

NJORD Estonia: e-Estonia revolutionises corporate management

The emergency situation has raised the issue of the effectiveness of processes in several areas, including company law. Namely, because of the emergency situation, it became impossible for some companies to hold meetings. In addition, it became difficult to perform notarial acts, and for some companies difficulties raising capital could even be fatal.



The Estonian legislator quickly accommodated the entrepreneurs and adopted several amendments to the law, which, in line with the e-government, significantly facilitate the daily life of the companies. These amendments remain in force even after the end of the emergency situation.

Enabling notarial acts performed by the remote authentication

As a first especially important change, the legislator allows notarial acts to be performed by remote authentication. This means that almost all notarial acts can now be performed without leaving home. The acts that cannot be completed through remote authentication without leaving home are the certification of the conclusion of the marriage and the divorce, and entries into marriage and divorce. For example, transactions concerning the shares of a private limited company, real estate transactions, and issuing power of attorney are permitted. An Estonian identity card is required for remote authentication, but the digital identity card can also be used, which means that the service is also available to e-residents. This is a fundamental change in the previous procedure, where you had to visit a notary's office to authenticate the transaction. The new procedure also allows a person to stay abroad while performing notarial acts. The only requirement is a sufficiently fast- internet connection for a video call, a camera and microphone on the computer, and an Estonian identity card or digital identity card with PIN codes for entering the e-Notary portal and signing digitally.

Digital shareholder meetings

Another important change is the equal possibility for all companies to hold meetings by electronic means. Such a change was very welcome, given the modern possibilities for holding meetings. The amendment allows the shareholder meeting to be organised and the shareholders to attend the meeting by two-way real-time communication or other similar electronic means. It is important that the shareholder must be able to exercise his or her rights at the meeting without being physically present, including taking part in the meeting, submitting proposals and objections, and voting. Among other things, the amendment equates participation in a meeting of the association by electronic means with physical participation. In other words, the meeting may also be "partially" electronic, as some shareholders are present at the meeting venue, while some attend the meeting by electronic means. As the possibility to hold electronic meetings arises directly from the law, the companies do not need to make the corresponding amendments to their articles of association. These amendments are not reflected in the Commercial Code, but in the General Part of the Civil Code Act, and also apply to the meetings of other company bodies, including meetings of the management board and supervisory board.

Abolition of the formal requirement for transactions with shares of a private limited company

The third very important change, which was originally supposed to enter into force in August this year, is the abolition of the formal requirement concerning a share transfer transaction. Until now, all agreements between the shareholders, option agreements, and other transactions in which the transfer of a share has been agreed, even indirectly, had to be in a notarial form. The speedy entry into force of this change was mainly due to the fact that many companies are raising capital and, therefore, need to conclude transactions quickly; given the global situation, the notarial requirement could potentially be fatal when receiving some investments. At the same time, the possibility of remote authentication does not completely solve the issue, as remote authentication can only be used by persons holding an Estonian identity card (or digital identity card or e-residency). Often foreign investors do not have such a document.

In addition, this year the legislator will allow all legal entities to submit annual reports by a later deadline – 31 October 2020.



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