

# District court rules on interpretation of minority actions

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**Facts**  
**Decision**  
**Comment**

On 13 June 2019 the Luxembourg District Court ruled on the requirements for bringing minority actions and whether a broad interpretation thereof is possible (2019/TALCH/06/00627).

## Facts

A public limited liability company was incorporated in Luxembourg. On 2 May 2010 its shares were assigned in equal parts to two shareholders. On 30 October 2014 a general shareholders' meeting was convened to approve the book keeping and discharge the board of directors, which included a relation of one of the shareholders (Shareholder A). The other shareholder (Shareholder B) refused to approve the accounts and discharge the directors.

Shareholder B initiated proceedings before the Luxembourg District Court, claiming that there were anomalies in the book keeping, including unrelated personal expenses and over-invoicing of the company by a party related to Shareholder A. The applicant claimed that this constituted mismanagement and filed a minority action based on Article 444-2 of the Law on Commercial Companies.

## Decision

The Luxembourg District Court rejected the possibility of a minority action being filed by a shareholder who holds 50% of a company's shares and ruled the action in question to be inadmissible.

The court held that the interpretation of a law should follow certain principles.

As it was clear from the language of the Law on Commercial Companies that the minority action procedure was available only to minority shareholders, opening it up to shareholders who held 50% of the shares in a company would introduce a possibility not provided for in the law. The court therefore rejected the claim based on inadmissibility.

## Comment

This judgment exposes the common lack of legal recourse available to shareholders who hold equal parts in a company. Whereas majority shareholders can impose their will at general assemblies and minority shareholders can commence minority actions, the possibility for equal shareholders to take similar actions would lead to a problematic stalemate.

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