



December 16, 2020

Assembly of condominium by videoconference.

The teleassembly: the new law, the convocation and the majorities

Law 159/2020 has finally introduced the possibility of holding the **condominium assembly via videoconference**. The "teleassembly" - as it was immediately baptized - has finally found its way into our legal system.

However, the rule that regulates condominium meetings in videoconference is very meager. This is the sixth paragraph of Article 66 of the provisions implementing the Civil Code. The conciseness of the provision has already given rise to several doubts and questions.

Below we try to understand how the **condominium assembly by videoconference** works and what are the requirements to be implemented to make the meeting valid remotely.

Article 66 provision of implementation of the Civil Code

Let's first see what the norm in question says.

"Even if not expressly provided for by the condominium regulations, with the consent of the majority of the condominiums, **participation in the assembly** can take place via **videoconference**. In this case, the minutes, drawn up by the secretary and signed by the chairman, are sent to the administrator and to all condominiums with the same formalities required for the convocation".

Videoconference condominium meeting: the rules

The first principles can already be deduced from this:

- remote **assemblies** can be subject to discipline already within the condominium regulation. It will be the latter to regulate the conditions and procedures for convening the condominiums, the conduct of the meeting and the operating rules;
- in the absence of a specific clause included in the condominium regulations, it is still possible to hold a **condominium meeting via videoconference** provided that there is the prior consent of the majority of the condominiums (previously unanimity was required).

From this second point it also follows that videoconferencing:

- it can never be decided by the **administrator** alone;
- the possibility of a videoconference will be **placed on the agenda of the previous meeting** so that all condominiums, during the meeting, can authorize it. However, this aspect would greatly limit the possibility of proceeding by videoconference. Often, in fact, the same is necessary precisely in those condominiums where it is difficult to convene and the presence of condominiums necessary for quorums. So, if it is true that, in order to start the meeting remotely, a previous vote is required, the problem of absences will arise with reference to the latter. In this case, the teleassembly may be useful in those condominiums often consisting of "second homes" where the owners, during the year, are never present. So, in these cases, the administrator can call a condominium meeting in the summer, to ensure the presence of the owners and, in that location, to authorize the teleassembly for the next meeting;
- However, there is nothing to prevent - at least according to the first commentators - to **request authorization for videoconferencing** even outside of a specific meeting, therefore

with a written and signed declaration, to be sent individually to the administrator upon specific request. Below, we will provide the relative model with facsimile.

Majority for teleassembly approval

As Article 66 of the implementing provisions to the Civil Code clearly states, the vote of the majority of the condominiums is sufficient to authorize the **condominium meeting via videoconference**. Therefore 50% + 1 of the participating heads suffices. However, half of the thousandths is not required, as often happens.

How to implement the videoconference in the condominium

The last part of the rule of the implementing provisions establishes that, in the case of videoconferencing, the minutes of the **online meeting** are drawn up by the secretary and then signed by the chairman. The two do not necessarily have to be in the same place, so it is quite possible that the first compiles a Word sheet and then transmits it to the second who can print it and sign it or sign it digitally.

This report, once signed by the president, must be sent to the administrator (who will keep it in the appropriate register of **condominium meetings**, evidently in paper format) and to all condominiums (even those not present) with the same formalities provided for the convocation (registered letter, hand delivery, fax, pec).

Requirements for the remote assembly in a condominium

For the purposes of the **regularity of the remote assembly**, the administrator must verify that there is:

- ease of connection for condominiums;
- possibility to record entries, attendance and proxies, signal adequacy and voluntary abandonments: each step must be extremely precise, transparent and reconstructable, the proxies that must be written by law must be kept, and it must be possible to verify whether any abandonments are voluntary;
- protect the debate and the outcome of the votes, draw up and show the minutes that the president and secretary must sign.

First call by teleassembly

As is known, in condominiums, to make it easier to **approve the resolutions**, we only meet on second call, acknowledging the absence of condominiums on first call. This practice must also be observed with teleassemblies. But be careful: the first call will still have to be held, or rather the president and the secretary will have to verify the absence of condominiums and then "open the platform". In fact, if the **first call** is not effective, the second call would become the only real experiment and would automatically require the high quorums that the Civil Code provides for the assembly on first call. Otherwise, the meeting could be contested and challenged before the judge for lack of majorities.

Facsimile teleassembly authorization

Below are the formulas with the authorization to convene by videoconference and any clause to be included in the condominium regulations. The formulas were drawn up by Sole24Ore of 16.12.2020.

THE LETTER OF THE CONDOMINO FOR THE CONVOCATION

Mr. ... (name of the condominium)

I, the undersigned, having the right to be summoned for the assemblies of the condominium in via Milano, I communicate my willingness to participate in the assemblies by videoconference and to allow the use of this mode. I therefore communicate my

e-mail address , authorizing to use it to communicate the data necessary for the remote connection.

This authorization will remain effective until express revocation.

Date and place,

Signature

NEW clause in the CONDOMINIUM REGULATION

"Each condominium can communicate to the administrator the willingness to participate in the assembly in videoconference mode, at the same time indicating the e-mail address that the administrator can use to communicate the " link "and any other data necessary to connect to the platform and attend the meeting.

The administrator, when he deems to organize the assembly by videoconference, will communicate to those who have expressed their availability the data necessary for the connection.

The availability to intervene in videoconference works until express revocation.

The President must:

- 1) verify the regularity of the convocation of each entitled person;
- 2) verify the achievement of quorums for the valid constitution;
- 3) regulate the interventions in the debate, allowing to participate both in person and remotely and adequately counteracting any irregular conduct.

The minutes, drawn up by the secretary and signed by the president, will be sent to the administrator and to all condominiums with the same formalities provided for the convocation by the third paragraph of art. 66 avail. att. c.c.

Each participant in the meeting is required to comply with the privacy regulations (processing of personal data) and will be personally liable for any violation of the provisions of the law. "

https://www.laleggepertutti.it/450954_assembly-of-condominio-in-videoconference

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