

# RUSSIAN DESK

## Reform of procedural legislation

Large-scale reform of procedural law related to the creation of cassation and appellate courts of general jurisdiction started fairly recently in the Russian Federation<sup>1</sup> (their establishment should be completed not later than 1 October 2019).

In this information letter, you will find an overview of the most significant amendments to legislation which will enter into force from the date when the cassation and appellate courts of general jurisdiction begin their activities<sup>2</sup>.

These amendments are systemic in nature and will cover the provisions of the Commercial Procedure Code of the Russian Federation, the Civil Procedural Code of the Russian Federation, the Code of Administrative Court Procedure of the Russian Federation, the Federal Law "On Insolvency (Bankruptcy)", the Federal Law "On Enforcement Proceedings", and also other legislative acts.

### COMPETENCY OF COURTS

Key amendments that should be considered:

- The concept of the "competence" of the courts, which replaces the previously effective term of "jurisdiction", is being introduced into legislation.
- Corporate disputes related to the establishment and management of or participation in a non-profit legal entity are assigned to the jurisdiction of the courts of general jurisdiction, with the exception of the expressly named non-profit organisations, whose corporate disputes are assigned to the competence of commercial courts.
- Cases on property disputes arising during the protection of consumer rights are assigned to the jurisdiction of the justice of the peace if the price of the claim does not exceed RUB 100.000.
- Commercial courts consider cases on the recovery of money pursuant to the procedure for simplified proceedings if the price of the claim does not exceed **RUB 800.000** for legal entities, **RUB 400.000** for individual entrepreneurs (previously the thresholds equalled RUB 500.000 and RUB 250.000, respectively).

- If the court establishes during court proceedings on a civil case that it should be considered pursuant to the procedure for administrative court proceedings, the court issues a ruling to consider the case according to the rules of administrative court proceedings. A similar thing occurs if the case should be considered pursuant to the procedure for civil proceedings but was initially accepted for consideration pursuant to the procedure for administrative court proceedings. The aforementioned complies with the principle of procedural economy.
- If it became apparent during consideration of an administrative case in a court of general jurisdiction that it should be considered by a commercial court, the court of general jurisdiction will refer the case to the commercial court under the jurisdiction of which it was assigned by law.
- Provisions were introduced to the RF Civil Procedural Code that regulate in more detail court proceedings at the Judicial Board of the Supreme Court of the Russian Federation.

### LEGAL REPRESENTATION

A new requirement on legal representation has been incorporated into the Commercial Procedure Code of the Russian Federation and the Civil Procedure Code of the Russian Federation: only individuals who have a higher legal education or post-graduate law degree may be representatives.

The indicated restrictions do not apply to:

- representation in cases to be considered in district courts and by justices of the peace;

<sup>1</sup> The carrying out of reforms was based on Federal Constitutional Law No. 1-FKZ dated 29 July 2018 "On Introducing Amendments to the Federal Constitutional Law "On the Judicial System of the Russian Federation" and Individual Federal Constitutional Laws in Connection with the Establishment of Cassation and Appellate Courts of General Jurisdiction".

<sup>2</sup> Federal Law No. 451-FZ dated 28 November 2018 "On Introducing Amendments to Certain Legislative Acts of the Russian Federation".

- patent attorneys, in respect of disputes related to the legal protection of intellectual property and means of identification;
- court-appointed receivers during the exercise of duties in a bankruptcy case;
- professional unions, their organisations, associations providing legal representation of the interests of members of the indicated associations in respect of disputes related to the violation of rights and freedoms in the area of labour (work) relations.

### COURT EXPENSES

The right of non-party interveners to recover court costs if they participated in a case on behalf of the party in favour of which the court order was adopted and the actual behaviour of both participants in the court proceedings facilitated the adoption of this court order was documented in all procedural codes<sup>3</sup>.

It was also established that court costs may be recovered from the non-party interveners themselves, if they exercised their right to appeal against the court order, and their appeal was dismissed.

A single timeframe was determined in all procedural codes for the filing of an application in court for the reimbursement of court costs: **three months** from the date of the entry into force of the most recent court order, the adoption of which ended the consideration of the case on its merits. The procedural timeframe previously equalled six months (Article 112 of the RF Commercial Procedure Code).

### PROCEDURAL TIMEFRAMES

Key amendments that should be considered:

- it was clarified that timeframes calculated in days do not include non-working days;
- the timeframe for consideration of cases by commercial courts was increased from three to six months (with the possibility of an extension to nine months);
- observations on the court record of the commercial court may be filed within five days (previously the timeframe was three days);
- a two-month timeframe was established for consideration by the courts of general jurisdiction of cases through simplified proceedings;
- the RF Civil Procedural Code introduces a separate chapter dedicated to amicable settlement agreements. It is establis-

hed that the approval of an amicable settlement agreement is considered by the court within a timeframe not to exceed one month from the date of the filing with the court of the application of the parties on approval of the amicable settlement agreement.

### COURT ORDER

The rules for drafting the rationale of the court order are clarified in the RF Commercial Procedure Code and the RF Civil Procedural Code. If a claim is recognised by the respondent, the rationale of the court decision may indicate **only** the recognition of the claim and its adoption by the court.

If a claim is rejected due to the expiry of the statute of limitations (or the reasons for missing the deadline are recognised as insufficient), the rationale of the court decision indicates **only** the establishment by the court of these circumstances.

This will make it possible to rule out situations where a court order documents other factual circumstances that will subsequently have prejudicial significance for the parties in the case.

In conclusion, we note that the reform of procedural legislation being implemented introduces a number of other material addend that require a more detailed explanation.



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<sup>3</sup>This regulation was previously only contained in Clause 6 of Resolution No. 1 of the Plenum of the RF Supreme Court dated 21 January 2016.

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