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## Types of legal professions

### Luxembourg

In this section, you will find an overview of the different legal professions.

#### Legal professions – introduction

This section contains information on professions in the legal field (description of the profession, conditions for access, etc.).

#### Overview of the legal system

In Luxembourg, the courts are organised into two branches, **the ordinary courts and the administrative courts**. This organisational structure is based on the nature of the dispute.

The **ordinary courts** (*l'ordre judiciaire*) consist of three justices of the peace (*Justices de Paix*), two district courts (*Tribunaux d'arrondissement*), a Court of Appeal (*Cour d'Appel*) and a Court of Cassation (*Cour de Cassation*). These courts are essentially competent to hear disputes relating to civil law, commercial law, criminal law and labour law. In the ordinary court system there are adjudicating judges (known as *magistrats du siège*, 'sitting judges') and public prosecutors (*substituts* and *procureurs*, known as *la magistrature debout*, 'standing judges'), who are both regarded as belonging to the same profession of judge.

The **administrative courts** (*l'ordre administratif*) comprise an Administrative Court of First Instance (*Tribunal administratif*) and an Administrative Court (*Cour administrative*). These courts deal with disputes in administrative and tax-related matters (direct taxes).

The **Constitutional Court** (*Cour constitutionnelle*) is composed of judges from the ordinary courts and the administrative courts. It ensures that the laws comply with the Constitution, which is the supreme law of the land.

#### Judges

There are two ways to become a judge:

##### Recruitment by competitive examination

Future judges, namely junior judges (*attachés de justice*), are recruited by competitive examination. To be admitted to the competitive examination, a candidate must meet the following conditions:

- be a national of Luxembourg;
- enjoy full civil rights and political rights and present the necessary guarantee of good repute;
- hold a full Luxembourg university law degree corresponding to a recognised master's degree or a full foreign law degree corresponding to a master's degree accepted and recognised by the minister responsible for higher education under the amended Act of 18 June 1969 on higher education and recognition of foreign degrees and diplomas;
- have an appropriate knowledge of the Luxembourgish, French and German languages;
- have followed a judicial or notarial traineeship for at least twelve months;
- meet the requisite conditions of physical and mental aptitude, which are verified by a medical examination and a psychological examination.

The competitive examination for the recruitment of judges is organised by the commission for the recruitment and training of junior judges ('the commission'). This competitive examination comprises three written tests concerning civil law and civil procedure, criminal law and criminal procedure and administrative law and administrative disputes. The tests basically involve drafting a judgment or ruling. Successful candidates must obtain at least three fifths of the points available for the three tests and at least half the points available for each test. Candidates are ranked by the commission according to their final scores. Candidates are recruited in order of their ranking.

##### Paper-based recruitment

This is a subsidiary recruitment procedure that is organised only if the competitive examination fails to deliver the number of junior judges set each year by the Minister for Justice.

To be eligible to apply, a candidate must:

- meet certain conditions required for admission to the competitive examination, namely 1, 4 and 6;
- hold the diploma marking completion of the traineeship;
- have practised as a lawyer for a total of at least five years.

The commission invites candidates to an individual interview. A psychology expert takes part in the individual interview and submits a reasoned opinion on each candidate. The criteria for selecting candidates are the results of final examinations on additional courses in Luxembourg law and the traineeship final examination, professional experience, any additional qualifications and any publications. Candidates are selected by the commission.

The Constitution guarantees the political independence of adjudicating judges. Their appointment is permanent. An adjudicating judge can be deprived of his or her position or suspended only by a court judgment. Moreover, an adjudicating judge can be transferred only by appointing him or her to a new position and only with his or her consent. Nevertheless, in the event of disability or misconduct, adjudicating judges can be suspended, dismissed or transferred, in accordance with the conditions laid down by the law.

The office of judge is incompatible with being a member of the Government, member of parliament, mayor, alderman or municipal councillor, holding any public or private salaried position, being a notary or bailiff, holding a military or ecclesiastical office or being a lawyer. Judges are impartial and are bound to professional secrecy. Their remuneration is set by law.

For more information, please refer to the [page on the profession of judge](#) on the Ministry of Justice website.

#### Lawyers

The profession of lawyer (*avocat*) is regulated by the **amended Act of 10 August 1991** on the profession of lawyer.

Lawyers are members of an **independent self-employed profession**. Lawyers can practise on an individual basis or form law firms with legal personality. Only lawyers may assist or represent parties and plead on their behalf before judicial bodies of whatever nature, take receipt of their documents and certificates in order to present them in court, draw up and sign the instruments necessary for the regularity of the procedure, and prepare cases for court.

Lawyers alone are entitled to give **legal advice** on a regular basis for remuneration or to draft private acts on behalf of others. Lawyers also assist or represent their clients before international courts, such as the Court of Justice of the European Union or the European Court of Human Rights. Lawyers are bound by professional secrecy, which is a matter of public policy and violation of which is a criminal offence.

In order to practise in Luxembourg, **lawyers must be registered with a bar association established in the Grand Duchy of Luxembourg**. This also applies to European lawyers wishing to practise in Luxembourg under their home-country professional title.

A **bar association register** comprises **six lists**:

list I: full lawyers (*avocats à la Cour*)

list II: lawyers (*avocats*)

list III: emeritus lawyers (*avocats honoraires*)

list IV: European Union lawyers practising under their home-country title

list V: law firms qualified as full lawyers

list VI: other law firms

To be registered with a bar association in Luxembourg, lawyers have to satisfy **the following conditions**:

present the necessary guarantee of good repute;

show that they have fulfilled the entry requirements for the legal traineeship, or that they have passed the aptitude test established for lawyers from another Member State of the European Union by the amended Act of 10 August 1991 laying down for the legal profession the general system of recognition of higher education diplomas confirming the successful completion of at least three years of professional training, or that they satisfy the conditions for registration as a lawyer practising in the Grand Duchy of Luxembourg under their home-country professional title, in application of the amended Act of 13 November 2002 transposing into Luxembourg law European Parliament and Council Directive 98/5/EC of 16 February 1998 on facilitating practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained; and demonstrate a good command of the language of legislation and the languages of administration and the courts within the meaning of the Act of 24 February 1984 on the use of languages;

be a Luxembourg national or a national of another Member State of the European Union;

have a good command of the language of legislation and the languages of administration and the courts within the meaning of the Act of 24 February 1984 on the use of languages, without prejudice to Article 31-1 of the amended Act of 10 August 1991. For Luxembourgish and German the level of proficiency required is level B2 of the Common European Framework of Reference in oral comprehension, level B1 in oral expression and, for German only, level B2 in written comprehension. For French the level required is level B2 in comprehension and written and oral expression.

Notwithstanding the previous paragraph, on their admission to list I of a bar association, European lawyers referred to in Article 10 of Directive 98/5/EC need only demonstrate a sound knowledge of the language of legislation within the meaning of the Act of 24 February 1984 on the use of languages, provided they restrict their professional activities to those not requiring a command of the other languages referred to in the Act. The level of language knowledge required is as indicated in the previous paragraph.

**Further clarification as regards the language requirements:**

Lawyers registered on an individual basis must demonstrate a good command of the language of legislation within the meaning of the Act of 24 February 1984 on the use of languages, and of any other language required in order to pursue their professional activities, without prejudice to the above.

Lawyers registered on list II must in addition have a good command of the languages of administration and the courts in Luxembourg that may be required in order to fulfil the obligations ensuing from their legal traineeship.

Any lawyer who takes on a case must possess the required professional and language skills, failing which they may be subject to disciplinary measures.

The bar council, having heard the opinion of the Minister of Justice, may, upon proof of the reciprocity of a **non-Member State of the European Union** of which a **candidate** is a national, waive the nationality requirement. The same applies to candidates who have political refugee status and enjoy the right of asylum in Luxembourg.

**Only lawyers included in list I** are entitled to use the **title 'avocat de la Cour'** (full lawyer). **To be entered in list I they must:**

as lawyers registered on list II, have completed a two-year legal traineeship and have successfully completed the traineeship final examination, or have passed the aptitude test established for lawyers from another Member State of the European Union by the amended Act of 10 August 1991 laying down for the legal profession the general system of recognition of higher education diplomas confirming the successful completion of at least three years of professional training,

or, for European lawyers permitted to practise under their home-country professional title, prove active and regular activity over a period of at least three years in Luxembourg and in Luxembourg law, including European Union Law, or be subject to Article 9(2) of the amended Act of 13 November 2002 transposing into Luxembourg law European Parliament and Council Directive 98/5/EC of 16 February 1998 on facilitating practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained.

Only full lawyers are allowed to perform the acts for which laws and regulations require a full lawyer, namely to represent the parties before the Constitutional Court, before the administrative courts, before the Supreme Court of Justice and before the district courts sitting on civil matters, and to plead on their behalf, take receipt of their documents and evidence in order to present them to the courts, and to ensure the proper signature of the documents necessary to ensure the regularity of the proceedings and to prepare the case for trial.

**Lawyers on list II** and European lawyers entitled to practise under their home-country professional title **on list IV** may not perform these tasks unless assisted by a full lawyer included in list I. As there are no restrictions regarding the representation of parties in courts where there is no mandatory requirement for a full lawyer, lawyers on lists II or IV are permitted to represent parties in those courts without the assistance of a full lawyer.

**Access to training for lawyers**, which is regulated by the Grand-Ducal Regulation of 10 June 2009 on the organisation of legal traineeships and the regulation of access to the profession of notary, consists in a professional traineeship comprising a period of additional courses in Luxembourg law followed by a work experience placement.

Having obtained the certificate of additional training in Luxembourg law, trainees are admitted to list II of one of the bars of Luxembourg.

The aim of the legal traineeship is to learn the profession of lawyer. University study enables trainees to acquire in-depth knowledge of the law, and the additional courses in Luxembourg law (CCDL) supplement this knowledge by teaching the specific characteristics of Luxembourg law. During the legal traineeship, the emphasis is placed mainly on learning the profession of lawyer both by practising under the aegis of the trainee's mentor and by following courses specifically designed for learning the profession.

The work experience placement of a period of at least two years ends with a final traineeship examination. On successful completion of this examination, the candidate becomes a full lawyer and is registered on list I.

On presentation of a reasoned and substantiated application, a trainee may be permitted by the steering committee to carry out a minimum of three and a maximum of six months of their legal traineeship in a law firm in another European Union Member State. This duly authorised traineeship counts towards the legal traineeship period.

Lawyers form a bar association (*ordre des avocats*), which is a body independent of the public authorities and the judiciary. There is a **bar association in Luxembourg** and a **bar association in Diekirch**. Each bar association has legal personality. The bar associations comprise the following bodies: an assembly, a bar council, a chairman of the bar, and a disciplinary and administrative council covering the entire profession.

For more information, please refer to [the page on the profession of lawyer](#) on the Ministry of Justice website.

#### Notaries

**The number of notaries is fixed by Grand-Ducal regulation** pursuant to Article 13 of the amended Act of 9 December 1976 concerning the organisation of the profession of notary (*notaire*). Currently, **there are 36 notaries** serving the whole country.

Notaries are public officers authorised to record any instrument or contract which the parties are obliged, or may wish, to invest with the authenticity associated with instruments having public authority, and to authenticate their date, keep them safe and issue principal and additional copies.

It is prohibited for notaries themselves directly or indirectly, or through an intermediary: to engage in trade; to be managers, general partners, managing directors or liquidators of a commercial company or an industrial or commercial establishment; to be involved in the administration and supervision of companies, businesses or agencies whose business activity is buying, selling, allotment of land or construction of buildings, or to have any interest therein; to have close relations with the aforesaid companies, businesses or agencies, which might interfere with the free choice of notary by parties; to engage on a regular basis in banking, discounting and brokerage transactions or in stock exchange speculations, with the exception of discounting transactions carried out in the performance of their duties; to take funds on deposit, with the exception of funds received in the performance of their duties or in the course of the settlement of an estate; to provide their services for any matter in which they might have an interest; to have acts that they cannot complete themselves performed in the names of others; to have business or property agents working on their behalf in any capacity whatsoever.

Notarial acts are authentic documents in accordance with the provisions of the Civil Code; they are enforceable when they contain a clause granting authority to enforce. Notaries are obliged to use French or German to prepare acts, as required by the client.

Notaries exercise their functions throughout the entire country. In performing their duties they participate in the exercise of public authority.

The **Chamber of Notaries** (*Chambre des Notaires*) has seven members elected from amongst the notaries in the country by the General Assembly of Notaries.

In addition to the powers entrusted to it by the country's laws and regulations, the Chamber has inter alia the following **responsibilities**:

to maintain discipline amongst notaries and to exercise disciplinary powers through its Disciplinary Council; to prevent or settle any disputes between notaries and, if settlement cannot be achieved, to give its opinion on the dispute;

to settle any disputes between notaries and third parties;

to give its opinion on difficulties regarding professional fees, emoluments, salaries, payments, expenses and disbursements charged by notaries as well as any disputes submitted in this respect to the civil courts;

to take deposit of records of minutes; to inspect notaries' accounts;

to represent notaries of the Grand Duchy in defence of the rights and interests of the profession.

The **Disciplinary Council** is composed of the President of the District Court of Luxembourg or the judge replacing him or her as president, and four members of the Chamber of Notaries appointed according to their seniority in the profession.

The Disciplinary Council exercises disciplinary power over all notaries in respect of: breach of legal and regulatory requirements relating to the practice of the profession; professional misconduct and negligence; actions contrary to professional discretion and dignity and to honour and probity; all without prejudice to any legal action which might arise as a result of such conduct. The decisions of the Disciplinary Council may be appealed either by a notary who has been censured or by the State Prosecutor-General. Appeals are filed with the civil division of the Supreme Court of Justice, which gives a final judgement on the matter.

To be allowed to practise as a notary, a candidate must:

be a Luxembourg national or a national of another Member State of the European Union,

enjoy full civil rights and political rights,

be over 25 years old and have obtained either a candidate notary's diploma in accordance with Luxembourg legislation (under the present system) or a [traineeship completion certificate](#) needed to be admitted to practice as a notary (under the previous system),

have a good command of the language of legislation and the languages of administration and the courts within the meaning of the Act of 24 February 1984 on the use of languages.

For more information, please refer to [the page on the profession of notary](#) on the Ministry of Justice website.

#### Other legal professions

##### Bailiffs

Bailiffs (*huissiers de justice*) are public officers who have sole power to:

serve acts and writs and to perform notifications prescribed by laws or regulations where the law does not lay down any other method of notification;

enforce court judgments and other documents that are directly enforceable.

Bailiffs may engage in:

judicial or out-of-court recovery of all types of debt; this power includes the right to sign applications on behalf of claimants to obtain orders for payment or attachment orders on periodic payments;

the valuation and public sale of furniture, household effects and seized goods, in conformity with the laws and regulations in this respect.

They may be appointed by the court to draw up:

purely material reports, excluding any opinion as to the factual or legal consequences to which they may give rise;

reports of the same nature on application by private parties; in both cases, these reports are authentic until proven otherwise.

The **fees of bailiffs are determined by Grand-Ducal regulation**.

The **Chamber of Bailiffs** (*Chambre des huissiers de justice*) represents the profession at national level. The Chamber is administered by a Board of three members: a chairman, a secretary and a treasurer. The chairman represents the Chamber of Bailiffs in judicial and other matters.

For more information, please refer to [the page on the profession of bailiff](#) on the Ministry of Justice website.

##### Registrars

The **chief registrar** (*greffier en chef*) heads the registry and the court staff. A chief registrar's administrative tasks include issuing copies to lawyers and private individuals (e.g. divorce certificates for transcription abroad), issuing copies of procedural documents, accepting the deposit of holograph wills and declarations of succession, swearing in registrars, preparing general assemblies and statistics and supervising the archives. A registrar also takes receipt of challenges to the impartiality of judges.

The role of **registrars** is to assist judges with all relevant acts and records, namely during hearings, the appearance of parties, investigations, on-the-spot visits, autopsies, bankruptcy inventories, the drafting of judgments and hearings of persons under guardianship or custodianship. A judge cannot act without a registrar.

Registrars' duties are laid down in Articles 78 et seq. of the amended Act on the organisation of justice.

[Recueil des lois spéciales](#) pp. 7-40.

Access to the profession is governed by the amended Act of 16 April 1979 establishing the general staff regulations of civil servants.

[http://www.fonction-publique.public.lu/fr/publications/Reformes/Recueils/1\\_Statut.pdf](http://www.fonction-publique.public.lu/fr/publications/Reformes/Recueils/1_Statut.pdf)

#### **Related links**

[Ministry of Justice](#)

Last update: 27/09/2016

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