

Luxembourg

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Table 1. Cabinet composition of Juncker-Asselborn I (or Juncker III)

For the composition of Juncker-Asselborn I (or Juncker III) on 1 January 2008, see Dumont & Poirier (2005: 1106–1107); Dumont et al. (2008: 1060).

Institutional changes

Two institutional reforms regarding European elections were officially adopted and came into force in 2008 (see Dumont et al. 2008: 1068). First, the bill introduced by the Christian Social (CSV) chair of the parliamentary committee on institutions and constitutional reform was voted on unanimously in May and published in July. It reduces the lists of candidates for the European Parliament (EP) elections to six candidates instead of twelve.¹ Also, contrary to the previous system, the voter can now cast two preferential votes for the same candidate (the electoral system in use for national elections already allowed for this). This reduction in the number of candidates running for the European elections was designed to encourage parties to present candidates actually committed to taking up their seats in Strasbourg and Brussels by effectively making the safety net of substitutes smaller. Previously, parties presented their heavyweights both in the single constituency in use for the European elections and in their list for national elections. As a consequence, candidates elected on both accounts had to choose their parliamentary arena – a choice easily made for the heavyweights likely to become ministers in the newly formed national government. As a result, in 2004 four out of the six elected MEPs (including all three CSV MEPs) did not take their seats and were replaced by unelected candidates from their parties.

Opposition parties such as the Liberals (DP) and the sovereignist ADR – despite their preference for more radical reforms such as the holding of separate elections for the Chamber of Deputies and the EP – nevertheless voted in favour of the electoral system change. Legislation forbidding double candidatures (in 2004, 58 of the 60 EP candidates of the five larger parties

fought both national and European elections) would have been a potential alternative, but Luxembourg parties preferred to keep this possibility open. The four parties with representation in the EP nevertheless arrived at a consensus in the second part of the year. Following the CSV and the Greens, the DP indicated that its two lists would be completely distinct and they were rapidly followed by the Socialists (LSAP). Only the smaller parties did not commit themselves to presenting separate lists due to their lack of popular figures.

The other institutional change was that the electoral law was again modified by a vote of the Chamber in December.² This amendment reduced the time gap between the registration of European Union (EU) citizens for EP elections and the date of these elections (from almost a year to around three months) and lowered the duration of residence requirement (from five to two years) for those EU residents wanting to vote at these elections. This reform, aimed at boosting the number of EU residents registering to vote at the European elections, was not accompanied by similar measures for the local elections: parties continued to disagree about the desired level of political participation of non-nationals.

The amendment introducing an Article 32bis to the Constitution on the recognition of political parties, which received a first parliamentary assent in late December 2007 (see Dumont et al. 2008: 1061), was officially approved at the occasion of its second constitutional vote (a second vote is compulsory for constitutional amendments) and published in March.

In April and October (the latter being the month of their publication in the *Mémorial*), two constitutional amendments referring to the acquisition of Luxembourg nationality by naturalisation were voted upon by the Chamber. The most important one was the abrogation of Article 10, which stipulated that the naturalisation was awarded by the legislative branch. In Europe, only Belgium and the Grand Duchy of Luxembourg – whose liberal Constitution from 1848 borrows or slightly adapts three-quarters of the 1831 Belgian Constitution (Poirier 2008: 134) – considered that naturalisation should not be recognised as a right, but rather be subject to the sovereign power of appraisal of the legislators. This system remained in use until 2008 (and is still in use in Belgium) and constituted one of the exceptional prerogatives of the legislative branch, where decisions were made on a case-by-case basis. Whereas in Belgium the federal Lower Chamber has instituted a permanent committee, in Luxembourg the plenary used to sit behind closed doors before giving a ‘yes’ or ‘no’ response to an individual’s application for naturalisation. With the abrogation of this system, naturalisation has therefore become a right, and the administrative decision not to grant naturalisation in a given case is now subject to judicial appeal.

Another constitutional amendment was voted upon (first vote) in December 2008. The latter came more as a surprise, and was adopted via a fast-track procedure. On 1 December, the Grand Duke announced to the parliamentary groups' chairs that he would not sanction the bill on euthanasia if it were to be approved on the occasion of its second vote, which was due to happen during the month. The first vote had taken place in February, but amendments and advices of the Council of State made the time gap between the two votes (for ordinary laws a second vote is compulsory if the Council of State insists on holding one, which was the case here) longer than usual (see below). He had already expressed his concerns in frequent meetings with Prime Minister Juncker, arguing that his conscience would not let him approve this law and that he would agree on a constitutional amendment curtailing his power in the legislative process.

Due to leaks to the press, an agreement was rapidly found between the Grand Duke, the prime minister and the parliamentary groups' chairs: an amendment of Article 34 of the Constitution removing the Grand Duke's right to 'sanction' (approve) all laws (he only keeps his prerogative to promulgate laws within three months after the vote) was introduced to the Chamber and voted on unanimously on 11 December.³ This meant that the Chamber of Deputies could vote on the bill on euthanasia on 18 December (see below) without causing a major institutional crisis since the second vote on the constitutional reform could then take place before the three-month lapse after the vote on this legislation, thereby removing the Grand Duke from the obligation to sanction this law, but allowing him to promulgate it nevertheless.

Such a case had never occurred in Luxembourg's history, in contrast to Belgium where King Baudouin refused to sanction a law on abortion in 1990, when a temporary solution had been found instead of a constitutional reform. However, though political elites thought that this unexpected institutional issue had been resolved, another recent disposition of the Constitution specifying its own process of amendment led to yet another surprising development. Article 114 states that in case of constitutional amendment, either a second vote has to be taken by the Chamber by a two-thirds majority (as the first vote) or a referendum can be held at the demand of one-quarter of the MPs or 25,000 voters (Dumont & Poirier 2004: 1071). The law regulating the organisation of such referenda, adopted in 2005 (see Dumont & Poirier 2006: 1183),⁴ stipulates that an initiative committee consisting of a least five voters must send a request to the prime minister who then inspects its conformity with the law. Such a committee formed in the last days of the year, and its second request was declared acceptable by the prime minister.

The initiative, which was unanimously condemned by the parties represented in the Chamber, with the exception of the ADR, was linked to Fernand

Kartheiser, chairman of the Luxembourg Men's Association/*Association des hommes du Luxembourg* (AHL); it turned out to be oriented more towards a mobilisation of people against the law on euthanasia than against the constitutional amendment curtailing the prerogatives of the Grand Duke. The latter insisted during his Christmas speech to the country that he completely supported this reform as a necessary step towards a modern monarchy, adapting the Constitution to practice and removing situations in which the head of state would either find themselves forced to approve laws they personally opposed or opposing the will of a majority of people's representatives. At the end of 2008 the fate of this constitutional amendment was still unclear because of the referendum process that had been initiated.

The Law of 21 November 2008 established a Consultative Commission of Human Rights in the Grand Duchy of Luxembourg. This new commission is an advisory body of the government whose mission it is to promote and protect human rights in the Grand Duchy. To this end, it will submit to the Government opinions, studies, positions and recommendations, elaborated in complete independence, on all matters that are related to human rights in the Grand Duchy. Through these opinions, it should attract the attention of the Government on measures deemed likely to promote the protection and promotion of human rights. The prime minister will send the opinions, studies, positions and recommendations of the Commission to the Chamber of Deputies. Additionally, the Commission will follow the process of ratification of international instruments on human rights, as well as the harmonisation of legislation, regulations and practices at national level. The Commission will also advise the Government on the preparation of reports that the Grand Duchy of Luxembourg must present to the relevant regional and international institutions for the defence of human rights.

Political parties

In March, the AHL, which campaigns against alleged 'feminist' laws that disadvantage men's interests, signed a cooperation agreement with the ADR (Luxembourg's sovereignist party). The agreement specified that members of the AHL would be entitled to participate in the drafting of the electoral programmes and to present themselves as candidates for the 2009 national and European elections on the ADR lists, provided that these AHL members became members of the ADR. Back in 2007 the AHL had envisaged presenting its own lists to the 2009 elections (see Dumont et al. 2008: 1061–1062). This agreement with the ADR made it clear that although the AHL would remain independent from the party (its members are not obliged to become members

of the ADR and may even be present on other parties' lists), the AHL would not go to the polls with its own electoral lists.

Issues in national politics

Social and economic issues were, as elsewhere, high on the agenda in Luxembourg in 2008. In the second part of the year, due to the international financial crisis, fears of heavy losses in terms of government revenues and employment were evident in a country where the banking and insurance sectors contribute so much to national wealth. The intervention of the government coalition to save two big banks was well received by the population as its rapid and massive action was clearly a matter of national interest. Other issues, however, revealed cracks within the Government a few months before the national elections due in June 2009.

In May, a new organic law on the statute for private sector wage earners was promulgated. This law included the generalisation of the continuation of compensation in case of illness, the adaptation of labour law, the merger of seven health funds to give birth to the National Health Fund, the fusion of professional chambers of the private sector (previously split between blue-collar and white-collar workers) and the administrative reorganisation of social security. The new professional chamber of private sector wage earners maintained its traditional responsibilities (an advisory mission through its opinions on draft laws and grand ducal decrees; a mission of representation through its participation in advisory bodies of the state; an information mission through its publications for private employees and the labour sector in general; a training mission through its contribution to the design and organisation of the professional education of future employees in the private sector). It now also designates the wage earners' representatives who will sit in the social security organisations.

The first social elections under the new system took place in November. Any wage earner employed in a company with more than 15 workers (altogether, 2,800 companies were concerned) was invited (voting is not compulsory) to elect the members of the personnel delegation for the next five years among colleagues. No less than 400,000 of the electorate were eligible to vote. For the first time, retired people could also vote and it is worth noting that all wage earners, regardless of their nationality were entitled to vote – this is significant because non-Luxembourgers represent two-thirds of the total domestic employment. Although turnout barely amounted to 36.1 per cent, it was considered satisfactory compared to the 2003 figures (34.5 and 30 per cent, respectively, for the then separate blue-collar and white-collar contests (see Dumont & Poirier 2004: 1073)).

There were twelve official lists, but candidates without any trade union affiliation received most of the votes (47.2 per cent). The Socialist OGBL clearly beat the Christian Democrat LCGB in this first competition for the newly merged chamber (respectively, 29.1 and 15.5 per cent), and Luxembourg's Banking and Insurance Employees' Union (ALEBA) came third with 6.7 per cent. Given legal requirements in terms of trade union representativeness (see Dumont & Hirsch 2003: 1023), the lists that were not affiliated to any of the trade unions considered as representative were not allowed to have a seat in the professional chamber. Among the trade unions' lists, only four received seats in the new private sector professional chamber, a majority of which (36 out of 60) were allocated to the OGBL.

In order to face the financial crisis and global economic downturn that severely damaged the banks Fortis and Dexia in the autumn, the Benelux (Belgium, Netherlands, Luxembourg) governments were forced to intervene massively. After all, these banks were the main operators for the public collectivities, businesses and individuals. In the case of Fortis, a loan of €2.5 billion was granted in October, making the Luxembourg state the owner of an option on 49.9 per cent of the capital and the holder of the presidency of the board of directors of the new 'Fortis Luxembourg' entity, separated from the Belgian and Dutch ones, with the name 'Banque Générale du Luxembourg' (BGL).⁵ In the case of Dexia, the European Commission agreed on 19 November 2008 on the temporary guarantee plan covering the bank's commitments with credit institutions presented by the Belgian and Luxembourg authorities, acting with the support of the French.

Whereas the action of the government during the economic and financial crisis was well received at home (as evidenced by the consensus on the setting up of a special parliamentary committee on the economic and financial crisis in the last days of the year), tensions arose between the governments of the Benelux, Germany and France on visions of economic governance at the level of the EU. On several occasions, Prime Minister Juncker, as chairman of the Eurogroup, officially stated his opposition to the leadership by a *de facto* 'directoire' made of the major EU economies that at the same time do not comply with the monopoly and autonomy of monetary policy vested in the European Central Bank or with the criteria of the Maastricht Treaty (including 3 per cent budget deficit and public debt at 60 per cent of GDP). Conversely, the French presidency of the EU did not invite the President of the Eurogroup to join the EU delegation at the G20 Washington summit in November 2008.

A month earlier, Luxembourg had declined an invitation to come to a meeting of 17 countries in Paris to discuss tax havens. Both big neighbours of Luxembourg, France and Germany, were behind this meeting, which was designed to put pressure on countries or regions that have banking secrecy to

improve their financial transparency – a quality now seen to be essential in order to restore some stability to the world financial system. French President Sarkozy even targeted Luxembourg as one of those countries inside the EU that needed to make progress in this area. A television news report on the French public channel France 2 on the issue of banking secrecy even led to a fierce reaction, live on television, of Prime Minister Juncker. Implicit or more explicit attacks by the French and German authorities on Luxembourg's financial system caused some political and public emotion in the Grand Duchy, not least because the country was also severely damaged by the crisis, with unemployment rising to over 5 per cent (it was only 2.1 per cent in 2001) and some 4,000 wage earners of about 100 companies benefiting from temporary partial unemployment arrangements at the end of the year.

The Law on Luxembourg Nationality of 23 October 2008⁶ introduced the long-awaited possibility of dual nationality (see Dumont et al. 2008: 1066; Dumont & Poirier 2007: 1036) for foreign residents who want to acquire Luxembourgish nationality without at the same time abandoning their original nationality. Although this legislation's goal is to foster the integration of foreign residents in Luxembourg, its eligibility criteria are more restrictive than in the previous system: candidates now have to have a minimum period of residence of seven years instead of five. They also need to pass an examination in Luxembourgish and follow a course of civic instruction. As mentioned above, through a related constitutional amendment, the Minister of Justice has jurisdiction to rule on the demands of naturalisation (it was previously a prerogative of the Chamber of Deputies). A demand will be denied if the candidate does not correspond to integration standards – namely if he or she does not have a sufficient active and passive knowledge of at least one language mentioned in the law of 24 February 1984 and if he or she fails the Luxembourgish spoken language test. The level of competence required for Luxembourgish test is for the oral understanding the level B1 of the Common European Framework of Reference for Languages and for speaking skills the level A2 of the same framework. The naturalisation will also be denied if the candidate misses at least three courses in civic instruction, among which one must necessarily focus on the Luxembourg institutions and another one on human rights.

In December, a law concerning the reception and integration of foreigners in the Grand Duchy of Luxembourg was also voted upon. It establishes, under the authority of the Minister responsible for Integration, a Luxembourgish Office of Reception and Integration that will organise the reception of foreign newcomers and facilitate, in collaboration with the municipalities and civil society actors, the process of integration of foreigners through the implementation and coordination of specific policies, among which is the fight against

discrimination. This new office will also be responsible for organising social assistance for foreigners who are not eligible for any type of aid and grants, and for applicants for international protection.

The delicate question of euthanasia, which divided the coalition partners but also almost all parties internally and gained much public and media attention (see Dumont et al. 2008: 1065), was eventually settled in December. On 18 December, a majority of 31 MPs voted in favour of the law legalising euthanasia and medically assisted suicide. These included all Green and Liberal (DP) MPs, 11 of the 14 Socialists (LSAP), two MPs from the ADR and one member of the Christian Social Party (CSV). Among those 26 who voted against were 23 members of the CSV group, two ADR MPs and the independent (former ADR) MP Aly Jaerling. Three Socialist MPs abstained. Overall, then, only the Green and the DP parliamentary groups, both in the opposition, maintained unanimity. In governmental ranks some MPs voted individually, but the main result was a split among coalition partners over this divisive question. A few days before the vote, the President of the Pontifical Academy for Life, Bishop Rino Fisichella sent an unexpected letter to MPs of the Grand Duchy reminding them that a Catholic legislator has 'the clear obligation to oppose any legislation that is an attack on human life'. In addition, he specified that Catholic voters could not in good conscience support MPs who would pass a homicide law.

After the Netherlands and Belgium, Luxembourg therefore became the third EU Member State to adopt a law legalising euthanasia. The text submitted to MPs in December was slightly different from that presented in February 2008: whereas the original text decriminalised euthanasia for people suffering from 'severe and incurable' disease, the one voted upon on 18 December specified that the person's medical condition would be a 'dead end' (*'sans issue'*). In addition, whereas the first proposal accepted euthanasia of young people less than 16 years old, the new version forbade euthanasia for minors. Even though these modifications could have led to yet another second vote since the bill could be seen as a new proposal, the Council of State exempted it by a close internal vote (11 votes to 9).

According to the law voted upon, 'euthanasia' is an act performed by a doctor who intentionally terminates the life of a person who freely and expressively requests it. 'Assisted suicide' is a doctor intentionally aiding another person to commit suicide or providing the means to do so to a person asking for it. The requirements for realising these acts are the following: first, the patient is an adult capable and aware at the time of his or her request; second, the request is voluntary, carefully considered and, where appropriate, repeated, and does not result from external pressure; third, the patient is in a medically incurable state (*'sans issue'*) and presents physical or mental suffer-

ing that is constant and unbearable with no prospect of improvement, resulting from accidental or pathological condition; and fourth, the patient's request for euthanasia or assisted suicide is recorded in written format. If the patient is unable for reason of physical incapacity to write and sign this request, the latter is recorded and written by an adult of his or her choice.

Note that on the same day, the bill on palliative medicine was adopted unanimously by the sixty members of the Chamber. This law includes the protection from criminal prosecutions of doctors who renounce the use of 'major therapeutic methods' designed to 'prolong survival without improving quality'. Similarly, the law envisages the possibility of adopting methods of treating the pain of the patient which 'may have as a side effect the shortening of life'. The law also introduces the concept of 'advance directive', a form of living will which becomes applicable once the patient is unable to express his or her wishes. Finally, the law indicates that palliative care will be covered by the health insurance and establishes a special leave of five days for people accompanying the last moments of a dying person.

On 29 May, the Chamber of Deputies voted upon the bill approving the Treaty of Lisbon (which had been signed in December 2007), thereby making Luxembourg the fifteenth Member State to have ratified the Treaty. Out of the 51 MPs present, 47 voted in favour, three MPs of the sovereignist ADR (the only party represented in the Chamber that called for another referendum) abstained and one MP (Aly Jaerling, an independent since 2006, who was also the only MP – at the time belonging to the ADR parliamentary group – who voted against the Constitutional Treaty in 2005) voted against. The debate in parliament displayed divergences among CSV members on the enlargement of the EU and the potential membership of Turkey, when one CSV MP, basing his objection on religious criteria, was publicly criticised by Prime Minister Juncker.

Finally, a new Benelux Treaty was signed in June 2008 in The Hague by the leaders of the governments of Belgium (including its federated components), the Netherlands and Luxembourg. The original Treaty, signed in 1958, had introduced an 'economic Union' among the three states for fifty years. Its goals are to preserve the role of Benelux as precursor of the EU and to reinforce its transborder cooperation not only in the internal market and economy, but also sustainable development, justice and internal affairs. In order to signify its enlargement beyond purely economic matters, the Treaty signed now introduces the 'Benelux Union'.

Notes

1. www.legilux.public.lu/leg/a/archives/2008/0100/a100.pdf#page=2#page=2

2. www.legilux.public.lu/leg/a/archives/2008/0210/a210.pdf#page=2
3. The following link leads to the Constitution as revised until April 2009, thereby including the (eventually successful) amendment of Article 34 in 2009: www.legilux.public.lu/leg/textescoordonnes/recueils/Constitution/Constitution.pdf
4. www.legilux.public.lu/leg/a/archives/2005/0027/a027.pdf
5. The capitalisation of the new entity would be finally constituted in April 2009, with almost 66 per cent belonging to the French BNP Paribas and 34 per cent to the Luxembourg State.
6. www.legilux.public.lu/leg/a/archives/2008/0158/a158.pdf#page=2

Sources and further information

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