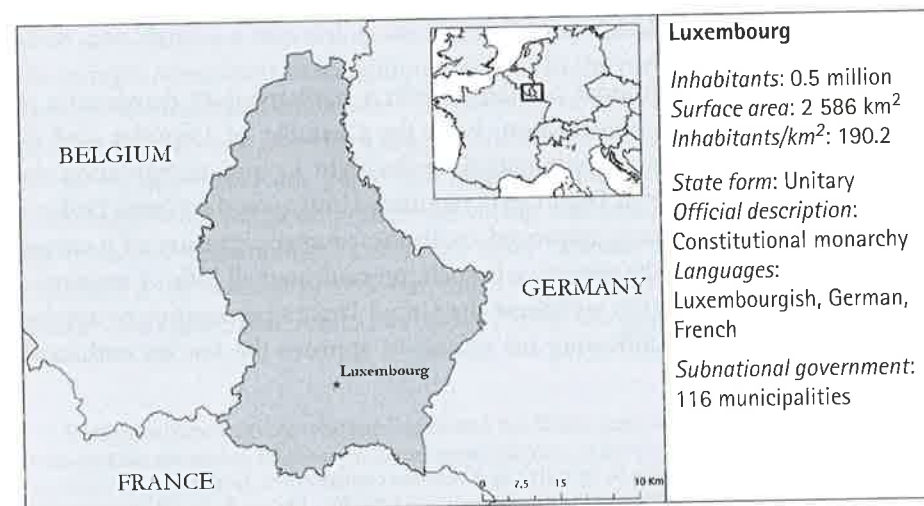


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CHAPTER 5

LUXEMBOURG: THE CHALLENGE OF INCLUSIVE DEMOCRACY IN A 'LOCAL STATE'

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Map 5.1 Luxembourg

INTRODUCTION AND HISTORY

The Grand Duchy of Luxembourg was created by the Great Powers at Vienna in 1815 as a state distinct from the Kingdom of Netherlands—but in personal union with the Dutch crown—and as a member of the German confederation, after having been a French department from 1795, and having shared Belgium's institutional fate for several centuries. Between 1830 and 1839, after the Belgian revolution, the Grand Duchy (with the exception of Luxembourg City)¹ was integrated into the new Kingdom of Belgium. Luxembourg became an independent state only in 1839 but lost 60 per cent of its territory and almost half of its population (the French-speaking section) to Belgium at the Treaty of London.² The Grand Duchy of Luxembourg then became a unified constitutional parliamentary monarchy under its first liberal constitution in 1848, of which three-quarters of the articles are identical to, or very slightly adapted from, those of the 1831 Belgian constitution (Poirier 2008: 134).

Confined to its 2,586 km² territory and with a population of less than 200,000 inhabitants at the time (493,500 nowadays), the Grand Duchy was set up as a unitary state with a single tier of subnational government, the municipality. The organization and delimitation of these municipalities essentially follows French legislation dating back to the late eighteenth century. The first municipal law was implemented in 1843 and revised and modernized in 1988.

THE INSTITUTIONAL EXPRESSION OF DEMOCRACY

Luxembourg is a constitutional monarchy with a parliamentary democratic regime. Under the present constitution, both the Chamber of Deputies and the monarch (in practice, the government) have the right to initiate legislation and the assent of the Chamber of Deputies is required. Until 2009 the Grand Duke, as part of the legislative branch, approved (with the counter-signature of a cabinet minister) and, as part of the executive branch, promulgated all bills. A revision of article 34 of the Constitution withdrew the Grand Duke's prerogative to approve (*sanctionner*) legislation, following his refusal to approve the law on euthanasia voted by the Chamber.

¹ Still under Dutch control due to its status as a German confederation fortress.

² Until 1890, the Kingdom of Netherlands and the Grand Duchy of Luxembourg, however, shared the same sovereign.

Other bodies intervene in the legislative process. First, the Council of State,³ designed in 1856 as the legal advisor to the government, must issue an opinion on each bill or amendment before a final vote is taken in the Chamber, and, since 1868, it may use its right to ask for a second 'constitutional' vote at least three months after the first parliamentary vote (potential right of veto of suspension). This disposition was introduced as a proxy for a second legislative chamber—which was felt inappropriate for a small country—as it provided for a period of reflection (amongst deputies) and discussion (given the publicity of the decision of the Council of State to ask for a second vote public opinion was supposed to be able to make its voice heard) before a legislative decision was eventually formally taken. Second, since 1924 the elected professional chambers have to issue an opinion before the Chamber of Deputies can hold a final vote (these opinions are non-binding) on bills relating to particular professional interests, including appropriations in the national budget. Finally, a 1977 government bill created the 'Tripartite committee' for crisis management. It issues advice when some unemployment thresholds are reached. Not only is this process compulsory, but in practice its recommendations are also binding. The Chamber of Deputies does not take part in this interchange between labour (employers and workers) and government representatives. This neo-corporatist device is quite important and respected in Luxembourg (Hirsch 1986). Additionally, several institutions controlling or supplementing the activity of elected politicians were recently created: a Constitutional Court in 1996, a Court of Auditors in 1999, and the office of the Ombudsman in 2004.

Luxembourg citizens (only) aged between 18 and 75 are obliged to vote for the election of the sixty deputies⁴ for a five-year term. Proportional representation is based on four electoral constituencies (the South elects twenty-three deputies, the Centre twenty-one, the North nine, and the East seven), whereas for elections for the European Parliament, which have been held at the same time as national ones ever since 1979, there is a national constituency electing six MEPs. The electoral formula discourages newcomers from fighting elections in the two smallest constituencies. In each of the constituencies the voter has the same number of votes as there are seats to be filled and may cast them for a single party list (list vote) or may vote for candidates of one or more than one party (the latter possibility is referred to as inter-party *panachage*). Since the 1970s, preferential voting, and especially inter-party *panachage*, has increased tremendously, and at the 2004 national elections, half of the voters expressed a (or several) preferential vote(s) rather than a list vote (Dumont et al. 2006). This shows that voters increasingly seize the opportunity that the electoral

³ It consists of twenty-one members appointed for fifteen years, seven directly from the Grand Duke and the remaining fourteen on the recommendation of the Council itself or of the Chamber of Deputies.

⁴ This number is constitutionally fixed since 1989. Before 1989, the number of seats in each constituency was linked to total population figures.

Table 5.1 Distribution of valid votes and parliamentary seats by party in the 2009 parliamentary election

Party	Valid votes ¹	% of votes ²	Seats	% of seats
CSV	1 129 368	38.14	26	43.33
LSAP	695 830	21.56	13	21.67
DP	432 820	14.98	9	15.00
déi gréng	347 388	11.71	7	11.67
ADR	232 744	8.13	4	6.67
déi Lénk	109 184	3.29	1	1.67
KPL	49 108	1.47	0	0
Biergerlëscht	28 512	0.81	0	0
Total	3024 954	100	60	100

¹ Each voter is entitled to cast as many votes as there are seats to be allocated in her constituency; she can either express a preferential vote by casting either one or two votes for one or several candidates (from one or more party lists) or issue a list vote (the party will then receive as many votes as there are seats to be allocated in the constituency).

² The percentage figures for the overall country are weighted according to the strength in seats of each of the four constituencies; hence these figures cannot be directly derived from the absolute vote figures of the first column.

Source: Elections.Public.lu, le site officiel des élections au Grand-Duché de Luxembourg, <http://www.elections.public.lu/fr/elections-legislatives/2009/resultats/index.html>

system gives to vote on personalities rather than parties and their ideologies.⁵ Luxembourg's proportional electoral system has led to the constant need to form coalitions (except for the 1921–5 period) in order for governments to have a majority in parliament. This need and the proximity between voters and their representatives in a small society has constrained political competition, with parties aggregating the social demands of their electoral clientele but refraining from claiming radical policy changes in order to remain 'coalitionable' (Dumont and De Winter 2000). The results of the last national elections that took place in June 2009 confirmed the precedent coalition composed by the Christian-social party (CSV) that gained two seats and the socialist party (LSAP) that lost one seat.

Another form of citizens' political involvement within the framework of representative democracy is the formulation of petitions. The overall average of petitions addressed to the Chamber of Deputies is five a year (292 since 1946), but there has been a clear decrease of the number of petitions in recent years,⁶ a drop that may be a consequence of the creation of the office of the national Ombudsman in 2004. More than one-third of petitions are related to local issues.

⁵ Electoral studies since the 1970s confirm that those parties that present well-known politicians (the Liberals and the Christian Democrats) benefit from panachage, whereas those traditionally relying on a well-defined ideology and newer parties (such as the Greens and the sovereignist ADR) have more disciplined electorates expressing list votes.

⁶ The average rate of petitions per year in the period 2001–4 has 11, with only 6.75 from 2005 to 2008.

Referendums can be held at the national level, but from its creation in 1919 to 2005 this instrument has been used on just three occasions (twice in 1919 and once in 1937). In 1919, referendum settled in favour of the monarchy rather than the installation of the republican regime and the other in favour of an economic union with France. The uncertainties associated with the referendum explain why parliamentary majorities have refrained from using it more often. However, since 1999 governments have pleaded for more opportunities for direct democracy: a 2003 constitutional reform introduced the possibility of having a popularly initiated referendum on constitutional amendments, and in 2005 a referendum took place on the European Constitutional Treaty. Even though Luxembourg is a notoriously Europhile country this Treaty was adopted by a mere 56.5 per cent majority. This result reflected fears of the potential negative effects of European integration on the social and fiscal advantages the country has, and threats of the weakening of national identity in the context of the enlargements of the European Union (Dumont et al. 2007).

The campaign over the 2005 referendum modified to a certain extent the traditional means of political communication and participation. The Chamber of Deputies held more than ten debates outside of Luxembourg City, and party leaders organized countless meetings all around the country to inform citizens. Until this campaign, the use of the internet for promoting political participation was still limited: in 2004 only one out of five political parties offered the possibility to debate about political matters on their official website, compared to an EU average of 47 per cent (Kies et al. 2004). It has improved since then, as witnessed by recently blooming citizen-initiated websites intended as forums⁷ and the use of social networks such as Facebook in the electoral campaign of 2009.

THE INSTITUTIONAL EXPRESSION OF SUBNATIONAL DEMOCRACY

The institutional framework

As mentioned above, Luxembourg has only two levels of representative assemblies and political decision-making, the state and the municipalities (*communes*) which are closely intertwined due to the small size of the country, the local

⁷ See for example: <http://www.lux-forum.lu/>; <http://sokrates.lu/>. These websites and forums are, however, mainly run in Luxembourgish and therefore limit the participation of all country residents.

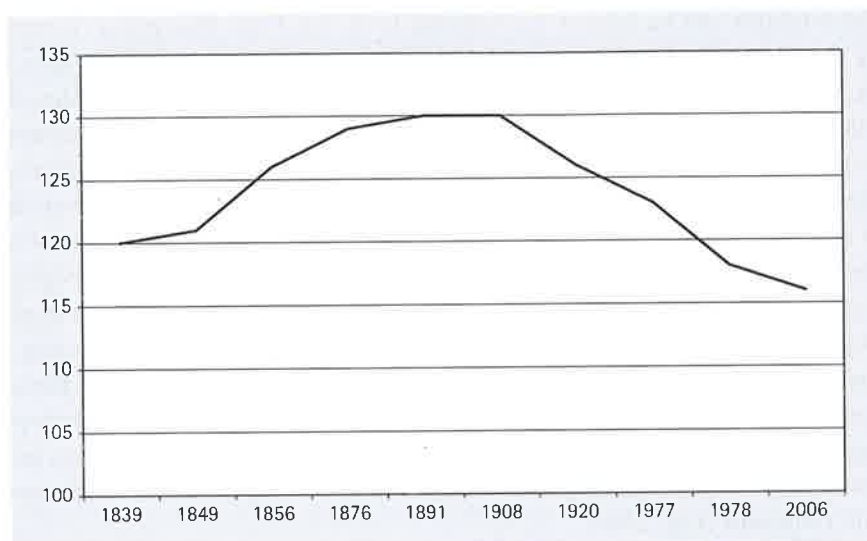


Figure 5.1 Evolution of the number of communes from 1839 to 2006

engagements of many deputies and the intermediary role played on behalf of the national government by the district commissioner.

This very centralized form of local governance essentially dates back to the French revolutionary legislation of 1789 and 1790, applied from the beginning of the French occupation of Luxembourg in 1795. These decrees list a number of local competencies such as police and public order, prevention of pollution, calamities such as epidemics, or waste management, to which was added the management of social services for the elderly in 1796. The 1843 municipal law developed the system of local government which is still largely in use in Luxembourg, and the 1848 constitution contained a section on the municipality level as well (see Fig. 5.1).

The current delimitation of municipalities derives largely from this period, despite the fact that municipalities have gained a number of competencies comparable to those in other European countries (participation in the provision of education, housing, sports, tourism and culture, land planning, etc.) In contrast to Belgium and the Netherlands, Luxembourg did not drastically reduce the number of its local entities (Hendriks 2001: 179): from the 120 municipalities of 1843 to 130 in the late nineteenth century, it decreased only to 116 today despite a governmental campaign aimed at voluntary fusions in the 1970s.⁸ As a result, currently many municipalities have a very limited population: apart from the city of Luxembourg that nowadays counts almost 90,000 inhabitants, there are only six other municipalities with more than 10,000 inhabitants whereas half of the country's municipalities count fewer than 2,000 inhabitants.

⁸ In 1976 a project bill discussed in parliament stipulated that the numerical goal of these voluntary fused municipalities was 39 (from 129 municipalities at that time).

Table 5.2 Distribution of municipalities and population by municipal population size, 2009

Population size	Number of municipalities	% of municipalities	Sum of population	% of population
Up to 1,000	15	12.9	11 090	2.25
1,001–2,500	55	47.4	88 016	17.84
2,501–5,000	24	20.7	88 819	18.00
5,001–7,500	10	8.6	64 264	13.02
7,501–10,000	5	4.3	41 176	8.34
10,001–15,000	2	1.7	27 041	5.48
15,001–25,000	3	2.6	54 655	11.07
25,001–50,000	1	0.9	29 853	6.05
50,001–100,000	1	0.9	88 586	17.95
Total	116	100.0	493 500	100.00

Source: STATEC, Le portail des statistiques du Grand-Duché de Luxembourg, <http://www.statistiques.public.lu/fr/population/index.html>

The district, an administrative entity created during Dutch occupation (there were originally eight but only three left following the partition of Luxembourg in 1839) is the intermediary level between the state and the municipalities.⁹ Whereas the constitution recognizes the principle of local autonomy for municipalities—i.e. they are autonomous territorial authorities with legal personality entitled to manage their assets and local interests—its drafters organized administrative supervision and control exercised by the Grand Duke and the Minister of the Interior, and, under the authority of the government, through *district commissioners*. This supervision aims at safeguarding legality and the 'general interest' against harmful inertia, excess, and encroachment of the local authorities into areas beyond their competence. Its scope is large, since, despite the 1988 revision of the 1843 municipal law which restricted the list of *a priori* approbations, a large number of municipal acts still need to be approved by these higher authorities (municipal taxes, budgets, nominations of municipal personnel, etc.) Formally, the Grand Duke may cancel any act that is considered illegal or against the general interest and the Minister of the Interior can suspend the execution of any such acts, but such decisions have been very rare in Luxembourg's history. The prerogative of the Grand Duke (as head of state) to dissolve the municipal council or to suspend or

⁹ Those districts are subdivided into 12 cantons which are essentially geographical units that allow for the division of the territory into these three administrative districts, but also into electoral constituencies (four), and into the judicial districts that delimit the territorial jurisdiction of the courts of Luxembourg and Diekirch.

revoke individually the members of the local executive when the management of the municipality is endangered has proved more effective. Moreover, the central state has also sometimes used its power to substitute for local action by appointing a special commissioner.

Each municipality is composed of a municipal council and a board of mayor (*bourgmestre*) and aldermen. The number of councillors depends on the population of the municipality (including foreigners and minors), and ranges from seven members for municipalities with fewer than 999 inhabitants to nineteen for municipalities with more than 20,000. Luxembourg City is the exception with twenty-seven councillors. The corporate board consists of a mayor and two aldermen for municipalities with fewer than 10,000 inhabitants, the number of aldermen growing to three and four respectively for municipalities with a population greater than 10,000 and greater than 20,000, again with a maximum of six in the case of Luxembourg City. This board is not only the organ of local self-government but also the representative of the central government in the municipality, as it is responsible for enforcing national laws and regulations on the territory of the municipality.

The members of the council are elected for a six-year term. Since 2003, voting is open to national, EU, and non-EU citizens over 18, but the latter two are required to have been resident for five years before the date of registration as a voter.¹⁰ Voting is compulsory for all registered voters, and non-nationals participating in the local elections in Luxembourg keep their right also to vote at local elections in their country of origin. The eligibility right is only open to national and EU citizens. For nationals six months' residency in the municipality is sufficient, whilst EU citizens (as for voting) need five years of residence. The opening of eligibility and voting rights to non-nationals is very recent and the procedure is still constricting.

Two electoral systems coexist for the election of municipal councillors: a Westminster-type majoritarian system is applied for municipalities with fewer than 3,000 inhabitants and proportional representation is used for those with a larger population. In the first system each candidate is presented individually, whilst in the second candidates are presented on an electoral list that does not necessarily correspond to a political party. The members of the corporate board of burgomaster and aldermen are nominated among the Luxembourgish members of the municipal council. The Grand Duke then formally appoints all the mayors and the board members of the twelve municipalities legally designated as 'cities', whereas the aldermen of the other municipalities are designated by the Minister of the Interior. In practice, these central authorities follow the suggestions that the municipal council informally sends to them after the election. According to our

¹⁰ Note that the procedure of voluntary registration causes long delays between its closing date and elections.

survey of mayors,¹¹ the most relevant criterion for designating the members of this board is the number of preferential votes of candidates (70.2 per cent). For the municipalities based on the proportional electoral system only, the position on the electoral list (40 per cent) is also relevant, whilst for municipalities using the majoritarian system, experience (48 per cent) comes as the second criterion. Maybe partly due to the low number of offices to fill, goals regarding a balanced representation in terms of villages or sections, or with regard to gender or age, are clearly disregarded.

Overall, central government still operates remarkably close to the local level in Luxembourg (Hendriks 2001: 178). Awarding more autonomy to municipalities that would be strengthened through an increase in size is, however, the goal of plans currently discussed at the national level.

Subnational politics

The weight of political parties in local democracy varies greatly according to the electoral system in use in the municipality. In 2005, 37 out of 116 municipalities (32 per cent) elected their councillors through PR. These municipalities represented over 70 per cent of the total population of the country, but given the skewed proportionality in the fixation of the number of councillors to be elected per local authority, the latter amounted to only 42 per cent of the total number of local councillors in the Grand Duchy. However, because of the increase of population over the country (largely due to immigration), there is a clear trend towards more municipalities using PR: compared to 1987, the number of local councillors elected on party lists has increased by 44 per cent (from 329 to 475) whilst the total number of councillors has only increased by 4 per cent (from 1,092 to 1,136).¹²

This evolution, which could receive a boost if the territorial reform aiming at merging municipalities comes into being, is likely to have two main consequences. First, local democracy will increasingly be led by party politics. Our survey unsurprisingly shows that parties' local sections play a more important role in municipalities using PR: whereas more than 80 per cent of mayors of municipalities using a majoritarian electoral system indicate that the role of local party sections in local democracy is not important, only 10 per cent of those where

¹¹ We performed a web-based survey in July–August 2008. Out of 116 potential respondents, 47 mayors responded to the questionnaire. The sample is representative of the three administrative districts, the twelve cantons, and the size of the population (with a slight bias towards an under-representation of smaller municipalities).

¹² In the meantime the total population of the Grand Duchy has almost increased by a quarter. Note also that the number of local councillors has stabilized in 2005 due to the counteracting effects of an increase in population and a decrease in local authorities from 118 to 116 through fusions.

elections are held with party lists do so. Also, despite the incentives provided by the electoral system to political entrepreneurs to create their own local party and run for elections in municipalities using PR, these remain largely organized along national party lines: from 1987 onwards the number of seats held by candidates elected on local lists has stagnated around 2.5 per cent, and in 2005 only one out of five municipalities using PR had a local list contesting elections. On the other hand, the Christian-Social Party (CSV), the Socialist Party (LSAP), and the Liberals (Democratic Party) presented lists in all the thirty-seven municipalities (except one for the DP), the Greens and the sovereignist party ADR (Alternative & Reformist Democratic Party) were present respectively in two-thirds and one-third of them, and the radical left (two parties, the Communist KPL and *déi Lénk*) had lists in one out of five of these municipalities. This overwhelming presence of national parties at the local level could arguably also affect their internal organization, as the weight of members with a local mandate is becoming greater, leading to the creation of more local structures and federations of local councillors with a greater say in intra-party politics.¹³

Second, this greater proportion of PR municipalities enhances the diversity of candidatures and the competitiveness of local democracy in general: as shown by Dubajic et al. (2006), in the 2005 local elections there were on average 4.5 candidates per seat in the municipalities using PR for a ratio of only 1.6 in the other municipalities (elections were not even fought in four of these municipalities, as the number of candidates corresponded to the number of available seats).¹⁴ Moreover, even though gender balance is far from reached at the local level in Luxembourg, 30 per cent of the candidates were females in municipalities using party lists for only 20 per cent in municipalities with a majoritarian system. Also, 81 per cent of the municipalities using the majoritarian electoral system did not have a single foreign candidate, and only 11 per cent of those using PR had one. At the individual level, there were almost three times more foreign candidates on the lists in municipalities using a proportional system than in the others.¹⁵

In the last two decades, the CSV, which is dominant at the national level has always come second in municipalities using PR, gaining at least 30 per cent of the seats. Since 2005, more than one-third of these municipalities are led by a CSV mayor and the party is present in almost half of the local executives of these municipalities. Although evaluating national parties' performance in municipalities

¹³ Nowadays, the CSV, followed by the LSAP, has the largest number of local branches, exceeding the number of municipalities with a proportional electoral system. The DP and especially the ADR lag behind.

¹⁴ In the tiny municipality of Esch-sur-Sûre, the successive local elections of 1993 and 1999 were not organized for the same reason.

¹⁵ There was a mere 2 per cent of foreign candidates in the municipalities using a majoritarian system for almost 8 per cent in PR municipalities (altogether 5.9 per cent of all candidates were of foreign nationality).

Table 5.3 Percentage of seats at local elections 1987–2005 (communes with PR electoral system)

Party	1987	1993	1999	2005
LSAP	36.2	32.9	33.8	34.8
CSV	34.0	32.6	30.2	31.9
DP	21.6	21.8	23.8	21.1
<i>déi gréng</i>	2.4	6.8	5.2	8.6
ADR	0.0	1.7	2.9	1.1
KPL– <i>déi Lénk</i>	3.3	1.1	1.4	0.2
Others	2.4	2.5	2.1	2.5

Source: STATEC, Le portail des statistiques du Grand-Duché de Luxembourg, http://www.statistiques.public.lu/stat/ReportFolders/ReportFolder.aspx?F_Language=fra&MainTheme=5&FldrName=5&RFPPath=71

using the majoritarian electoral system is difficult, it is clear that the CSV is in a leading position, as the CSV traditionally performs better in rural areas (Fehlen 2008). Conversely, the LSAP is traditionally the leading party in PR municipalities since these are larger, urban and suburban entities which correspond to its electoral strongholds: since 1987 it elected around 35 per cent of local councillors, since 2005 almost half of the municipalities using party lists have a socialist mayor and the party is present in almost three-quarters of executives. In smaller municipalities, however, the LSAP clearly fares less well, and is even overtaken as second party by the DP, if one evaluates party strengths according to the partisan affiliation of the mayor. In municipalities using the proportional vote the liberals range between 20 per cent and 25 per cent of the seats, therefore representing the third political force. In these same municipalities, the Greens have almost quadrupled their proportion of seats (almost 9 per cent in 2005) since 1987, whilst the ADR has never been able to cast more than 3 per cent (but this party's strongholds are clearly located in more rural areas). The radical left, which still had more than 3 per cent of the seats in 1987, has only one local councillor left in these municipalities using PR since 2005.

There are clear interdependencies between national and local politics. First, as Luxembourg politicians are allowed to accumulate more than one office (*cumul des mandats*), a vast majority (almost 75 per cent) of national deputies currently also hold a local mandate, and 42 per cent of deputies even a local executive one (two-thirds of these are mayor of their municipality).¹⁶ Therefore parliamentary activities take on a local flavour whenever legislation or events put some municipal

¹⁶ At the 2004 national elections, two-thirds of the candidates of the LSAP held a local mandate for 60 per cent on the CSV and DP lists. As shown by Dumont et al. (2006: 463–4), in three of the four constituencies, candidates holding a local mandate received on average at least twice as many preferential votes as those who did not.

interests at stake. To a certain extent, this *cumul* may also explain the lack of radical reforms regarding the organization of local authorities. Second, with regard to party politics, the local level may help a party kicked out of national government to keep important and visible positions in large municipalities or may become a springboard for alternative coalition strategies at the national level. This is quite clearly the case for Luxembourg City, where the electoral stakes are traditionally very high. The Liberals (DP) have been in power for a long time with popular figures as mayors. Since 2005 they have shared Luxembourg's local executive with the Greens, that is to say that the coalition in power in the capital is non-congruent with the national government one composed of the CSV and the LSAP. Clashes regarding the respective policy competencies of the city and the state often result from this situation, with all actors having an eye on the next national elections.

Subnational citizenship and citizen participation

Whereas according to public opinion polls the general image and level of satisfaction with democracy in the country is more positive in Luxembourg than the European average, not much is known about citizens' satisfaction with local democracy. Local politics nevertheless appear to be considered as important: if elections were not compulsory in the Grand Duchy, citizens would vote in greater proportions for municipal elections (70 per cent) than for the national (63 per cent) or the European ones (57 per cent). This, however, does not mean that citizens would be willing to increase the power of the local authorities. In fact, the same survey in 2000 reveals that only 33 per cent are in favour of this extension of power, while 28 per cent are against and 26 per cent are indifferent (Legrand 2002). Note also that a 2005 survey showed that whereas two-thirds of the population supported the principle of the fusion of municipalities, a majority would, however, oppose the fusion of their own municipality with a neighboring one.¹⁷

Citizens' participation in local politics is legally ensured by various means and instruments. First, the deliberations of the municipal council are transparent and its decisions communicated. Second, the municipal law provides that these deliberations are preceded by an information procedure when prescribed by laws and regulations. In addition, the council may also inform citizens through information meetings or written documents sent to all households any time it deems necessary. Indeed, 40 per cent of the mayors (more than 50 per cent in municipalities of over 5,000 inhabitants) in our survey declared having organized consultations and/or public hearings since 2000.

¹⁷ <http://www.tns-ilres.com/tnsi%2Dcms/Web/News/Fusions%20des%20petites%20municipalities/>

Third, since the 1988 municipal law (art. 35) local consultative referendums can be organized at the initiative either of the municipal council, or of a fixed percentage of voters (25 per cent of the electorate for municipalities below 3,000 inhabitants and 20 per cent for larger municipalities). Thus far no citizen-initiated one has taken place, whereas nine were organized at the municipal council's initiative. In the early 1990s two schemes (regarding the construction of public buildings and the creation of an industrial zone) put to the votes were rejected and followed by an identical decision by the municipal council. The other seven referendums were held in 2004 and in 2008 at the occasion of the merging of municipalities. As voting is compulsory, participation was very high, and results were favourable in all seven cases.

Since 1989, as a substitute for not granting voting rights to foreign residents, a law requiring municipalities with an immigrant population of more than 20 per cent (for other municipalities this is not compulsory) to set up an immigrant consultative committee was voted on. Half of the members of the committee must be immigrants (appointed by associations) and the other half nationals (designated by the municipal council, with a proportional representation of its political groups where elections are held with a PR system) but the chair must be a Luxembourger. Most municipalities have such a committee (40 out of 47 in our survey), but their usefulness and impact is not widely recognized. More than one-third of the mayors (they are even an absolute majority in municipalities with less than 35 per cent of foreign population) consider that the role of the consultative committee is not important. This result may reflect the absence of a clearly defined linkage between the deliberations of the consultative committees and those of the municipal council, and probably as well the inefficiency, lack of motivation and skills of the members of certain committees.

Finally, about one-fifth of the municipalities in our survey have voluntarily installed councils of the young, aimed at enhancing the direct involvement of young citizens in local politics. The websites of the local authorities are mainly used for providing information (historical, political, administrative, and practical) but not for fostering discursive interactivity with inhabitants. In comparison to other countries where the presence of online debates has been analysed, Luxembourg appears to score particularly low, with only two municipalities (two of its three largest cities) providing for these new tools.¹⁸

We investigated mayors' personal conceptions of local democracy in our survey.¹⁹ Most of them insist on the existing democratic instruments, such as the

¹⁸ In France, 10 per cent of a representative sample of 240 French municipalities had implemented a web-forum in 2000 (Corbinau et al. 2003); in Norway, 15 per cent of 433 municipalities' websites analysed in 2003 provided one (Saglie and Vabo 2005), for 19 per cent amongst 289 municipalities in 2002 in Finland (Wiklund 2005).

¹⁹ Multiple answers were allowed; an average of six items was mentioned by respondents.

transparency of the debates of the municipal council (85.7 per cent), and three-quarters mention the elections of the municipal council every six years as well as local autonomy which can be seen as a sign of affirmation by respondents. Even though these provisions for the most part already exist as well, but are still very recent, the possibility for foreigners (EU and non-EU) to elect the municipal council (61.7 per cent) and to be elected in the municipal council (53.2 per cent) are less seen as crucial instruments of local democracy in Luxembourg's context. Overall, a better representation in the local structures of the categories of the population that tend to be less politically active, namely the young (40.4 per cent) and women (28.8 per cent), or of foreign residents in the local executive, is not perceived as an important element of local democracy. The direct involvement of citizens is not perceived as essential by most of them: even though popular consultation is an existing instrument at their disposal, only 44.7 per cent consider that it is an important one for the democratic character of local politics. The use of the new technologies for organizing online consultation and the introduction of a local mediator were even less valued (respectively 17 per cent and less than 10 per cent).

Mayors' assessment of the level of citizen participation in local politics is nuanced: almost half of them consider it average, one out of three positive, and 17 per cent consider it as insufficient. More than half of mayors consider foreigners' participation in particular as insufficient, and note that local political involvement is greater amongst nationals. According to them, socio-cultural factors such as individualism and too pronounced well-being, together with a lack of interest for politics, explain this low level of local involvement. Only about one mayor out of ten recognizes his (or political authorities' in general) own responsibility for this phenomenon. It is worth mentioning that since 1995 Luxembourgish is recognized in the municipal law as the 'usual language' spoken in the council, a measure that certainly cannot act as an incentive for foreigners' active participation in local political life.²⁰ Overall, one-third of mayors consider the level of local democracy in their municipality as sufficient and therefore do not envisage taking specific initiatives to foster political participation. Those who plan to implement measures aiming at democratic improvement privilege traditional information meetings and public hearings. The use of new technologies is only envisaged by about one mayor out of four.

Balancing these rather conservative views, diagnostics, and solutions of mayors over local democracy in their municipality, we find a fairly vivid level of direct involvement of citizens at their own initiative in Luxembourg. *Biergerinitiativen* (citizens' initiatives), which are forms of citizens' participation that appeared in the Grand Duchy at the beginning of the 1970s following similar initiatives in

²⁰ The other official languages can also be used, but asking for translation of speeches or documents is not possible.

Germany, are generally related to the local level. These may be more or less structured and more or less durable organizations, but some have become (usually tentative) local parties, or even structured as a larger movement which itself engendered a national party.²¹ Our survey reveals that this non-conventional form of participation is particularly widespread: one-quarter of the mayors indicated that there had been at least one such initiative in their municipality (and this rate grows with the population size of the municipality) since 2000. Analysing the standing orders of twenty-seven active *Biergerinitiativen* that constituted themselves as non-profit organizations reveals that they typically promote NIMBY ('not in my back yard') demands (against construction and land use planning projects etc.) It also shows that these are overwhelmingly promoted by Luxembourgian citizens and that they generally define themselves as strictly non-partisan associations.²² Their success points to a distrust towards traditional channels of local political participation, which the setting-up by municipalities of other specialized 'consultative committees' besides the one for immigrants' affairs does not manage to reduce. However, the characteristics of these citizens' initiatives also point to the imbalance of local political involvement between nationals and foreign residents, a clear challenge for the Grand Duchy.

Subnational governance

A major problem for subnational governance, defined here as the functioning of the local government and its interaction with the central government, can be summarized in the tension between the principle of local autonomy—particularly its financial and political aspects—and its difficult realization due, on the one hand, to the smallness and limited resources of the local entities and, on the other hand, to the increasing responsibilities and competences that are delegated to them.

(i) *Financial autonomy*

The ordinary resources of municipalities are composed of local taxes, financial allocations by the state, and operating incomes. First, local taxes, which are of German inspiration: the trade tax (*Gewerbesteuer*), which represents around 90 per cent of the local taxes, and the land tax (*Grundsteuer*). These fiscal resources guarantee a certain degree of political autonomy for municipalities. Second, state grants to municipalities take the form of the allocation of state revenues through an

²¹ The ecological movement out of which the Green Party emerged grew from such local initiatives.

²² Some standing orders even specify an incompatibility between an elected position and membership in the *Biergerinitiativ*.

endowment financial fund included in the annual state budget.²³ Those allocations represent about 5 per cent of the overall budget, and are apportioned among municipalities depending on the size of their territory and population, with a fixed amount for rural municipalities and cities with the highest population density. Third, operating incomes are a mix of other local revenues and specific subsidies. From 1980 to 2007, revenues from land and trade tax have increased five-fold in Luxembourg, but the relative weights of sources of income have greatly changed: the land tax has declined relatively (from 1.8 to 1.5 per cent of total revenues), but more importantly the trade tax has lost its first place since 2004 due to the new way of drawing up the state budget (from 37 to 28 per cent) while the endowment financial fund is now the main source of municipal revenue, with 32 per cent against 28 per cent previously. Extraordinary resources of municipalities include the income from capital transferred from the state to the municipalities within the framework of specific aid to investment, through which the national government strongly organizes the investment policy of municipalities, as these aids may represent over 50 per cent of municipal eligible expenditures.²⁴

Not only does the national government have a firm hold on local resources, it is also responsible for the allocation through the horizontal equalization across wealthier and poorer municipalities of a large part of the trade tax (at least 42 per cent and up to 67 per cent), through a key determining profit-sharing for economic activities taking place on the territory where the tax is levied. Control over the largest part of local taxes therefore escapes from local authorities. Moreover, this trade tax is also heavily dependent on the overall economic context. Together with other uncertainties owing to the extent of the vertical allocation of the state to the municipalities (partly due to the potential annual revision of the participation of the latter in state revenues) and from remaining incoherent measures inherited from German, Dutch, French, and Belgian legislations, one understands the difficulty of long-term budgetary planning by Luxembourg's municipalities. Questions regarding the budgetary dependency of municipalities on the state, the mechanism of equalization and the sources of the local tax, together with the goals of providing access to equivalent public services (health, transport, culture, etc.) to people living in large towns and those living in rural areas point to the need to increase the size of local authorities to pool resources for evident efficiency reasons and make these new entities stronger in their relationship with the state.²⁵

²³ Eight per cent of personal income tax, 20 per cent in total fees on motor vehicles and 10 per cent of the value added tax.

²⁴ For instance 85 per cent for the development of industrial zones, 80 per cent for the construction of integrated centres for the elderly, 60 per cent for regional sports facilities, etc.

²⁵ Syndicat des Villes et Municipalités Luxembourgeoises (2008). 'Réorganisation Territoriale du Luxembourg, Prise de position du Syndicat des Villes et Municipalités Luxembourgeoises'. In *Le Courrier Municipal—Edition Spéciale*, 29–31.

(ii) Political autonomy

More generally, an audit performed in 2005 by the Council of Europe on the application of the Charter of Local Self-Government pointed out that central control over certain matters such as land planning and the potential for discretionary decisions by the state in the name of the 'general interest' notion had increased in recent decades.²⁶ Despite the improvements of the 1988 municipal law, local autonomy does not appear to have increased. This audit called for the allocation of more responsibilities to the local level, more joint decision-making rather than mere consultation of local authorities by the central state, and a legal principle making effective consultation compulsory for all matters for which municipalities would have a direct interest. The Council of Europe also pointed to another aspect of the limitation of local resources: the lack of university-trained civil servants in local administrations, as compared to the national level, puts the former in a weaker position when they deal with technical issues. Local authorities are therefore also dependent on the state because of their lack of expertise.

So far, the main existing form of local cooperation, which can be seen as a compromise between a search for efficiency and more radical means of joining municipal forces, is the *syndicat de municipalités*. These were created in 1900 in order to manage affairs that a single municipality is not able to administer, for instance regarding the distribution of water, electricity, and gas, waste disposal, equipment and maintenance of school buildings and sports facilities, computer management, etc. Although these inter-municipal unions of two or more components have a legal personality and their own personnel, they remain under the supervision of municipalities, also of the district commissioner and the Minister of Interior. A municipality may only withdraw from the syndicate if at least two-thirds of the other members allow it, thereby setting a limit to local autonomy. Since the 1980s, the number of such syndicates has greatly increased: by 2001 there were no fewer than seventy of them (about 10 per cent of the municipalities are even members of at least ten different syndicates). The fate of this form of horizontal local cooperation is linked to the overall question of territorial reform in Luxembourg as these syndicates have not proved to be optimal from the viewpoint of expenditures and the missions they have to fulfil.

Finally, local, national, and European initiatives have led to lively cross-border municipal cooperation projects in recent years: for instance the Transborder Agglomeration created in 1985 by a joint declaration of three countries (four

²⁶ In our survey only 27.6 per cent of the mayors were satisfied with the respect of local autonomy, while 38.3 per cent were unsatisfied (34 per cent had mixed feelings), complaining mainly about the fact that although administrative supervision should only concern the *legality* of the act, it is increasingly used to control the *opportunity* of municipal acts.

municipalities are Belgian, eighteen French, and three from Luxembourg), which evolved into the first European Development Pole partly financed by the European Union, or the QuattroPole network in which the City of Luxembourg, Metz, Saarbrücken, and Trier have formed a virtual European metropolis since 2000.²⁷ More generally, the EuRegio SarrLorLux represents the interests of local authorities in the Great Region,²⁸ and this federation aims at encouraging cross-border policies and attracting European funds. These forms of cooperation encouraged both by the central state and European integration offer opportunities to municipalities to enhance their autonomy.

(iii) Reform plans

Since the 1990s, the government has been working in cooperation with the Union of Cities and Municipalities of Luxembourg (Syvicol) and the special parliamentary committee on the 'Territorial reorganization of Luxembourg' to modify drastically the governance of the local municipalities through three main types of action: (1) a progressive replacement of 'syndicats de municipalités' with new forms of inter-municipal regional cooperation; (2) the fusion of municipalities with fewer than 3,000 inhabitants; (3) the limitation and adaptation of direct and indirect control of the state, combined with professionalization of the local mandate.

The 1999 law on land use planning aimed at the 'harmonious development of urban and rural structures' introduced new instruments and regional structures between the state and municipalities to implement public policies related to land use planning. The new instruments are the 'master territorial plan' which defines the general orientations and main objectives of the government in the domain of land use planning, the sectoral and regional plans that make the master territorial plan legally effective, and the *Integratives Verkehrs- und Landesentwicklungskonzept für Luxemburg* (IVL), a planning process designed to coordinate sectoral plans and implement the objectives of the master one, for instance by providing the input of experts, in the context of the long-term development of Luxembourg in land use planning, transport, and landscape protection. Six regions, distinct from the administrative, electoral districts, and historical counties, were defined by the master territorial plan (South, South-Central, West, East, North-Central, North). These regions are not meant to become new levels of decision-making between the

²⁷ <http://www.quattropole.lu/>

²⁸ The Great Region is a cross-border cooperation geographical entity of over 11 million inhabitants from the Grand Duchy, the French Lorraine Région, the German Rheinland-Pfalz and Saarland Länder, and the Belgian French-speaking Community, German-speaking Community and Walloon Region. <http://www.euregio.lu/>

municipalities and the state, but are created to structure the inter-municipal cooperation among coherent territorial entities in order to realize the regional plans. The report of the parliamentary committee suggests managing rural regions by multi-purpose 'syndicats de municipalités' including all the municipalities of these regions whereas urban regions would be organized as French-inspired urban communities.²⁹

Regarding the fusion of municipalities, the government encourages—through financial and logistical support—the municipalities with fewer than 3,000 inhabitants to consider merging (more than 60 per cent of the current municipalities would therefore have to merge) on a voluntary basis. In order to reach a broad support of the municipalities in favour of the fusions, the government is acting progressively. After having reached a consensus with the Union (Syvicol) and the municipalities concerned, referendums would be organized on local elections day in 2017. So far this path seems rather encouraging as seven municipalities have already merged to form three municipalities. Both local politicians and their population largely favoured these fusions (referendums have generally been adopted with more than 75 per cent majorities), an enthusiasm probably due in large part to the strong financial and material incentives proposed by the state.

The third major goal is to reinforce local autonomy, on the one hand by reducing state control and, on the other hand, by professionalizing local politics. The special parliamentary committee proposed to limit the acts to be approved by the state to the sole acts of great importance, and to replace the general regime of the suspension and cancellation by a control realized by an entity of the Interior Ministry (with a right to appeal to the Administrative Tribunal).³⁰ The intervention of higher authority would then be limited to what is strictly necessary to ensure compliance with the law and safeguarding general interest. The main reforms envisaged to make local politics more professional are directed towards an increase of the remuneration of local politicians as well as their amount of time for political leave and training.³¹ It is also envisaged to make the function of *bourgmestre* a full-time job incompatible with the position as an MP, a reform that seems more difficult to pass due to the particularly high interconnection between local and national politics.

²⁹ A bill project creating these urban communities was adopted by the government in November 2008.

³⁰ Chambre des députés, N° 5890, « Rapport de la commission spéciale réorganisation territoriale du Luxembourg », 19.06.2008, pp. 44–5.

³¹ The government adopted a Grand Ducal decree awarding larger amounts of 'political leave' time to local politicians in November 2008.

CHALLENGES AND OPPORTUNITIES FOR SUBNATIONAL DEMOCRACY

In addition to the great stakes (especially the financial and political aspects of local autonomy) of the territorial reform under way in Luxembourg, the major challenge facing the country—where 42 per cent of the population is foreign and where a large part of the workers from the private sectors are cross-border workers from France, Belgium, and Germany—concerns the inclusiveness of both its local and national democracy. Debates over the political integration of foreign residents started when the European Commission proposed to grant voting rights to migrants from 1980 onwards. Both the Syvicol in the mid-1970s and a panel of legal experts commissioned by the government in 1982 found this proposal untimely, despite signs of popular agreement and no opposition of principle coming from political parties represented in the Chamber (Kollwelter 2005). In 1989, the demands issued by immigrants' associations and the Catholic Church forced the government to take action, but this took the form of the creation of the Municipal Consultative Commissions as a substitute for not granting voting rights. Following the ratification of the Maastricht Treaty awarding all EU citizens voting and eligibility rights for local elections in member states, Luxembourg's government managed to insert a derogation in the European directive (EC 94/80) of December 1994, allowing for the imposition of conditions on the duration of residence for states with a proportion of population from other EU states higher than 20 per cent. The Grand Duchy was the sole country to apply it. Despite an increase in the registration of EU citizens (17 per cent of those fulfilling voting requirements registered in 2005), and the opening of voting rights for non-EU residents (6 per cent of those fulfilling voting requirements registered in 2005), non-Luxembourgers still only amounted to 10 per cent of the voters at the 2005 local elections (the rate was 6 per cent in 1999). Representation fares even worse than participation, as only 5.9 per cent of the candidates for the 2005 local elections were foreigners and only 1.2 per cent (14 out of 1,136 seats) of the current elected local councillors are not Luxembourg nationals. Other clear biases exist with regard to women (in 2005 only 21 per cent of local councillors were female councillors) and the younger population in the composition of local councils and executive boards (Dubajic et al. 2006).

Recently some measures have been adopted to foster the political integration of foreign residents. An amendment to the electoral law pertaining to the participation of EU residents to EU elections which softened the conditions of residency and shortened the process needed for people to register was voted on in 2008. A similar arrangement is due to be voted on for local elections before the 2011 elections. The draft legislation introducing a double nationality could also be considered as a

measure favouring inclusive democracy, but the debates over the conditions imposed on foreigners raise doubts about this goal.

CONCLUSIONS

Luxembourg combines features of a centralized unitary state of a French tradition (Loughlin and Peters 1997) with a consensual political system that is also found in Belgium and the Netherlands. Several elements of its institutional framework are inherited from former occupations. French and German influences are seen in the territorial division, the relations of local authorities with the central state, and the financial means of local autonomy. The very small size of the country, however, also strongly determines the interdependencies between the national level and the local one, what led Hendriks (2001) correctly to label it as a local state. Central government exerts a strong control over local affairs, but politics at the national level and territorial reform plans are also affected by the massive presence of local office holders in parliament. The municipal law of 1988 and the new schemes of cooperation between municipalities and state progressively introduced (and, for some, still in discussion) since 1999 have not led to a looser grip of the central state on subnational authorities.

Regarding the state and likely evolution of subnational democracy in Luxembourg, our description of existing institutions and our survey of mayors reveal a strong commitment to indirect democracy and only very modest expressions and valuations of both voter democracy and, to a lesser extent, participatory democracy. The new municipal cooperation schemes and the mergers of municipalities are likely to make local democracy even more firmly of the consensual type. For instance the upgrading of municipality sizes will generalize the use of proportional representation and therefore will raise the power of parties and the likelihood of executive coalitions at the local level. And it is highly probable that parties and coalitions will seek to maintain a balanced internal political representation of former municipalities in the newly merged entities to ensure broad support for the executive's policies.

The main challenge of contemporary Grand Ducal politics, however, concerns the inclusion of foreigners in national and local democratic fora. Although measures improving the situation have been set up, they have not so far proved very effective. As revealed by our survey of mayors, who are also often office holders at the national level, a rather conservative vision of local democracy remains in Luxembourg. Together with signs of retreat to the national community in times of economic threats both at the political and voters' level (as evidenced in the

population by the results of the referendum on the European Constitutional Treaty), this vision may inhibit audacious initiatives to improve the participation and representation of foreign residents.

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