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The usufructuary of shares in a public limited company (société anonyme) is not allowed to request the convening of a general meeting

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In a landmark decision rendered on 2 December 2025, the 4th Chamber of the Luxembourg Court of Appeal held for the first time that the usufructuary of shares in a public limited company does not have the status of a shareholder. Consequently, the usufructuary cannot be granted the rights that the law reserves exclusively to shareholders, including the right to convene a general meeting (Court of Appeal, judgment no. 192/25 IV-COM of 2 December 2025, case no. CAL-2025-00458).

In the case at hand, the usufructuary of all the shares of a public limited company had initially seized the President of the Luxembourg District Court with a request for the appointment of an *ad hoc* representative (*mandataire ad hoc*) entrusted with convening a general meeting of the company, on the basis of Article 450-8, paragraph 5, of the amended Law of 10 August 1915 on commercial companies (the "**LCC**").

After confirming the decision of the first instance judge dismissing the usufructuary's request on the ground that it lacked shareholder status, the Court of Appeal further held that an application seeking the appointment of an *ad hoc* representative for the purpose of convening a general meeting when based on Article 450-8, paragraph 5, of the LCC, constitutes a specific action (*action attitrée*) expressly reserved to shareholders representing at least one tenth of the share capital.

The Court of Appeal emphasised that, insofar as the Luxembourg legislator has expressly regulated the rights of the usufructuary by granting him certain specific rights — such as the right to request a management expert review pursuant to Article 1400-3 of the LSC — there is no basis for extending to the usufructuary the right to convene a general meeting, which the LCC reserves to shareholders. Such a right does not fall within the category of rights of use of the usufructuary within the meaning of Article 578 of the Civil Code.

By refusing to transpose the case law of the French Cassation Court, according to which, even without shareholder status, a usufructuary should "*be able to trigger a deliberation of the partners on an issue likely to have a direct impact on his right of use*" (French Cassation Court, 16 February 2022, no. 20-15.164), the Court of Appeal took the opportunity to reiterate principles that are already firmly established in Luxembourg case law. According to these principles, a Court seized of a request based on Article 450-8, paragraph 5, of the LSC has no discretionary power to assess the appropriateness of the request or the proposed agenda. Once the legal conditions for the Court being seized are met, its role is strictly limited to appoint a representative tasked with convening a general meeting in place of the corporate bodies normally competent to do so.

This decision of the Court of Appeal brings an end to doctrinal debates regarding the prerogatives of a usufructuary of shares, by denying him shareholder status and preventing him from convening a general meeting.

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