

NEWS REVIEW

POSSIBILITY TO IGNORE VOTES OF «HOSTILE» PERSONS IN RUSSIAN COMPANIES

A new Presidential Decree of 17 January 2023 enacted new rules for decision-making by governance bodies of Russian companies with foreign capital/participation.

The new rules apply to decisions made by the collegial governance bodies of Russian companies, such as the general meeting of shareholders, the board of directors and the collegial executive management (management board).

The decree rules that decisions shall be carried at the general meeting of shareholders without taking into account the votes of “hostile” shareholders. Furthermore, a similar rule applies to the votes of directors and board members appointed (nominated) on the initiative of persons from «hostile» states: They shall not be taken into account in the case of decisions made respectively by the board of directors and the management board.

The votes of such persons shall not be taken into account either for the purposes of determining whether the meeting is quorate or in voting. Decisions shall be carried by an appropriate majority vote of the remaining shareholders or members of the board of directors or of the management board.

The Decree overrides any provisions of company articles of association or corporate agreements concluded in respect thereof and establishing a different procedure for determining the quorum and voting.

However, rather than applying to all Russian legal entities with «hostile» foreign capital/participation, the new rules only apply to companies that meet all of the following criteria:

1. The company operates in any of the following sectors: energy, machine-building or trade;
2. The beneficiary and/or controlling person of the company is subject to foreign sanctions;
3. The interest held in the Russian company by a «hostile» foreign shareholder does not exceed 50% of its shares; and
4. The company’s revenue for the previous year was over RUB 100 billion.

The Decree says that entities controlled by Russian nationals and entities controlled by persons from «friendly» states before 1 March 2022 shall not be treated as «hostile» persons.

Please note that the validity of the above new rules is currently limited to 2023.