

Minority shareholders' rights in the Turkish commercial code

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The reform of the Turkish commercial code (TCC) of 2011 has significantly affected the law on shareholders, with particular reference to the rights of minority shareholders in listed companies (so-called Joint Stock Corporations-JSC).

The definition of minority shareholders is set out in article 411 of the TCC which states that minority shareholders are shareholders that hold at least 10% of the share capital of a private company and 5% of the share capital of a public company.

Among the various protections afforded by the new TCC to minority shareholders, those are that particularly worthy of mention are the mechanisms to ensure their representation in decision-making bodies of the company, as well as tools that protect their participation in meetings.

For example, article 360 TCC, in its current form, expressly provides for the possibility of minority shareholders being represented on the Board, with the right for them to select candidates or to be elected themselves.

Again, with reference to the spirit of the protection of minority shareholders that seems to have inspired the reforms of 2011, it is impossible not to mention on the one hand article 420 that gives minority shareholders the right to postpone discussions for the approval of the budget by one month, and on the other hand, article 411 TCC which expressly gives minority shareholders the opportunity to require the Board of Directors to convene a General Assembly or where a the meeting has already been convened, to add a further point to the agenda.

We can say then that the text of the TCC pays particular attention to the role of minority shareholders in corporate dynamics, with, on the one hand, mechanisms supporting active participation in the decision-making and on the other, concrete tools for the protection of their rights.

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