

NOTARIZATIONS OF SHAREHOLDERS' DECISIONS IN TIMES OF COVID-19

The exceptional measures adopted by the Spanish Government to combat COVID-19 pandemics have a significant impact on the implementation and notarizations of decisions taken in commercial companies, whether they are taken at a general meeting of shareholders or at management meetings. During the ongoing state of emergency, the following special features must be taken into account when notarising resolutions.

1. AVAILABILITY OF NOTARIES

The General Directorate for Legal Certainty and Public Faith, in agreement with the General Council for Notaries, published on 15 March an instruction to take measures to ensure the provision of the notarial public service during the emergency.

In principle, according to this instruction, notarizations of shareholders' decisions or management decisions during the ongoing state of emergency can only be carried out in demonstrably urgent cases. A case of urgency is to be assumed if a) an expiry of a deadline is imminent or b) serious and irreparable financial losses can be averted by the notarization.

2. NOTARIZATIONS

If a company wishes to have decisions notarised, the steps set out in these instructions must be followed. The company must contact the notary's office by telephone or e-mail, stating the existence of a reason for urgency. The notary must himself assess whether the reason given is sufficient. The reason for urgency must be recorded in writing. If such a reason exists, a notarisation appointment can be made at the notary's office.

3. PARTICIPATION OF THE NOTARY IN THE SHAREHOLDERS' MEETING

If a company has to or want to hold a shareholders' meeting during the state of emergency and wishes the notary to attend the meeting, it must submit a request to the notary to this effect. In general, it is also possible during the ongoing state of emergency to ask for the participation of a notary to draw up notarial minutes of the meeting. The notary can participate by using means of remote communication in real time, such as video conferencing.

4. GRANTING AND REVOCATION OF POWERS OF ATTORNEY

In order to grant or revoke powers of attorney under commercial law, it has been possible to carry out these actions electronically since the entry into force of Law 14/2013 of 27 September 2013. The managing directors as well as persons with the appropriate powers of attorney may grant or revoke powers of attorney, provided they have a digital signature. The registration of the power of attorney or its revocation in the Commercial Register is also carried out online using the digital signature.

5. ELECTRONIC NOTARISATION OF POLICES

According to a resolution of the General Council for Notaries, notaries may certify policies for corporate financing by electronic means. Companies may contact a notary's office by means of distance communication and obtain advice on the issue of such policies or sign them.

6. ENTRIES IN THE COMMERCIAL REGISTER

Although the commercial registers will remain open during the state of emergency, they will apply the special opening hours for the summer months. Public access is limited to the retrieval of documents. During this period, documents may only be submitted by post or electronically. Furthermore, certain register information, such as extracts from the commercial register, must be requested online. All deadlines, including the deadline for the registration of shareholders' resolutions, the deadline for deleting circumstances from the commercial register and the expiry deadline for the certificate of reserved company names are suspended during the emergency situation. Similarly, the deadline for authentication of the company books in the Commercial Register has been suspended and ends 4 months after the emergency situation has been resolved and, if applicable, one of its extensions.



Fernando Lozano

Attorney at Law, Tax advisor

Valencia

Madrid

T +34 963 28 77 93

f.lozano@schindhelm.com



Axel Roth

Attorney at Law Barcelona

Valencia

T +34 932 003 788

a.roth@schindhelm.com