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№7, July 2025

КОРПОРАТИВНЫЙ ЮРИСТ

Remote Participation in General Meetings: Analysing Foreign Participant Identification Methods

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For a foreign shareholder or participant to join a general meeting remotely, they need an electronic signature that can only be obtained in the Russian Federation. Additionally, jurisdictional issues arise for such partners. Yulia Berezina, Senior associate of Corporate Practice and M&A Transactions at "Tomashevskaya & Partners" Law Firm, and her colleague explained how to simplify the identification process for foreigners and prepare for remote meetings.

Companies that have provided for the possibility of remote meeting formats in their charters must include shareholder or participant identification rules in the same document. During the transitional period from 1 March 2025 to 1 September 2027, companies may develop such rules independently. Flexible mechanisms may be implemented taking into account the composition of shareholders or participants, or existing practices may be applied.

Most shareholders or participants who cannot attend general meetings in person wish to have the opportunity to participate remotely. Through this format, companies ensure a quorum, including through the participation of foreign shareholders (participants). Since 2015, the legislator has allowed remote participation in general meetings of joint-stock companies (**JSCs**), while limited liability companies (**LLCs**) applied this permission by analogy.

The Federal Law No. 287-FZ dated 08.08.2024 "On Amendments to the Federal Law On Joint-Stock Companies" and certain legislative acts of the Russian Federation attempted to fully detail the process of identifying foreign shareholders or participants. Unfortunately, implementing the new methods in practice has proven difficult. This article explains which identification methods the legislator permits, highlights the problems foreigners may encounter, as well as provides recommendations for companies to prepare for the implementation of remote participation in meetings to ensure the most convenient identification method for foreign shareholders and participants.

Russian developments for remote meetings

In 2020, PJSC "Inter RAO" provided its shareholders with the opportunity to participate in the annual general meeting through remote absentee voting. To do this, shareholders had to complete an electronic ballot via a special voting system developed by JSC "VTB Registrar". To access their account, shareholders could use two methods. The first was authentication through the Unified Identification and Authentication System. The second was using individual login credentials issued by the registrar. Additionally, shareholders had the option to vote via a mobile application.

Basic rules and problems

The legislator has established complex identification methods that are likely to be relevant primarily for PJSCs or JSCs/LLCs with a large number of shareholders (participants). Until 1 September 2027, companies that have amended their charters to allow remote meetings must also specify rules for verifying the identity of foreign participants (shareholders). If this is not done, from 1 September 2027, identification through the use of an enhanced qualified electronic signature will be applied by default.

Companies may use other methods. For example, a shareholder or participant may be identified using an enhanced unqualified electronic signature. Additionally, personal data such as full name, taxpayer identification number, personal insurance policy number from the Social Fund's personalised accounting system, and passport details from state information system may be used for identity verification. In this case, a simple electronic signature, such as an SMS code, will be required. Such alternative methods must be enshrined in the charter (Clause 2, Article 49.1 of Federal Law No. 208-FZ dated 26.12.1995 "On Joint-Stock Companies", hereinafter referred to as the **JSC Law**, and Clause 7, Article 37.1 of Federal Law No. 14-FZ dated 08.02.1998 "On Limited Liability Companies", hereinafter referred to as the **LLC Law**).

Not all companies can amend their charters. If a company is a non-public JSC or LLC, simplified identification rules may be established (Clause 5, Article 47 of the JSC Law, Paragraph 6, Clause 1, Article 32 of the LLC Law). However, this can only be done by unanimous decision of the shareholders (participants). In public joint-stock companies, the legislator prohibits changing mandatory shareholder identification rules.

Foreigners must come to Russia to obtain enhanced qualified electronic signature or enhanced encrypted non-certified digital signature

There are no formal restrictions in the legislation that could prevent foreign citizens from obtaining enhanced qualified electronic signature, enhanced encrypted non-certified digital signature, or providing personal data to state information system. However, this requires personally visiting a certification centre in Russia and presenting a foreign passport with a notarised translation, taxpayer identification number, personal insurance policy number.

To obtain taxpayer identification number and personal insurance policy number, a foreigner must visit the Social Fund, submit a notarised copy of their passport, and a document confirming their legal stay in the Russian Federation. This could be a visa, residence permit, detachable part of the notification form of a foreign national's arrival at their place of stay with a mark from the migration registration authority, or temporary residence permit.

Citizens of unfriendly states may potentially face sanctions risks if they decide to obtain enhanced qualified electronic signature or enhanced encrypted non-certified digital signature in Russia. Transferring personal data to Russian jurisdiction may contradict the legislation of the foreign shareholder's (participant's) country of residence. Additionally, national legislation may explicitly prohibit transferring data to Russian information systems, creating additional difficulties for foreign citizens. For example, such a prohibition has been established in the jurisdictions of the USA and EU countries (reuters.com).

Russian software cannot be installed or used in some countries To use enhanced qualified electronic signature and enhanced encrypted non-certified digital signature, special software is required, such as "CryptoPro". In some jurisdictions, it cannot be installed due to sanctions restrictions. Moreover, such software may be blocked during use, as happened with "CryptoPro", which stopped functioning for macOS users (ca.kontur.ru).

Requirements for remote participation rules differ for JSCs and LLCs

The legislator has provided for a phased introduction of new mechanisms for remote participation in general meetings of business entities. As a general rule, remote meetings must be conducted in a manner that allows the meeting location to be determined and enables shareholders or participants to be present at that location. JSCs may apply this provision from 8 August 2024 by operation of law, so no charter amendments are required. LLCs began applying this rule from 1 March 2025: for this, the LLC charter must be amended. From 8 August 2024 (for LLCs, the rules came into effect from 1 March 2025), JSCs and LLCs may conduct meetings remotely without a specific location or the possibility of in-person participation, but this format must be enshrined in the charters of both JSCs and LLCs.

Alternative methods for non-public JSCs and LLCs

JSCs and LLCs must enshrine alternative identification methods for remote meetings in their charters to mitigate key risks. For example, shareholders and participants may undergo video identification with the participation of a corporate secretary, registrar, or notary. Thus, the registrar “Independent Registrar Company - R.O.S.T.” conducted a fully remote general meeting of shareholders in accordance with the new legislative requirements (rrost.ru).

Secure corporate portals with two-factor authentication may be used. Another option is biometric identification. There are special applications that allow identity verification without integration with state information system. Preliminary registration may be completed in the company's specialised system.

There are simpler methods for identifying foreign shareholders or company participants. In particular, they may join the general meeting from a specific phone number or email address. It should be noted that all shareholders or participants must vote in favour of such charter amendments in non-public companies.

Amending the charter may prove challenging. Therefore, before implementing remote participation formats and making corresponding changes to corporate documentation, we recommend:

- analysing the composition of shareholders or participants to determine whether there are foreign citizens among them;
- identifying the problems each category of shareholders or participants may face during identification;
- assessing whether shareholders or participants have the technical capability for remote participation in meetings, particularly access to necessary devices and software for such procedures;
- based on the previous three steps, formulating alternative identification mechanisms that may be included in the charter (Clause 3, Article 49.1 of the JSC Law, Clause 13, Article 37 of the LLC Law);
- discussing identification methods with all shareholders or participants and reaching a consensus on the best option for all;
- developing internal documentation to regulate the procedure for conducting remote meetings and identifying shareholders or participants;
- acquiring or developing software accessible to all shareholders or participants, testing it, training remote meeting participants in its use, and providing them with technical support.

Power of attorney or electronic signature from a foreigner's home jurisdiction for public JSCs

A foreign shareholder or participant may send a representative with a machine-readable power of attorney to participate in a meeting. However, the power of attorney must be executed in Russia, creating problems similar to obtaining enhanced qualified electronic signature or enhanced encrypted non-certified digital signature. Theoretically, a foreign shareholder may use an electronic signature issued in accordance with the laws of their home jurisdiction. However, it can only be recognised in Russia under one of two conditions. First: there must be an international treaty on mutual recognition of electronic signatures between Russia and the foreign partner's country of origin. Such treaties are rare, especially with unfriendly states. For example, Russia has signed an Agreement on Electronic Signature Recognition with Belarus (Federal Law No. 424-FZ dated 30.11.2024 "On the Ratification of the Agreement...").

A framework agreement on electronic signature recognition rules has been concluded with some EAEU countries (Decision of the EEC Board No. 120 dated 22.08.2023, docs.eaeunion.org).

The second condition under which a foreigner's electronic signature may be recognised in the Russian Federation is that it must be verified by a Russian certification centre. However, this requires the citizen to come to Russia, again facing the same problems as when obtaining enhanced qualified electronic signature or enhanced encrypted non-certified digital signature.

No specific norms existed before 2024, but courts still recognised remote participation as valid

The legislator long ago permitted remote participation in meetings. Companies of different legal forms used different norms. Thus, shareholders were first able to conduct meetings using remote technologies in 2015 (Clause 11, Article 49 of the JSC Law). This was the only mention of the remote format in the then-current legislation on business entities. Subsequently, from 1 July 2021, the legislator introduced a norm in the Civil Code that began regulating the possibility for members of business entities to participate in meetings remotely (Article 181.2 of the Civil Code). At the same time, the LLC Law contained no such norms until August 2024. LLCs relied on the general norm in the Civil Code and the absence of a prohibition on conducting remote meetings. They enshrined the necessary provisions in their charters or corporate agreements, describing the procedure for such meetings and participant identification methods. Sometimes companies de facto resorted to remote participation without any formalisation. Courts did not question the legitimacy of this format. For example, in one case, the court recognised as a business custom the practice established among company participants. They made corporate decisions via email correspondence, Skype calls, or telephone conversations (Ruling of the third Arbitration Court of Appeal dated 06.03.2019 in case No. A33-2146/2017).