

20/12/2024

Amendment to the law on non-profit associations and foundations

The Luxembourg legislator has just adopted a new law dated 4 December 2024 (the “Amending Law”) amending Articles 7 and 77 of the law of 7 August 2023 on non-profit associations and foundations (“ASBL Law 2023”).

This Amending Law, which came into force on 13 December 2024, brings three changes to the ASBL Law 2023:

1. Repeal of the homologation procedure for not-for-profit associations (the “ASBLs”) that are still governed by the law of 21 April 1928 (the “ASBL Law 1928”).

The ASBL Law 2023 repealed the homologation procedure for the ASBLs created after the entry into force of the ASBL Law 2023. However, the ASBLs and foundations incorporated before the entry into force of the ASBL Law 2023, benefit, under Article 77(1), from a transitional period of 24 months to adapt their articles of association in accordance with the new ASBL Law 2023. As a result, these ASBLs and foundations, incorporated before the entry into force of the ASBL Law 2023, remained governed by the provisions of the former ASBL Law 1928, which may require homologation by the district court.

For this reason, in order to reduce the administrative burden, to relieve the courts and to ensure uniform procedure applicable to all ASBLs, the Amending Law now abolishes all homologation procedures for all ASBLs, including ASBLs and foundations established before the entry into force of the ASBL Law 2023.

2. Extension of the procedure of administrative dissolution without liquidation provided for by the ASBL Law 2023 to ASBLs and foundations still governed by the former ASBL Law 1928

ASBLs and foundations established before the entry into force of the ASBL Law 2023 and which have not yet adapted their articles of association remain governed by the former ASBL Law 1928 and cannot therefore benefit from the procedure of administrative dissolution without liquidation, provided for by the ASBL Law 2023 during the transitional period.

The Amending Law now allows all ASBLs and foundations (including those still subject to the former ASBL Law 1928 during the transitional period) to use this administrative dissolution procedure without liquidation, as the case may be.

3. Correction of an error relating to delegation of daily management

A material error occurred in paragraph 4 of Article 7 of the ASBL Law 2023, which omitted to specify that only the delegation of the daily management to a director is subject to prior authorisation by the general meeting of the ASBL. As a result, it could have been construed (although this was not the intention) that a delegation of the daily management to another person who is not a director, for example the employee of the ASBL, is also subject to this prior authorisation and that such delegate is obliged to report annually to the general meeting on the salaries, emoluments and benefits allocated.

The Amending Law corrects this error and specifies that only the delegation of daily management to a director is subject to prior authorisation by the general meeting.

For more information on the ASBL Law 2023 and the changes that have been brought, we invite you to consult our note on this subject (New law on non-profit associations and foundations (the “New NPA Law”).

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