Ben Fayot, Compte rendu de la Séance 43, jeudi, 29 mai 2008, p. 543.

<sup>5</sup> Charles Goerens, Compte rendu de la Séance 43, jeudi, 29 mai 2008, p. 547.

<sup>6</sup> Félix Braz, Compte rendu de la Séance 43, jeudi, 29 mai 2008, p. 548.

	improved since the negative referenda in France and The Netherlands, and that the concerns of the people could have better taken into account. The <u>ADR</u> opposed the Treaty (as it did already for the Constitutional Treaty), criticising the secretive way it was negotiated and its complexity, leaving citizens out of the debate <sup>7</sup> . (The ADR has introduced a motion in order to hold a referendum on the Lisbon Treaty. The motion was rejected.)
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### 3. New Provisions of the Lisbon Treaty on Direct Contact with EU Institutions

The Lisbon Treaty provides national parliaments with new opportunities for direct contact with the EU institutions. This section addresses the incorporation of the new Lisbon provisions into national law and concrete procedures. Questions 3.3 to 3.5 investigate in how far these procedures have been used.

3-1	<p>Have there been any regulations adopted by your member state to incorporate the new powers that are entrusted to the national parliaments by the Treaty of Lisbon? If so, please list the regulations in their appropriate categories:</p> <p>a. Constitutional provisions</p> <p>b. Legal provisions - Statutory provisions</p> <p>c. Parliamentary Standing Orders</p> <p>d. Other (please specify)</p> <p>Is this process complete or ongoing?</p>
	<p>b. Every change in the RoP of the Chamber has to be adopted in form of a law (see point c for the modifications with regards to European affairs).</p> <p>c. Rules of procedures of the Chamber</p> <p>- in 2003: Chapitre 10, Art. 156 «Des affaires européennes»</p> <p>- in 2009: Chapitre 16, Art. 168 (1), (2) «Des affaires européennes », including « Annexe 2: «Aide-Mémoire sur la coopération entre la Chambre des Députés et le Gouvernement du Grand-Duché de Luxembourg en matière de politique européenne».</p> <p>- in 2010: Art. 168 (2), (4), (5), (6), (7)</p> <p>d. Parliament internal documents</p> <p>The process is complete.</p>
3-2	What exactly are the rules (i.e. parliamentary bodies involved, procedure, regional parliament's involvement, cooperation in bicameral systems) for...
3.2 i	The "Political Dialogue" with the Commission
	The Chamber bases its evaluation of EU documents on the texts sent by the European institutions. Article 169 (former 168) fixes the procedure concerning the control of subsidiarity. If a resolution stating a breach of the subsidiarity principle is not considered appropriately by the Commission, Article 169(6) introduces the possibility to go before the ECJ.
3.2 ii	The Early Warning Mechanism (EWM)

<sup>7</sup> Jacques-Yves Henckes, Compte rendu de la Séance 43, jeudi, 29 mai 2008, p. 551.

	The RoP state in Article 169(5) that every special committee decides within 4 weeks' time after the official transmission of a legislative proposal with the majority of its members, if it drafts a reasoned opinion. If a breach of the subsidiarity principle was concluded, parliament adopts a resolution within the 8 weeks-time limit, without debate in plenary, unless other is decided.
3.2 iii	The "Passarelle clause"
	There are no specific rules foreseen. However, when answering a parliamentary question introduced by the opposition, the government stated that the application of article 42 of the TEU would be subject to approval by the Chamber <sup>8</sup> . And the Chamber apparently was consulted in case of "A Citizens' Agenda – Delivering Results for Europe" (COM(2006)211 fin) <sup>9</sup> .
3.2 iv	The action of annulment before ECJ on breach with the subsidiarity principle (What quota of MPs is needed to enforce the action of annulment?)
	If the Chamber sent a reasoned opinion on the breach of the principle of subsidiarity, and it was not taken into consideration by the European institutions, the Chamber may decide to go in front of the ECJ by adopting a respective motion in plenary session by a simple majority of deputies. Motions may be introduced by any deputy, with the support of four other members of parliament (Art. 85 RoP). If no plenary session is foreseen, the Conference of Presidents takes the decision (Art. 169(6) RoP).
3.2 v	Accession of new member states to the EU
	The government informs the Chamber if an inter-governmental conference is scheduled, which tends to re-negotiate the accession of a country to the EU. The government transmits its position at the earliest possible date ("dans les meilleurs délais") and furthermore informs and consults the Chamber during the negotiations (Annexe 2.V (1) RoP).
3.3	How actively does the parliament engage in the political dialogue and "early warning mechanism" with the Commission?
	Quite active: During the current session, the Chamber has already adopted 8 resolutions which were sent to the Commission <sup>10</sup> .
3.4	Has parliament ever threatened to bring a legislative act to the ECJ because of subsidiarity concerns?
	No
3.5	If applicable to your member state, how does parliament proceed on the ratification of: a. Treaty Establishing the European Stability Mechanism, signed 2 Feb 2012 b. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, signed 2 March 2012
	a. The Chamber has ratified the Treaty Establishing the European Stability Mechanism (bill proposal 6405, adopted in public session 34, on June 26 2012 with 49 votes for and 5 against), after the Committee on Finance and Budget has examined the bill project. b. The government has introduced bill project 6449 (of 24.7.2012) on the Treaty on Stability, Coordination and Governance in the Economic Monetary Union. It is currently examined in

<sup>8</sup> Réponse à la question parlementaire N°1326 du 5 octobre 2006 de Monsieur de Député Jacques-Yves Henckes.

<sup>9</sup> Cf. Annexe to the 6th Bi-annual report of COSAC: National Parliaments' replies to the questionnaire, November 2006, p. 131.

<sup>10</sup> Cf. website of the Chamber, La Chambre et l'UE: [www.chd.lu](http://www.chd.lu), last access: September 10, 2012

	the Committee on Finance and Budget.
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