

Associations Under Swiss Law

The basics

Associations

- Swiss law on associations is governed by articles 60 to 79 of the Swiss Civil Code.
- Establishing a nonprofit association:
 - constituent General Assembly + approval of written statutes expressing the objectives of the association
 - the association acquires legal personality
 - no obligation to register with the commercial registry, unless the association conducts a commercial operation in pursuit of its objectives or is subject to an audit requirement.
- An association must have at least the following (otherwise, one of its members or creditors can call upon the judge):
 - ☯ **Members** ☯ a **General Assembly** ☯ a **Committee**
 - ☯ **Statutes** ☯ **accounts**
- Unless the statutes provide otherwise, **solely the association is liable for its obligations**, which are guaranteed by its assets - Members are not liable.

Members

- Members can be admitted into the association at any time.
- The statutes can provide for certain categories of members who can have different voting rights (for example, junior members, senior members, founding members, etc.).
- All members can resign from the association provided they give notice of their resignation six months' prior to the end of the calendar year or of the administrative period.
- Members have a duty to pay **subscriptions** if the statutes so provide.
- The statutes may specify the grounds on which a member may be excluded
 - If they do not, the exclusion requires a resolution from the association and good cause.

Statutes

- The statutes must be in **writing**.
- They should at least contain the following provisions:
 - ❖ The **name** and the **seat** of the association;
 - ❖ The **objectives** of the association;
 - ❖ The **resources** of the association;
 - ❖ The **organization** of the association;
 - General Assembly
 - Committee
 - Members
 - Bookkeeping and auditing arrangements
 - Representation and signatory powers

General Assembly

- The General Assembly is the **supreme governing body of the association**.
 - It is a meeting between all of the members of the association.
 - The General Assembly has the following powers:
 - Elect the President and the members of the Committee;
 - Exclude a member of the Committee or dismiss the Committee in its entirety;
 - Admit or exclude members of the association;
 - Approve the report and the accounts and adopt the budget;
 - Discharge the Committee;
 - Fix the amount of the subscriptions, decide to modify the statutes or to dissolve the association.
 - **Resolutions** are passed by the General Assembly and are included in the minutes of the meeting (resolutions may also be passed by written consent of all the members to a proposal).
 - The statutes can determine the **type of majority** required to pass resolutions during the General Assembly.

Committee

- The Committee **manages and represents the association.**
- The Committee has the following powers and obligations:
 - Implements the resolutions taken by the General Assembly, plan, organize, decide, delegate and control the activities of the association;
 - Obligated to record the profits and losses of the association, as well as its capital finances;
 - Represents the association;
 - Calls the ordinary and extraordinary general meetings and prepares the agenda (generally it is the President who does this);
 - At the end of the calendar year, the Committee must establish an annual report of the association's activities summarizing the main events that occurred during the year and the evolution of the number of members. The Committee must then present this annual report to the General Assembly during the ordinary general meeting.

Accounting

- Associations have the **obligation to keep proper financial accounts**.
- An association can decide on an ***opting-out*** and choose to freely organize its accounting.
- The Committee keeps records of the association's financial accounts and hands them over to the **internal auditors** (at least one individual elected by the General Assembly who in principle is not a member of the Committee).
- Before the ordinary General Assembly:
 - The past year's accounts are finalized;
 - The accounts are verified by the internal auditors who then prepare a report for the General Assembly.
- During the ordinary General Assembly:
 - The internal auditors present their report;
 - The General Assembly approves the accounts and gives discharge to the Committee.