



Telematic meeting and validity of the resolution.

In the meeting minutes, it is necessary to acknowledge the disconnections from the IT platform that occurred during the remote meeting.

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It is an undisputed principle in jurisprudence that in the minutes of the meeting it is necessary to acknowledge the entrances and exits of the condominiums during the meeting because these are circumstances that affect the deliberative quorums. *mutatis mutandis*, even in telematic meetings it is therefore necessary to record in the minutes the disconnections from the IT platform on which the meeting takes place.

Otherwise there is no certainty on the number of condominiums present at the time of the vote and therefore the relative resolutions can be cancelled.

This is the conclusion reached by the Court of Rome in its recent sentence no. **3330**, published **last February 28, 2023**.

Telematic meeting and validity of the resolution. Done and decision

In this case, some condominiums had challenged the resolutions adopted in the meeting contesting, among other things, the omitted control and the erroneous recording of the regular progress of the meeting electronically, in violation of the provisions of the law and a specific provision of the **regulation condominium**, so much so that there was great uncertainty as to the identification of the condominiums who had actually participated in the voting operations, if and as they were still connected to the telematic platform on which the meeting was hosted.

The condominium, in appearing in court, had objected to the cessation of the disputed matter, given that the contested resolutions had been the subject of express ratification in a subsequent assembly.

The Court ascertained the cessation of the disputed matter, but correctly proceeded to examine the **legitimacy of the claim** for the purpose of the so-called virtual loss and the consequent ruling on the costs of the proceedings.

The Judge, with regard to the exception of the irregular conduct of the meeting electronically and the consequent uncertainty regarding the identification of the condominiums who had participated in the resolution, highlighted how the same had not been contradicted in any way by the defendant condominium, that he had not deduced anything regarding the failure to record in the minutes the exits that had occurred during the meeting through the detachment from the IT platform that hosted it, making the certainty of how many participants, present at the time of the opening of the meeting, were then actually present at the time of voting on the items on the agenda.

Final considerations

The decision of the Court of Rome applied rules traditionally valid for face-to-face meetings to the new case of telematic meetings. The vote of the condominiums, in order to be validly counted, must be expressed, personally or by proxy, when those present are called to vote on the individual issues on the agenda.

On this point, the Supreme Court has in fact had the opportunity to clarify that *"for the purposes of calculating the majorities prescribed by article 1136 of the civil code for the approval of the*



shareholders' resolutions, the adhesion expressed by the condominium who has left before the vote declaring that he accepts the decision of the majority cannot be taken into account, because only the moment of the vote determines the merger of the wills of the individual creative condominiums of the collegiate deed.

Nor can the eventual confirmation of adherence to the resolution, given by the condominium after the adoption of the same, be valid, in the aforementioned hypothesis, as an amnesty of the possible invalidity of the resolution, due to the absence, for the aforementioned reasons, of the required quorum deliberative, being able, if anything, such confirmation to have only the value of renouncing the deduction of invalidity, without however precluding the possibility of appeal to the other condominiums" (civ. Cassation, 02/13/99 , n. 1208).

The minutes of the meeting must therefore give an account of the persons actually present at the time of the vote, so as to be able to verify the achievement of the necessary quorum each time.

Source: <https://www.condominioweb.com/associazione-telematica-e-validita-della-deliberazione.20386#2>

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