

Luxembourg District Court rules on judicial management reports

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On November 18 2016 the Luxembourg District Court clarified the requirements and procedures regarding judicial management reports provided for in Article 1400-3 (previously Article 154) of the Law of August 10 1915 on commercial companies, as amended.

The new version of Article 154, introduced by the Law of August 10 2016, has significantly extended the conditions under which shareholders can initiate the judicial management report procedure.⁽¹⁾ In its decision, the court ruled, on the basis of the criteria established by French case law, that there is no need to order a judicial management report if the answers provided to shareholders by the board of directors – even after legal action has been initiated – include all of the expected information and are thus satisfactory.

The court also specified that shareholders may ask questions only on matters which fall within the power of management bodies and not on operations that fall within the power of shareholders' meetings, even when effected by management bodies. Further, a question may address several issues, as suggested by the inclusion of the plural 'operations' in the law. However, questions should not address management or accounting in general. Finally, questions which concern future projections but are unrelated to an existing act of management are excluded.

This ruling provides valuable insight into shareholders' right to request information on management decisions. While the reduced threshold suggests a trend in Luxembourg law towards shareholder empowerment, as well as the accountability and transparency of managing bodies, the ruling appears to be pro-management. This is because it shields management from unwarranted intrusions by setting an arguably low standard of disclosure and limiting the scope of shareholders' inquiries to specific managerial issues.

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Endnotes

(1) Further information is available [here](#).

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