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The decision to convene a meeting of the Board of Directors must not be taken lightly

Although Swiss company law is very liberal in this area, the decision to convene and hold a meeting of the Board of Directors of a limited company must not be taken lightly. A few precise rules apply in this case and must be scrupulously respected, failing which the meeting may be null and void or open to cancellation.

In the first instance, the Chairman of the Board of Directors is the only person who is entitled to convene a meeting unless the company's articles of association or organisational rules stipulate otherwise, which is seldom the case. It follows, therefore, that the other Board members can only make a request to the Chairman to convene a meeting of the Board of Directors. However, the right to ask for a meeting to be convened is mandatory and cannot therefore be omitted from the articles of association. The request for a meeting to be convened must indicate the reasons for which that request is being made. No other formal requirement is stipulated. In principle therefore, this request can be put verbally to the Chairman.

If he fails to convene a meeting, the members cannot overrule that failure and have no other choice than to refer the matter to the judge. The members must then show that this meeting is essential to the proper conduct of the company and that an order must be made to convene a meeting without delay. This is a summary and urgent procedure. A provisional injunction placing a temporary stop on any entry in the Register of Companies may be sought.

No particular formal requirements have to be respected when convening a meeting. The invitation to attend may be either verbal or written, i.e. sent by letter, email or fax. It shall mention the agenda and the way in which the meeting is to be held. It shall be accompanied by all the documents and attachments that are useful for this meeting (reports, information, etc.). The reasons for which a Board member has asked to convene a special meeting shall likewise be included in the wording of the invitation to attend.

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