Russian Federation (Russia)

by
Kirill Trofimov
Professor, Far Eastern Federal University

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The Author

Kirill Trofimov, Professor of Law, Chair in Financial and Business Law (2007–2011), Far Eastern Federal University, Russia, graduated from the Far Eastern Federal University Law School in 1988 (Diploma with Honour, 1st in class). He was awarded the Diploma of Doctor of Laws by the Decision of the Higher Attestation Commission of the Ministry of Education and Science of the Russian Federation, Moscow, Russia, in 2005. Prof. Trofimov received his Ph.D. in Law at the Institute of Legislation and Comparative Law under the Government of the Russian Federation in 1995 and Master of Laws at the University of Toronto in 2009. He was an assistant professor at the Far Eastern Federal University in 1988–1990, vice-president at the Far Eastern Bank, Russia, in 1995–2000, and docent (associate professor) at the same university in 1997–2005. He was a Fulbright scholar at the University Wisconsin-Madison Law School, USA, in 2007. Prof. Trofimov is a full law professor at the Far Eastern Federal University School of Law since 2005.

He teaches banking and business law and litigation and has written extensively on Russian and comparative banking law, insolvency and procedural law.

The Author

List of Abbreviations

APC	The Arbitration Procedural Code of the Russian Federation (95-FZ/2002 with consecutive amendments)
Constitution	The Constitution of the Russian Federation (adopted on 12 December 1993)
CPC	The Civil Procedural Code of the Russian Federation (138-FZ/2002 with consecutive amendments)
FKZ	Federal Constitutional Law (*Federal'nyi Konstitutsionnyi Zakon)*
FZ	Federal Law (*Federal'nyi Zakon)*
RF	Russian Federation, Russia

Note 1: Unless otherwise stated 'region' means any of the federal subjects of the Russian Federation: republic, autonomous republic, autonomous *okrug*, *oblast*' or *kray*.
Note 2: I am using 'he' and 'she' throughout the text as interchangeable pronouns referring to a person of either sex without any gender prejudice.

List of Abbreviations

Acknowledgement

To my beloved wife Aida … simply because.

Acknowledgement

General Introduction

Chapter 1. General Background

1. Russia (*Rossia,* official name: *Rossiyskaya Federatsiya,* Russian Federation), once a leading republic of the Union of Soviet Socialist Republics (U.S.S.R.; *Soyuz Sovetskikh Sotsialisticheskikh Respublik,* commonly known as the Soviet Union, *Sovetsky Soyuz*), became an independent country after the dissolution of the Soviet Union in December 1991.

2. With the support of eleven former Soviet Union's republics – members of the Commonwealth of Independent States (*Soyuz Nezavisimykh Gosudarstv, CIS*) Russia was recognized as the successor State of the Soviet Union for the purposes of membership in the Security Council and all other United Nations organs. The Constitution of the Russian Federation was adopted at the 12 December 1993, referendum.

3. Russia is by far the largest country in the world (17,098,242 sq km, nearly twice the territory of Canada, the second largest), covering more than a ninth of the Earth's land area. Russia shares borders with the following countries (from northwest to southeast): Norway, Finland, Estonia, Latvia, Lithuania and Poland (both via Kaliningrad Oblast), Belarus, Ukraine, Georgia, Azerbaijan, Kazakhstan, China, Mongolia, and North Korea. It also has maritime borders with Japan (by the Sea of Okhotsk) and the United States (by the Bering Strait). Russia extends across the whole of northern Asia and the eastern third of Europe, spanning nine time zones and incorporating a wide range of environments and landforms. Russia has the world's largest reserves of mineral and energy resources, and is considered as an energy superpower. It also has the world's largest forest reserves and its lakes contain approximately one-quarter of the world's unfrozen fresh water.

4. The population of Russia is about 141.9 million people (2010 estimate, the ninth largest in the world). Ethnic Russians comprise nearly four-fifths of the country's total population, followed by Tatars, Ukrainians, Bashkirs, Chuvash, Chechen and Armenians (each group has more than a million members).

5. Russia is a federal multiparty semi-presidential republic with a bicameral legislative body (the Federal Assembly comprising the Council of Federation and the State Duma).

The President of the Russian Federation is the Head of State and the Supreme Commander-in-Chief of the Armed Forces of the Russian Federation.[1] The first President of the Russian Federation, Boris Nikolayevich Yeltsin, was elected in a national election on 12 June 1991, and re-elected for a new term in 1996. On 31 December 1999, Mr Yeltsin signed a decree announcing that he was stepping down from his post as president. Vladimir Vladimirovich Putin, Prime Minister at that time, became an acting President on 31 December 1999. On 26 March 2000, he was elected President of Russia and was re-elected in 2004 for the second term. President Dmitry Anatolyevich Medvedev was elected by popular vote for a four-year term in March 2008 and is eligible for a second term (next election to be held in March 2012). The term length was extended to six years in late 2008, to go into effect following the 2012 presidential election. There is no vice-president in Russia; in all cases where the President is unable to fulfil his duties, they are temporarily delegated to the Chairman of the Government of the Russian Federation.

'The Chairman of the Government' (*Predsedatel' Pravitel'stva)* is the official title (Constitution, Articles 110, 111 and others). The terms 'Prime Minister' and 'Premier' have firmly established themselves in the political lexicon, but they have no official basis in law. The Chairman of the Government is appointed by the President with the consent of the State Duma (Constitution, Article 111). Since 8 May 2008, Vladimir Putin is a Chairman of the Russian Government.

The Federal Assembly consists of two chambers – the Council of Federation and the State Duma. The Council of Federation includes two representatives from each federal subject: one from legislative and one from the executive regional government body (166 as of February 2011). The State Duma consists of 450 deputies (Constitution, Article 95). As of 4 December 2011, elections, there are four parties that make up the State Duma: United Russia (*Yedinaya Rossiya,* 238 deputies), Communist Party of the Russian Federation (*Kommunisticheskaya partiya Rossiyskoy Federatsii*, ninety-two deputies), A Just Russia (*Spravedlivaya Rossiya*, sixty-four deputies), and Liberal Democratic Party of Russia (*Liberal'no-Demokraticheskaya Partiya Rossii (LDPR),* fifty-six deputies).

6. As a federal State, Russia is composed of eighty-three constituent entities (subjects of the Federation):

– Twenty-one Republics (*respublik,* singular – *respublica):* Republic of Adygeya, Republic of Altai, Republic of Bashkortostan, Republic of Buryatia, Republic of Daghestan, Republic of Ingushetia, Kabardino-Balkaria Republic, Republic of Kalmykia, Karachayevo-Circassian Republic, Republic of Karelia, Komi Republic, Republic of Mari El, Republic of Mordovia, Republic of Sakha (Yakutia), Republic of North Ossetia – Alania, Republic of Tatarstan, Republic of Tuva, Udmurtian Republic, Republic of Khakassia, Chechen Republic, Chuvash Republic).
– Nine Territories (*krayev,* singular – kray): Altai Territory, Trans-Baikal Territory, 'Kamchatka Territory, Krasnodar Territory, Krasnoyarsk Territory, Perm Territory, Primorye Territory, Stavropol Territory, Khabarovsk Territory.

1. Constitution, Arts 80(1) and 87(1).

- Forty-six Regions (*oblastey,* singular – *oblast*): Amur Region, Arkhangelsk Region, Astrakhan Region, Belgorod Region, Bryansk Region, Chelyabinsk Region, Ivanovo Region, Irkutsk Region, Kaliningrad Region, Kaluga Region, Kemerovo Region, Kirov Region, Kostroma Region, Kurgan Region, Kursk Region, Leningrad Region, Lipetsk Region, Magadan Region, Moscow Region, Murmansk Region, Nizhny Novgorod Region, Novgorod Region, Novosibirsk Region, Omsk Region, Orenburg Region, Orel Region, Penza Region, Pskov Region, Rostov Region, Ryazan Region, Samara Region, Saratov Region, Sakhalin Region, Sverdlovsk Region, Smolensk Region, Tambov Region, Tomsk Region, Tver Region, Tula Region, Tyumen Region, Ulyanovsk Region, Vladimir Region, Volgograd Region, Vologda Region, Voronezh Region, Yaroslavl Region.
- Two cities (*goroda,* singular – gorod) of federal importance: Moscow and St.Petersburg.
- One Jewish Autonomous Region (*Avtonomnaya Oblast'*).
- Four Autonomous Areas (*Avtonomnykh Okrugov,* singular – *Avtonomnyy Okrug*): Nenets Autonomous Area, Khanty-Mansi Autonomous Area – Yugra, Chukotka Autonomous Area, and Yamal-Nenets Autonomous Area.[2]

The federal subjects differ in the degree of autonomy they enjoy (e.g., republics could have their own constitutions and Supreme Courts); however, in terms of relations with federal government bodies they are equal (Constitution, Article 5(4)). The power of the constituent entities in Russia's constitutional system is somewhat more limited than, for example, the power of the states under US law, or the power of the provinces and territories under Canada law. Federal legislation is constitutionally allowed to extend into areas that in the US or Canada are reserved to the states or provinces, for example, civil procedure or commercial law. The President of Russia has a right to appoint or to remove and replace the Head of entities' executive authority. In addition, the local power has been almost nullified by the centralization of economic resources by the federal government.

7. In May 2000, the federal districts (*federalnyye okruga*) were created by Vladimir Putin (as of December 2011, there are eight federal districts in Russia). The federal districts are not the constituent units of Russia (which are the federal subjects), each district includes several federal subjects and each federal district has a presidential envoy (whose official title is Plenipotentiary Representative). Federal districts' envoys serve as liaisons between the federal subjects and the federal government and are primarily responsible for overseeing the compliance of the federal subjects to the federal laws. The federal districts coincide closely with the Interior Ministry forces' military regions and the Defence Ministry districts. This allows the Plenipotentiary Representatives to have direct access to the command structure of the military and security apparatus. The arbitration cassation courts are also located primarily in the federal districts' 'capitals'.

8. Local self-government in Russia is administered in urban and rural settlements and on other territories according to historical and other local traditions and is exercised by citizens by means of referendum, elections and other forms of direct expression

2. Constitution, Art. 65.

of their will, and through elected and other bodies of local government. Bodies of local self-government manage municipal property; form, approve and implement the local budget; introduce local taxes and levies; ensure the preservation of public order; and resolve other issues of local importance. In practice, however, bodies of local self-government have a very limited legislative and financial power, as most of their activities are regulated by federal or regional laws and financed through federal or regional budgets.

9. Russia is a secular State. No religion may be established as the State or obligatory religion. Religions associations shall be separate from the State and shall be equal before the law (Constitution, Article 14). Freedom of religion is guaranteed by Article 28 of the Constitution. The most popular religion in Russia is Russian Orthodox Christianity, which is professed by about 75% of citizens who describe themselves as religious believers. Islam, non-Orthodox Christian denominations and Judaism are other important religions in Russia. However, the majority of Russians are either atheists or non-observant, who never attend church services of any kind.

10. Russia's 160 ethnic groups speak some 100 languages. The absolute majority speaks Russian, followed by Tatar with 5.3 million and Ukrainian with 1.8 million speakers. Despite its wide dispersal, the Russian language is homogeneous throughout Russia. Russian is the most widely spoken Slavic language and is one of the six official languages of the United Nations. Russian is the only official State language, but the Constitution gives republics the right to make their native language co-official next to Russian (Constitution, Article 68(2)). Co-official republic (state) language could be used together with Russian in the republic's government bodies, local self-government bodies and state institutions of republics. The Arbitration Procedural Code (APC, Article 12) states that Russian is the only language of proceedings. The Civil Procedural Code (CPC, Article 9) implements a different approach: civil proceedings could be held in Russian or in the national language of the republic (federal subject), on whose territory the court is located. Civil proceedings in military courts shall be held in Russian only. Both Codes provide that participants have the right to communicate in their native language or in any other freely chosen language and use the translator's services.

11. There are no special constitutional preferences or guarantees for any of the nationality groups in Russia. Everyone has the right to determine and declare his nationality and has the right to use his native language and to free choice the language of communication, upbringing, education and creative work (Constitution, Article 26).

12. Historically, Russia belongs to the civil law family, and a written law, which was passed under the established legislative procedure, is the main legal source. During the Soviet period, Russian law was considered as part of separate law family named Socialist law. Since the dissolution of the Soviet Union that is no longer the case.

13. The Constitution of Russia makes a distinction between legislative, executive and judicial powers (Article 10). The legislative power is vested in the Federal Assembly – parliament of the Russian Federation. Executive power is exercised by the Government of Russia.

14. Justice in Russia is administered only by courts (Constitution, Article 118). The judicial system is established by the Constitution and federal constitutional laws. The creation of extraordinary courts is not permitted. The Constitutional Court of the Russian Federation is vested with the power to decide the conformity of federal laws and other normative acts to the Constitution. The Supreme Court of the Russian Federation is the highest judicial body for civil, criminal, administrative and other cases under the jurisdiction of general courts. The Supreme Arbitration Court of the Russian Federation is the highest judicial body for settling economic disputes and other cases examined by arbitration courts. The powers and the procedure for the formation and activities of these three courts and other federal courts are established by federal constitutional laws.

Judges of the Constitutional Court, the Supreme Court and the Supreme Arbitration Court are appointed by the Council of Federation upon nomination by the President. Judges of other federal courts are appointed by the President in accordance with the procedure established by federal law (Constitution, Article 128).

15. The administration of the courts is largely based on the principle of self-management. According to the Federal Law on the Judicial Department under the Supreme Court of the Russian Federation, the organizational provision of the general courts passed from the Ministry of Justice system bodies to a new organ, the Judicial Department.[3] The judicial community in Russia also has its own bodies established in accordance with the federal law to express the interests of judges as the carriers of the justice.[4]

3. 7-FZ On the Judicial Department under the Supreme Court of the Russian Federation (7-FZ/1998 with consecutive amendments.
4. 30-FZ On Bodies of Judicial Community in the Russian Federation (30-FZ/2002 with consecutive amendments).

Chapter 2. Civil Procedure and other Forms of Procedure

16. According to the Constitution, the judicial adjudication is divided into three jurisdictions, the constitutional, the general and the arbitration. The Constitutional Court of the Russian Federation has jurisdiction over cases on conformity to the Constitution of Russia.[5] The general courts have jurisdiction over civil, criminal, administrative and other cases (Constitution, Article 126). The arbitration courts have jurisdiction over economic disputes and other cases (Constitution, Article 127). In addition, within the system of general courts, some special courts (e.g., military courts) exist and their jurisdiction is regulated by respective federal laws.

17. The arbitration courts represent a four-tier system and are divided into eighty-one arbitration courts at the regional (federal subjects) level, twenty appeal arbitration courts, ten cassation courts and the Supreme Arbitration Court. The procedures in the administrative courts are regulated by the Arbitration Procedural Code of the Russian Federation (APC, 96-FZ/2002). The arbitration courts have jurisdiction over commercial disputes between legal entities of any form, including individual entrepreneurs.

18. The decision whether the case belongs to the arbitration or to the general court depends on who the involved parties are. The arbitration courts do not have jurisdiction over cases when a natural person is involved, for example, a natural person's appeal from decision of tax authority belongs to the general court. If the same person is registered as a single entrepreneur, his appeal from decision of tax authority regarding his business activity belongs to the arbitration court.

19. Both the Civil Procedural Code (CPC, Chapter 3) and APC (Chapter 4) set out the rules of jurisdiction and how to settle conflict of jurisdiction between the general courts and the arbitration courts. As Article 22 of CPC states, when an application to the court consists of several interconnected inseparable claims, a part of which referred to the court of general jurisdiction, and another part – to the arbitration court, the case shall be examined and solved by the court of general jurisdiction. In case if the claims are separable, the judge shall make a decision to accept the claims referred to the court of general jurisdiction, and to refuse acceptance of those referred to the arbitration court. The case transferred from one court to another must be accepted for judicial proceedings by the referred court. Disputes on jurisdiction between courts are not admitted.

20. The general courts represent a three-tier system: district courts in the first instance, regional courts (courts of federal subjects) and the Supreme Court of the Russian Federation. Depending on the nature of the case the same court may deliver rulings as a court of various levels, for example, a district court may rule as a court in the first instance and appeal court; regional court – as a court in the first instance,

5. The constitutional (charter) courts of the federal subjects have jurisdiction over cases on conformity of regional laws to the regional constitution (charter). However, these courts are not mentioned in the Constitution and do not create the constitutional courts system. The Constitutional Court of Russia is not the higher judicial body for the regional courts and do not review their decisions.

appeal and cassation court; and the Supreme Court – as the court in the first instance, the appeal court, the cassation court and the supervisory instance. Military courts create a separate sub-system within the system of general courts. The Military Collegium, the highest specialized judicial body for the military courts, is one of the Supreme Court's Collegia and is headed by the Deputy Chairperson of the Supreme Court.

21. The civil procedure, which is the topic of this supplement, is followed in the general courts in proceedings concerning commercial and consumer disputes, torts, property and real estate, family and other matters, where a natural person is involved. The rules of arbitration procedure, followed in the arbitration courts, share the same general principles and many particular rules are very similar. Unless the arbitration procedure significantly differs from the civil one, the further description will be primarily based on the Civil Procedural Code of the Russian Federation.

22. The criminal procedure in Russia is regulated by the Criminal Procedural Code of the Russian Federation (194-FZ/2001). However, in certain situations (e.g., torts and other civil claim based on crime) matters of private and criminal law can be adjudicated together (Article 44 of the Criminal Procedural Code).

23. According to CPC (subsection IV Special Proceeding, *Osoboe proizvodstvo*), the jurisdiction of general courts also includes non-contentious matters, which are assigned to them by law. The list of examples of such proceeding is quite long: establishing of legally significant facts; child adoption; declaring a person whose death is strongly probable, as an absentee or dead; emancipation; declaring a lost negotiable instrument as void; and other matters (CPC, Article 262).

Chapter 3. Sources of Law

§1. The Constitution and International Law

24. The Constitution guarantees to everyone access to the courts (Article 46), the right to be heard (Article 47), the rights to qualified legal assistance (Article 48), the right to appeal, and the right to State compensation for damage caused by unlawful actions (inaction) of State government bodies and their officials (Article 53).

25. A remarkable feature of Russia's constitutional system is the role that international law plays in the legal structure. Universally recognized principles and norms of international law as well as international treaties are an integral part of Russian legal system. Moreover, if an international treaty establishes rules, which differ from ordinary domestic laws, then the treaty is declared to have a legal status superior to ordinary laws (Constitution, Article 15(4)).

The corresponding clauses are included into CPC (Article 1(2)) and APC (Article 3(3)).

26. In addition to the Constitution, an access to the courts and a right to a fair and public hearing within reasonable time are guaranteed by the International Convention on Civil and Political Rights (1966) and the European Convention of Human Rights (1951). Russia is a party of these Conventions since 1973 and 1998 respectively. The European Court has given several judgments in cases against Russia concerning the right to a fair hearing within a reasonable time in non-criminal cases.[6]

27. The Plenum of the Supreme Court also issues a special Ordinance on Application of Generally Recognized Principles and Norm of International Law and International Treaties of the Russian Federation by Courts of General Jurisdiction.[7]

§2. The Codes of Procedure

28. Russia had a civil law tradition before the Russian revolution of October 1917. While the 'soviet law' once was considered as a separate legal system, after the Soviet Union's collapse this is not an issue. Russia has returned back to the civil law tradition. The Federal Assembly – Parliament of the Russian Federation – is the legislative body of Russia and federal laws play a dominant role in the legal system. The President of Russia has the right to issue edicts and regulations that are binding on the entire territory of Russia; however, these edicts and regulations must not conflict with the Constitution and federal laws (Constitution, Article 90). The President's edicts and other by-laws play a minor, if any, role in the regulation of civil procedure.

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6. For example, *Budrov v. Russia* (7 May 2002, right to fair trial)*; Ryazantsev v. Russia* (10 Mar. 2011, length).
7. Special Ordinance No. 5, of 10 Oct. 2003.

29. The civil procedure in the general courts is regulated by the Civil Procedural Code, 2002; and the civil (arbitration) procedure in the arbitration courts is regulated by the Arbitration Procedural Code, 2002. The 2002 CPC replaced CPC, 1964, adopted under the Soviet regime. The 2002 APC replaced the Arbitration Procedural Code, adopted in 1995. Russia's first APC was adopted in 1992.

30. The new Russian Code of Civil Procedure was adopted in 2002 and entered into force from 1 February 2003. The Code has been created on the basis of the new Russian Constitution of 1993 and the most important international human rights acts: Declaration of Human Rights of 1948 and European Convention of Protection of Human Rights of 1950.

The CPC is based on Russia's civil law traditions: the Russian Statutes of Civil Proceedings of 1864, the Codes of Civil Procedure of 1923 and 1964. At the same moment the 2002 CPC reflects the major social and economical changes in modern Russia. A striking example of such changes is the move from investigative role of civil courts under the Code of 1964 to the principle of adversarial proceeding.

31. Both civil and arbitration procedures are experiencing ongoing development. The civil procedure has a long history and some traditions; the arbitration procedure and the arbitration courts system were created in modern Russia after the Soviet Union dissolution.

32. The general courts system has been significantly structurally reformed in 1998, when the Justices of the Peace were introduced, and in 2010, when the cassation instance was imbedded into the general courts system.

33. The arbitration courts system has been changed in 1995, when ten cassation circuit (federal district) courts were created; and in 2002, when twenty appeal arbitration courts were created.

34. The CPC and the APC are the main sources of the procedural rules for the general and arbitration courts respectively. Special procedures, such as insolvency, are regulated both by the respective code and separate acts (e.g., Federal Law 40-FZ/1998 on bankruptcy (insolvency) of credit organizations).

The judicial institutions, the prosecutors and the advocates are regulated in separate acts.

§3. Generally About Sources of Law

35. The legally binding sources of Russia's procedural law vary from code to code.

Naturally, the most restrictive approach is executed in the Criminal Procedural Code of the Russian Federation, 2001: only the Constitution, international treaties and the Code itself are considered as sources of the criminal procedural law (Article 1).

The Arbitration Procedural Code (Article 13) allows as the sources the Constitution; federal constitutional laws; federal laws; legal acts, issued by the President; federal government regulations; federal authority regulations; and regional and local normative acts. The court shall apply the norms of the legal regulation having a higher legal force. If the international agreement, which the Russian Federation is a party to, stipulates the rules other than that stipulated by law, the court, while solving the case, shall apply those of international agreement. For lack of rules of law, the arbitration court could apply the rules of law, regulating the similar relationships (analogy by law); and for lack of such rules, shall settle the case on general principles and sense of law (inference from general principles of law).

The Civil Procedural Code (Article 11) generally states the same list and hierarchy of sources. The distinguishing feature between APC and CPC is that the general courts can use customary law when it is stipulated by any normative acts (CPC, Article 11); whereas the arbitration courts can use customary law when it is stipulated by federal laws only (APC, Article 13).

36. The Supreme Court of the Russian Federation and the Supreme Arbitration Court of the Russian Federation's precedents are not legally binding for the lower courts; hence, the lower courts are not obliged to follow the precedents or even provide reasoning why they are not doing so. However, the Supreme Courts' rulings and other decisions on judicial practice are playing the growing role as a source of law over the last two decades. Both Russia's Supreme Courts have published their Bulletins (official sources of publication) on regular basis.

37. Traditionally, general principles of law are included into the codes and described in law student textbooks. The CPC and the APC state principles of adversarial and competitive procedure; equal protection by the law and court; independence of judiciary; publicity; and the most recently introduced principle of the right to a trial within a reasonable time.

38. Scholars' literature, even written by senior judicial officials or commonly respected legal scholars, plays a minor, if any, role in modern Russia's courts activity. A legal scholar citation in Russia's court ruling is a rare exception.

§4. General Principles

39. Generally, the Russian legal theory of civil procedure divides general principles into organizational (related to the administration of justice) and functional (related to the civil procedure itself).

40. All principles of civil or arbitration procedure are reflected in CPC or APC respectively. All principles are naturally interrelated and interdependent, which means that they have more theoretical than practical interest. Traditionally, in Russia's law textbooks principles of law are discussed at length.

41. Main organizational principles cover principle of justice only by the courts; principle of Russian as an official language of trial; principle of judicial independence; principle of public trial; and principle of equality of trial parties.

42. Functional or procedural principles cover principle of legality; principle of judicial or legal truth; principle of discretionary (*dobrovol'nosti)*; adversarial principle; principle of immediacy; principle of continuity; principle of combining writing and oral presentation during trial; principle of procedural equality of parities; and principle of timely proceedings.

43. Some of the principles have constitutional status, for example, principle of equality before the law and the court (Article 19); right to judicial protection (Article 46); principle of Russian as an official State and trial language (Article 68); principle of execution of justice only by the court (Article 118); principle of judicial independence (Article 120); and principle of public hearing (Article 123).

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Part I. Judicial Organization

Chapter 1. The Courts and Their Members

§1. Structure of the Court System

I. Introduction

44. The Federal Constitutional Law on Judicial System of the Russian Federation (1-FKZ/1996) provides that the judicial system is comprised of the federal courts, the constitutional (charter) courts and the justices of peace of the federal subjects.

45. The federal courts system is divided into the Constitutional Court of the Russian Federation, the general courts, the arbitration courts and the Disciplinary Court Presence. There are two Supreme Courts in Russia: the Supreme Court of the Russian Federation is the highest judicial body for civil, criminal, administrative and other cases under the jurisdiction of general courts; and the Supreme Arbitration Court of the Russian Federation is the highest judicial body for settling economic disputes and other cases examined by arbitration courts.

46. The regional courts system includes the constitutional (charter) courts of the federal subjects and the justices of the peace who are general jurisdiction judges for the federal subjects.

47. Besides the courts, there are no quasi-judicial tribunals (boards, etc.) or other adjudicatory authorities that could make legally binding decisions in Russia. Introduction of such would require a change of the Constitution, as Article 118(1) explicitly states that justice in Russia shall be administered only by court.

II. The Constitutional Court of the Russian Federation

48. The Constitutional Court of the Russian Federation[8] consists of nineteen judges, who are appointed by the Council of Federation upon nomination by the President of the Russian Federation. Powers of judges of the Constitutional Court is not limited to a certain period and judges are irremovable and inviolable. The age limit of stay

8. Federal Constitutional Law 1-FKZ of 21 Jul. 1994, On the Constitutional Court of the Russian Federation.

in the office of judge of the Constitutional Court is seventy years. The judge of the Constitutional Court could be suspended or terminated in very limited circumstances that are set out in Articles 17 and 18 of the FKZ on the Constitutional Court of the Russian Federation.

49. The Chairman of the Constitutional Court is appointed by the Council of Federation upon nomination by the President of the Russian Federation from the judges of the Constitutional Court for a period of six years and can be reappointed for another term. Chairman of the Constitutional Court has two deputies, who are appointed by the Council of Federation upon nomination by the President of the Russian Federation from the judges of the Constitutional Court for a period of six years and can be reappointed for another term.

50. The Constitutional Court has jurisdiction (Constitution, Article 125) over cases on conformity to the Constitution of the Russian Federation of:

(1) Federal laws, normative acts of the President of the Russian Federation, the Council of Federation, the State Duma, the Government of the Russian Federation.
(2) Constitutions of republics, charters, and laws and other normative acts of federal subjects.
(3) Treaties between State federal government bodies and state regional government bodies, treaties between state regional government bodies of federal subjects.
(4) International treaties of Russia, which are not in force.

The Constitutional Court also resolves disputes on authority:

(1) Between federal state government bodies.
(2) Between federal state government bodies and regional state government bodies.
(3) Between higher regional state government bodies.

The Constitutional Court, on receiving complaints about violations of the constitutional rights and freedoms of citizens and upon request of courts, checks the constitutionality of a law, which is used or is to be used in a particular case.

Upon request of the President of the Russian Federation, the Council of Federation, the State Duma, the Government and legislative authorities of federal subjects, the Constitutional Court provides interpretation of the Constitution.

Based on the Constitutional Court ruling unconstitutional acts shall lose force; international treaties of Russia, which do not correspond to the Constitution, shall not be implemented or used.

The Constitutional Court, upon request of the Council of Federation, may issue a resolution on the observation of the established procedure for bringing charges of treason or other grave crimes against the President of the Russian Federation.

51. The Constitutional Court rulings are the source of Russia's law. Decisions of the Constitutional Court are binding throughout the Russian Federation for all representative, executive and judicial branches of State government, local authorities, enterprises, institutions, organizations, officials, citizens and their associations. Several

Constitutional Court's decisions on civil procedure were directly embedded into the CPC and the APC.

The Constitutional Court of the Russian Federation sits in St. Petersburg.

III. Constitutional Courts of the Federal Subjects

52. Regional constitutional (charter) courts may be established by the federal subject to deal with issues of conformity of regional laws and normative legal acts with the republic's constitution or regional charter, as well as with the interpretation of the regional constitution or charter. The establishment of the regional constitutional (charter) court is governed by regional law.[9]

53. As of December 2011, not all federal subjects created their constitutional (charter) courts. Unlike general courts or arbitration courts, the regional constitutional (charter) courts do not constitute a single system. All decisions, made by such courts within its competence, are final and cannot be reviewed by another court. The Constitutional Court of Russia is not a higher court for the regional constitutional (charter) courts. However, the regional constitutional (charter) courts are an integral part of Russia's judicial system and its judges have the same status as the federal judges, except the issues of appointment and term in the office, governed by regional laws.

IV. The Disciplinary Court Presence

54. The Disciplinary Court Presence[10] is a judicial body that hears appeals against decisions of the Supreme Qualification Collegium of Judges of the Russian Federation and the Qualification Collegia of Judges of the Russian Federation on early termination of office of judges due to misconduct and appeals against decisions of the Supreme Qualification Collegium of Judges of the Russian Federation and the Qualification Collegium of Judges of the Russian Federation on the refusal to disband the judges due to misconduct.

55. Disciplinary Court Presence includes six members: the three judges of the Supreme Court and three judges of the Supreme Arbitration Court. The Supreme Courts' Chairpersons and their deputies, as well as judges – members of the Supreme Qualification Collegium of Judges or the Board of Judges of the Russian Federation cannot be members of the Disciplinary Court Presence.

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9. For example: the Charter Court of St. Petersburg was established and is acting under the Law of St. Petersburg On the Charter Court of St. Petersburg (241-21/2000).
10. Federal Constitutional Law On the Disciplinary Court Presence (4-FKZ/2009).

V. Military Courts

56. Military courts, as the federal courts of general jurisdiction, are included in Russia's judicial system to exercise judicial authority in the Russian Federation Armed Forces, other troops, military formations and bodies, in which federal law provides for military service, and other powers in accordance with federal constitutional laws and federal laws.[11]

57. The main tier of military courts is the military courts of armies, fleets, garrisons and military formations. The middle tier of military courts consists of military courts of the branches of the Armed Forces, military districts, districts of anti-aircraft defence, navies, and separate armies. The Supreme Court of the Russian Federation is the supreme judicial body for all courts of general jurisdiction, both civil and military.

58. The Federal Constitutional Law on Amendments to the Federal Constitutional Law on Military Courts in the Russian Federation (2-FKZ/2011) creates the appellate courts within the military courts system. The Military Collegium of the Supreme Court and district (fleet) military courts are converted to the appellate court. Appellate instances of military courts handle cases in accordance with the procedure established by procedural law for all courts of general jurisdiction. The Military Collegium of the Supreme Court and the Bureaus of the District (Fleet) military courts are cassation instances of military courts. The power to review judgments of the Military Collegium of the Supreme Court and other military courts in order of supervision is vested in the Presidium of the Supreme Court of the Russian Federation.

VI. Justices of the Peace

59. Justices of the Peace are the judges of general jurisdiction of federal subjects and are included in the Russian judicial system.[12] Justices of the Peace carry out justice for the Russian Federation. Justices of the Peace are appointed (elected) by the legislative (representative) body of the federal subject or elected by popular vote. The total number of the Justices of the Peace and judicial districts are determined by federal law in accordance with the federal subject's legislative initiative agreed with the Supreme Court or the Supreme Court initiative agreed with the relevant federal subject.

60. The Justice of the Peace considers only in the first instance and only within certain limit:

(1) small criminal offences;
(2) cases to grant the writ;
(3) family law cases;
(4) property disputes;

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11. FKZ On Military Courts of the Russian Federation (1-FKZ/1999).
12. The Federal Law On the Justices of the Peace in the Russian Federation (188-FZ/1998).

(5) employment law cases; and
(6) administrative offences under the Code of Administrative Offences of the Russian Federation.

VII. Bodies of Judicial Society

61. According to the Federal Law on Bodies of Judicial Society in the Russian Federation No. 30-FZ/2002, federal judges and judges of the federal subjects constitute the judicial society of the Russian Federation. Judges become members of the judicial society from the moment of taking their oath and until the effective date of the termination except the cases of honourable withdrawal or resignation. In the latter cases, the judge continues to belong to the judicial society; although without a right to vote or to be elected to the qualifying boards of judges.

62. The bodies of the judicial society are formed to express the interests of judges as the carriers of the judiciary.

Judicial bodies in the Russian Federation are:

– All-Russian Congress of Judges.
– Judicial Conference of the Russian Federation.
– Council of Judges of the Russian Federation.
– Councils of Judges of the federal subject.
– General meetings of Judges.
– Higher Qualification Collegium of Judges of the Russian Federation.
– Qualification Collegia of Judges of the federal subject.

63. While other bodies of the judicial society are playing important but representative role, the Higher Qualification Collegium of Judges of the Russian Federation and Qualification Collegia of Judges of the federal subject are the integral part of judges' selection, promotion and disciplinary processes.

64. The Higher Qualification Collegium of Judges of the Russian Federation among other competencies:

(1) Considers the applications of candidates for the higher level of federal courts and higher level of the judiciary position (e.g., chairperson or deputy chairperson of the federal courts).
(2) Suspends, resumes or terminates the powers (except for termination of office of judges who have reached the maximum age for a judge), as well as pauses, resumes or terminates the resignation of some categories of the higher level of judges.
(3) Grants judges the first and highest qualification ranks.
(4) Imposes disciplinary sanctions on the higher level judges.

65. The Qualification Collegia of Judges of the federal subject generally have similar competencies in regards to the lower level of judges and courts.

VIII. The Administration of Justice

66. The Judicial Department under the Supreme Court is responsible for logistic support of general courts, military courts, bodies of the judicial society and the justices of the peace.[13] The Judicial Department is a federal government agency that is funded from the federal budget and is not entitled to interfere in the administration of justice. The Judicial Department is headed by a director who is appointed and dismissed by the Chairperson of the Supreme Court with the consent of the Council of Judges. Employees of Judicial Department and its agencies and institutions are public servants. The Law on the Judicial Department under the Supreme Court of the Russian Federation introduces the position of an administrator of the court, who is responsible for the organizational support of the court. The court administrator is subject to the chairperson of the court and fulfils his orders.

67. The administration of the arbitration courts is a responsibility of the Supreme Arbitration Court. The activity of the Constitutional Court is supported by the Administration of the Constitutional Court.

§2. General Courts

I. Structure of the General Courts System

68. The general courts system in Russia consists of federal courts of general jurisdiction and courts of general jurisdiction of the federal subjects. The federal courts of general jurisdiction include:

(1) The Supreme Court of the Russian Federation.
(2) The Supreme Courts of republics, territorial, regional courts, federal cities, autonomous region of court, courts of autonomous areas.
(3) The district courts, city courts, inter-district courts.
(4) The military courts.
(5) Specialized courts, established by federal constitutional law.

The courts of general jurisdiction of the federal subjects are justices of the peace.[14]

69. During the last several years the Supreme Court has lobbied the establishment of a separate system of administrative justice. According to the draft, the administrative courts would handle appeals and complaints that involve the use of public power. However, as of December 2011, the administrative justice or other forms of specialized courts in Russia has not been introduced.

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13. Federal Law On the Judicial Department under the Supreme Court of the Russian Federation (7-FZ/1998).
14. The Federal Constitutional Law On the Courts of General Jurisdiction in the Russian Federation 1-FKZ/2011.

70. The general courts have jurisdiction over all civil and administrative cases, except cases that are under jurisdiction of other (arbitration) courts; and over all criminal proceedings.

71. There are no quasi-judicial bodies (adjudication tribunals, boards, etc.) in Russia that could make decisions that are legally binding for the parties and that can be enforced. According to the Constitution (Article 118(1)) justice in Russia can be administered only by court.

II. District Courts

72. Generally the district court is created in a judicial area that covers the territory of one administrative district (*rayon)*, city or other administrative and territorial unit of the federal subject; however, the inter-district court can also be created in the judicial area whose territory covers the territory of two or more administrative and territorial units of the federal subject.

73. The district court consists of chairperson of the court, its deputy (deputies) and judges. The number of judges is defined by the Judicial Department under the Supreme Court in coordination with the chairperson of the regional court within the limits of an aggregate number of judges of all federal courts of the general jurisdiction established by the federal law on the federal budget for the next fiscal year.

74. In a remote area, a permanent remote bench within the structure of the district court can be established by means of the federal law.

The district court considers all criminal, civil and administrative cases as a court of the first instance, except cases under the jurisdiction of other courts. The district court has the right to inquire about constitutionality of the law that is a subject in its particular case before the Constitutional Court of the Russian Federation (Constitution, Article 125(4)). The district court considers appeals against the decisions of the justices of the peace acting within its judicial area.

75. Chairpersons and the deputy (deputies) of district courts are appointed to a post by the President of the Russian Federation for a period of six years upon a nomination by the Chairperson of the Supreme Court based on a positive conclusion of the Qualifying Board of Judges of the federal subject. The same person can be appointed to a post of the same district court repeatedly, but no more than two times successively. A chairperson of the district court with the execution powers of a judge organizes the activity of the court, distributes duties between the judges and carries out other administrative responsibilities.

76. The district courts have a different quorum in civil and criminal matters. Criminal cases can be considered by a single judge or collectively depending on the nature of the case and according to the rules of the Criminal Procedural Code (174-FZ/2001, Article 30).

77. In civil cases before the district court, the basic quorum is a single judge. Appeals against the justice of the peace's decisions are also examined by a single judge of the district court. The cassation and supervisory courts examine civil cases collegially: Three professional judges for the cassation court and no less than three professional judges for the supervisory court. According to the federal law, some civil cases can require a quorum of three professional judges in a first hearing. Currently, the only civil case that requires a quorum of three professional judges in the first hearing is the examination of electoral rights protection (CPC, Article 260.1): the cases of the breaking up of the electoral committees or the referendum committees shall be examined collegially by three professional judges.

III. Appellate Courts

78. Until 2012, there were no appellate courts in Russia's general courts system. The Federal Law on Amendments to the Civil Procedural Code of the Russian Federation (353-FZ/2010, proclaimed into force on 1 January 2012, except some minor changes proclaims into force on 1 March 2011) establishes the appellate courts in the federal courts of general jurisdiction and the procedure for appeals. Trial participants will be able to appeal any court decisions, not just decisions and rulings of the justice of the peace, as until 2012. In addition, the Law significantly reformed the cassation and supervision's rules. The main objective of cassation is to review court decisions, proclaimed into force, solely based on law. The authority to revise judgments on supervisory level is retained only by the Presidium of the Supreme Court of the Russian Federation. The appellate courts do not constitute a separate courts system; appellate instances are embedded into the general courts' structure. Depending on the nature of a case, the same court (regional court, for example) could act as an appellate court or as a trial court.

79. The appeals are considered as following:

(1) The district court – on the decisions of the justice of the peace.
(2) The regional court, military district (fleet) court – on the decisions of district courts and garrison military courts.
(3) The Civil and the Administrative Collegia of the Supreme Court – on the decisions of the regional courts, they have undertaken in the first instance; the Military Collegium of the Supreme Court – on the decisions of military district (fleet) military courts, they have undertaken in the first instance.
(4) The Appeals Collegium of the Supreme Court – on the Supreme Court's decisions, adopted at the first instance.

The appeal courts have a quorum of at least three judges, except for appeals on the decisions of the justice of the peace that have a quorum of one district court judge.

IV. Regional Courts

80. The regional courts are federal courts of general jurisdiction, acting within the territory of the Russian Federation subject, and are higher courts in relation to the district courts operating within the territory of the respective subject of the Russian Federation.

81. The regional courts are composed of:

(1) The Presidium.
(2) Judicial Collegium for civil cases.
(3) Judicial Collegium for criminal cases.

The regional court can establish a permanent remote bench, located outside the residence of the court in remote area. Such permanent bench is a separate division of the court and exercises its powers. The regional courts can hear civil cases as a trial court, appeal court, cassation court, as well as cases based on new or newly discovered evidence.

82. The presidium of the regional court is composed of chairperson, deputy chairpersons of the court, who are members of the presidium of the court ex officio, and other judges of the court in number determined by the President of the Russian Federation. The chairpersons and deputy chairpersons of the regional courts are appointed by the President of the Russian Federation for six years upon the introduction of the Chairman of the Supreme Court and positive conclusion of the Supreme Qualification Collegium of Judges of the Russian Federation. The same person may be appointed as the chairperson (deputy) of the same court repeatedly, but no more than two consecutive terms.

83. As a trial court, regional courts consider the following civil cases (CPC, Article 26):

(1) Related to State secrets.
(2) On impugnment of the normative regional legal acts, infringing the rights, freedoms and legitimate interests of citizens and organizations.
(3) On suspension of the activity or liquidation of regional department of a political party, interregional and regional non-governmental associations; on liquidation or suspension of the activity of religious organizations; on suspension or termination of the activity of mass media, distributed predominantly on the territory of one subject of the Russian Federation.
(4) On impugnment of the decisions (evasion of making decisions) made by the regional election commissions (irrespective of election or referendum level), circuit election commissions for elections to legislative (representative) authorities of the Russian Federation's subjects.
(5) On breaking up of the regional election commissions, circuit election commissions for elections to legislative (representative) authorities of Russian Federation's subjects.

(6) On compensation for the infringement of the right to justice or execution of courts' decisions within a reasonable time.

As an appeal court, regional courts consider the appeals on the decisions of district courts they have adopted as a trial courts and not in force. As a cassation court, the Presidium of the regional court considers cassations on the district courts and justices of the peace's decisions in force and the regional court's appeal decisions; and cases of new or newly discovered evidence.

V. The Supreme Court

84. The Supreme Court is the highest judicial body for civil, criminal, administrative and other matters falling within the jurisdiction of general courts, exercises procedural judicial supervision over their activities and provide explanations on judicial practice. The Supreme Court considers the case as a trial, appeal, cassation and supervisory authority. As a supervisory instance, the Supreme Court takes up a case only after it has been granted a leave. The leave is granted or rejected in a quorum of one justice. The Supreme Court also has the right of legislative initiative on issues within its competence (Constitution, Article 104).

85. The Supreme Court of the Russian Federation has the following composition:

(1) Plenum of the Supreme Court.
(2) Presidium of the Supreme Court.
(3) Appeals Collegium of the Supreme Court.
(4) Judicial Collegium for Administrative Cases.
(5) Judicial Collegium for Civil Cases.
(6) Judicial Panel for Criminal Cases.
(7) Military Collegium.[15]

86. De jure the Supreme Court's judgments do not have a precedent value and are not binding for lower courts in other cases. However, de facto the Resolutions of the Plenum of the Supreme Court (pl. *Postanovleniya Plenuma*) and the Supreme Court's Observations of Judicial Practice (pl *Obzory Sudebnoi Praktiki)* are officially published in the *Bulletin of the Supreme Court of the Russian Federation* and have a great impact on law implementation.

87. The Supreme Court sits in Moscow. The total number of judges of the Supreme Court, as well as judges of other federal courts, is established by the federal law on the federal budget for next fiscal year (1-FKZ/2011). The Supreme Court has over 100 judges in 2011.

15. 1-FKZ/2011, Art. 10.

88. The Supreme Court quorum depends on the nature (level) of the case. For trial cases the quorum is one judge; for higher instances, the quorum is three judges. The Presidium, as a supervisory instance, currently consists of ten judges.

§3. Arbitration Courts

89. The arbitration courts system consist of arbitration courts of the federal subject at the regional level (eighty-one courts), twenty appellate arbitration courts, ten cassation arbitration courts and the Supreme Arbitration Court of the Russian Federation. The procedures in the arbitration courts are regulated by the Arbitration Procedural Code. The arbitration courts have jurisdiction over property and commercial disputes between enterprises. They are also considering the claims of entrepreneurs to invalidate acts of public authorities, violating their rights and legitimate interests: tax, land and other disputes arising from administrative, financial and other relationships. Arbitration courts also hear disputes involving foreign enterprises.

I. Regional Arbitration Courts

90. Regional arbitration courts consider in first instance all cases within the jurisdiction of the arbitration courts, except cases falling within the competence of the Supreme Arbitration Court.

91. The most common structure for the regional arbitration court is as follows: civil, administrative, bankruptcy collegia and Presidium. Judicial collegia are headed by chairperson of collegium – deputy chairperson of the court. Presidiums of the regional arbitration courts do not carry out judicial power; they consider organizational issues and review judicial practice generally. Presidiums are comprised of chairperson and deputy chairpersons of the court, and some judges.

92. The quorum of arbitration court for most cases is one judge and three judges for insolvency cases.

II. Appellate Arbitration Courts

93. Arbitration courts of appeal are considering appeals from regional arbitration courts' decisions not entered into force.

94. The arbitration courts of appeal consist of Presidium, civil collegium and administrative collegium. As part of the court, upon the decision of the Plenum of the Supreme Arbitration Court of the Russian Federation other collegium may be formed to review certain categories of cases as well as the permanent bench of the court, located outside the principal residence of the appellate arbitration court. Presidiums of the appellate arbitration courts do not carry out judicial power; they consider organizational

issues and review judicial practice generally. Presidiums are comprised of chairperson and deputy chairpersons of the court and some judges.

III. Circuit Arbitration Courts (Cassation Arbitration Courts)

95. The circuit arbitration courts (the courts of arbitration judicial district – *okrug)* are cassation courts for the decisions of the regional arbitration courts and the appellate arbitration courts entered into force. The circuit arbitration courts are also courts of the first instance to review claims for compensation for violation of the right to trial within a reasonable time, or for violation of the rights to the enforcement of judgments within reasonable time taken by arbitration courts.

96. The judicial arbitration district includes several regional arbitration courts and respective number of the appellate arbitration courts. For example, the Far Eastern arbitration district includes eight regional arbitration courts and two appellate arbitration courts; while Moscow arbitration district includes two regional arbitration courts and two appellate arbitration courts.

97. The circuit arbitration court consists of Presidium, civil collegium and administrative collegium. According to the decision of the Plenum of the Supreme Arbitration Court, other judicial board to review certain categories of cases may be created in the court. Presidiums of the circuit arbitration courts do not carry out judicial power; they consider organizational issues and review judicial practice generally. Presidiums are comprised of chairperson and deputy chairpersons of the court and some judges.

98. The circuit arbitration courts:

(1) Check the legality of lower arbitration courts' decisions.
(2) Reviews of newly discovered evidence for cases under its jurisdiction.
(3) Hear as a Court of First Instance applications for compensation for violation of right to trial within reasonable time, or for violation of the rights to the enforcement of judgments within reasonable time rendered by arbitration courts.

IV. The Supreme Arbitration Court

99. The Supreme Arbitration Court of the Russian Federation is the highest judicial body for settling economic disputes and other cases considered by arbitration courts, provides judicial supervision over their activities and commentary on judicial practice. The Supreme Arbitration Court may act as a court of the first instance or as a supervisory instance.

100. As a court of the first instance the Supreme Arbitration Court considers:

(1) Cases challenging the normative legal acts of the President, the Government or federal bodies of executive power, violating the rights and legitimate interests

of organizations and individuals in business and other economic activities, if it falls within the competence of arbitration courts.
(2) Cause for invalidation (in whole or in part) of non-normative acts of the President, the Federation Council and State Duma of the Russian Federation or the Government, violating the rights and legitimate interests of organizations and persons.
(3) Economic disputes between the Russian Federation and subjects of the Russian Federation; and between the subjects of the Russian Federation.

101. As the highest judicial body for the arbitration courts system, the Supreme Arbitration Court proposes legislative initiatives; applies to the Constitutional Court with requests to examine the constitutionality of laws, other regulations and treaties; summarizes the practice of arbitration courts and other normative legal acts; and exercises other powers conferred on him by Constitution and federal constitutional laws.

102. The Supreme Arbitration Court of the Russian Federation consists of:

– Plenum of the Supreme Arbitration Court of the Russian Federation.
– Presidium of Supreme Arbitration Court of the Russian Federation.
– Judicial Board for civil law disputes, and
– Judicial Board for administrative disputes.

§4. Members of the Judiciary

I. Competence

A. The Judge

103. Article 119 of the Constitution states that judges shall be citizens of the Russian Federation over 25 years of age with a higher education in law, who have served in the legal profession for not less than five years. Federal law may establish additional requirements for judges in Russia.

104. The Law on the Status of Judges in the Russian Federation[16] (Article 4) establishes additional criteria for candidates related to their legal capacity; absence of any addictions; criminal past; good general and mental health; and absence of foreign citizenship or permanent residency. All candidates must pass a preliminary medical check before to be considered for the position of a judge.

105. Judges of the Constitutional Court of the Russian Federation shall be over 40 years of ages with not less than fifteen years of legal experience. Judges of the Supreme Court or the Supreme Arbitration Court shall be over 35 years of age with not less than ten years of legal experience. Judges of regional general courts, appellate

16. Law of Russian Federation of 26 Jun. 1992 N 3132-1.

and cassation arbitration courts, and some military courts shall be over 30 years of ages with not less than seven years of legal experience.

B. Lay Judges (Arbitraj Assessors)

106. Participation of lay judges in civil and criminal proceeding has a long history in Russia. Right after the October Revolution of 1917 the rule of 'people assessors' (singular in Russian: *narodnyi zasedatel')* was introduced by Decree No. 1 of 22 November 1917.[17] Civil and criminal cases in general courts of the first instance were considered by the presiding professional judge and two people assessors.

107. The current legal situation is at best uncertain. Part 5 of Article 32 of the Constitution states that 'Citizens of the Russian Federation shall have the right to participate in administering justice.' The Federal Constitutional Law of 31 December 1966, No. 1-FKZ On Judicial System of the Russian Federation confirms that judicial power in Russia is executed by judges, jury, people and arbitraj assessors. However, according to the modern Criminal Procedural Code and Civil Procedural Code, there are no legal possibilities for any form of layperson's involvement into the execution of judicial power. Thus, Criminal and Civil Procedural Codes, both adopted by federal laws, are incompliant with above-mentioned federal constitutional law, the legal act of higher power.

Currently, no laypersons participate in the adjudication of civil cases in general courts.

108. In the first instance of arbitration courts business dispute cases may be considered by a judge and two lay judges (arbitration assessors, singular in Russian: *arbitrajnyi zasedatel'*), if any of the parties filed a motion for hearing with arbitration assessors.

109. Arbitration assessors cannot participate in cases under jurisdiction of the Supreme Arbitration Court, on challenging normative legal acts, bankruptcy cases, and if a case was referred to a collegial consideration by a higher court. Lay judges also cannot participate in cases arising from administrative and other public relations, and special proceedings.

The presiding judge and assessors enjoy equal procedural rights. An assessor may not preside at the trial. Lay arbitration judges serve for a period of two years with a possibility of re-appointment.

110. Assessors shall be Russian citizens over 25 years with good reputation, higher professional education and work experience in the field of economic, financial, legal, managerial or entrepreneurial activity of at least five years. Assessors cannot be persons who have valid criminal law record; who have committed a derogatory act towards the judiciary; legally incapable or partially capable persons; persons who held public office or elected positions in local government; prosecutors; military personnel; investigators; lawyers; notaries; persons belonging to the governing and operational structure of

17. Sobranie Ulozenii (SU) RSFSR, 1917, No. 4, st. 50.

the Internal Affairs of the Russian Federation, the State Fire Service, the Federal Security Service, bodies to monitor traffic in narcotic drugs and psychotropic substances, the customs authorities of the Russian Federation, bodies executing criminal punishment; as well as persons engaged in private detective work on the basis of special permission (license); and persons who are registered in the substance abuse or neuropsychiatric dispensaries.

111. A regional arbitration court prepares a list of lay judges and submits it to the Supreme Arbitration Court. All lay judges shall be approved by the Plenum of the Supreme Arbitration Court of the Russian Federation.

II. Appointment of the Judges

112. Candidates for the judge's position are selected based on public vacancy competition mechanism. All candidates for the judge's position must pass a specific qualification exam. The exam is available for all persons, who meet the qualification criteria; however, the successful examination does not guarantee the appointment. After exam and in case if the judicial qualification panel approved the candidate, the records are sent to the Chair of the Supreme Court or the Chair of the Supreme Arbitration Court respectively, that presents the candidates to the President of Russia.

113. All judges, except the Constitutional and Supreme Courts' judges, are appointed by the President of the Russian Federation. Judges of the Constitutional Court, the Supreme Court and the Supreme Arbitration Court are appointed by the Federal Council of the Federal Assembly of the Russian Federation upon the introduction of the President of the Russian Federation.

114. All federal judges have qualification rank (qualification class) that, to some extent, is an equivalent to military or civil servants' rank. Judges have a number of social benefits: they are provided with free dwelling, free public transportation and free medical care, including drugs. A retired judge after being a judge for at least twenty years has the right either to receive a pension or to receive a special salary equal to 80% of an active judge's salary on the same position and is exempt from all taxes.

Retired judges with not less that ten years of judicial experience could be called to the duties of judge under discretion of the chair of the higher level of the court (e.g., the chair of regional court could call a judge to the duties at district courts).

III. End of Functions

115. According to the Article 121 of the Constitution, federal judges are irremovable. The powers of a judge may be terminated or suspended only on the grounds and in accordance with the procedure established by federal law.

The age of mandatory retirement for judges is 70.

116. Justices of the peace are appointed (reappointed) for the term not less than five years. Judges of the constitutional (charter) courts of the subjects of the Russian Federation are appointed for the term established by the respective regional laws.

IV. Discipline

117. Judges are inviolable. A judge cannot face criminal liability otherwise in accordance with the procedure established by federal law (Constitution, Article 122).

Judges could face disciplinary actions in form of reprimand or removal from the office imposed by the judicial qualification collegium.

V. Supervision

118. Judges shall be independent and shall subordinate only to the Constitution of the Russian Federation and federal law (Constitution, Article 120).

The higher courts execute their supervisory role in form of particular case review; general review of the certain type of cases; legal education for judges; and other indirect forms.

Chapter 2. The Bar

§1. Legal Representation in General

119. In Russia, for those who graduated with law degree, there are no special requirements for admission to practice legal profession. Judges, prosecutors, public servants, in-house lawyers, public notaries and other legal professionals are able to represent their employers or clients without having been members of any professional society.

120. According to CPC and APC the parties could be represented in courts by themselves or by any person holding the power of attorney for representation in court. The professional status of advocate (*advokat)* is a mandatory requirement only for legal representation of suspected or accused person during criminal prosecution and criminal trial (Criminal Procedural Code, Article 49).

In 2010, there were over 63,000 registered advocates in Russia.[18]

§2. Chamber of Advocates

I. Regional and Federal Chambers of Advocates

121. Legal status of advocates, their rights and responsibilities, system of chambers of advocates and other related issues are defined by Federal Law on Advocacy and Legal Services in the Russian Federation of 31 May 2002. Regional chambers are non-profit organizations based on mandatory membership of advocates. Only one chamber of advocates can be formed on the territory of the Russian Federation's region. The chamber is not allowed to form its structural divisions, subsidiaries and representative offices in other regions of the Russian Federation or form interregional or inter-territorial chambers of advocates.

122. Decisions of the chamber of advocates, adopted within its competence, are binding for all members of the Chamber of Advocates.

123. The supreme body of the chamber is an annual members meeting or conference (if the number of members exceeds 300). The annual members meeting elected the board, the audit commission and the Qualification Commission. The Board is a collegial executive body of the chamber.

124. The Qualification Commission responsible for the admission process is formed for a term of two years of thirteen members of the Commission on the following basis of representation:

18. See at Federal Chamber of Lawyers of the Russian Federation official website, <www.fparf.ru/index.htm>.

(1) Of the Chamber of Advocates – seven lawyers, including the President of the Chamber.
(2) Of the territorial body of justice – two representatives.
(3) Of the legislative (representative) State authority of the Russian Federation – two representatives.
(4) Of the regional court – one judge.
(5) Of the regional arbitration court – one judge.

125. The Federal Chamber of Advocates of the Russian Federation is a nationwide non-governmental, non-profit organization that brings together the regional chambers of advocates based on compulsory membership.

The supreme authority of the Federal Chamber of Advocates is All-Russian Congress of the Advocates. The Congress is convened at least once every two years. Among other competences, the All-Russian Congress of Advocates:

(1) Adopt the constitution of the Federal Chamber of Advocates.
(2) Adopt the code of professional ethics.
(3) Elect the members of the Council and the Audit Committee of the Federal Chamber.

126. Federal Chamber of Advocates' Council is a collegial executive body of the Federal Bar Association. The Council elects from among its members the President of the Federal Chamber of Advocates.

II. Conditions for Admission

127. Advocate's status in Russia could be acquired by a person graduating with law degree from State-accredited educational institution of higher education or by person with post-graduate degree in law. This person must also have experience in legal profession for at least two years or probation (articling) in advocacy. Those of limited legal capacity or having outstanding or unexpunged criminal record for committing an intentional crime are not eligible to acquire the status of advocate.

128. A person who meets these requirements may apply to the Qualification Commission of regional chamber of advocates with a request for admission and qualification examination.

The qualifying exam consists of written testing and oral interview. Regulation on the procedure and assessment of applicants, as well as a list of exam questions are developed and approved by the Board of the Federal Chamber of Advocates. Applicants who do not pass the qualifying examination are permitted to take re-examination not earlier than one year after.

129. The decision on awarding the status of advocate is made by the Qualification Commission of regional chamber of advocates. The advocate's status is not limited to a certain age. The successful candidate must take the oath, prescribed by Article 13 of the Federal Law on Advocacy and Legal Services in the Russian Federation,

and from the date of taking the oath, the candidate receives the status of an advocate and becomes a member of the regional chamber of advocates.

130. Advocates are entitled to practice law throughout the Russian Federation without any additional permission. Advocates may practice law as sole practitioners or as member of professional legal entities (collegia, bureau or legal consultation). Advocates may have assistants who shall not engage in advocacy and perform administrative duties in the office. Advocates having advocate's experience of not less than five years are entitled to trainee lawyer. Trainee lawyer may be persons with higher legal education and may operate under the guidance of an advocate. Term of training varies from one year to two years.

131. An official Registers of Advocates is maintained by the regional branch of the federal executive authority in the field of justice (currently – the Ministry of Justice).

III. The Rights and Responsibilities of Advocates

132. Procedural rights of advocates are governed by criminal, civil and procedural laws of the Russian Federation.

133. Generally, an advocate has rights:

(1) Collect information required for legal aid, including references and other documents from government bodies, local authorities and public associations and other organizations.
(2) Interview (with consent) persons allegedly holding information relating to the case in which the advocate provides legal assistance.
(3) Collect and report objects and documents that may be deemed to be material and other evidence.
(4) Meet freely with his client alone, under conditions that ensure privacy (including the period of client's detention), and without limiting the number of visits and their duration.
(5) Perform other actions that do not contradict the legislation of Russia.

An advocate shall not:

(1) Receive clearly illegal instructions from the client.
(2) Act in cases when there is a conflict of interests.
(3) Take a position on the case against the wishes of his client, except when the advocate believes that there is a self-incrimination.
(4) Disclose lawyer–client privileged information without the consent of the client.
(5) Refuse to accept the defence.

134. An advocate has the following duties:

(1) Honestly, reasonably and in good faith protect the rights and legitimate interests of his client by all means not prohibited by the legislation.
(2) Comply with the requirements of the law on compulsory criminal defence, as well as provide legal aid assistance.
(3) Continue legal education.
(4) Observe the code of professional ethics and execute the decisions of the regional and federal chambers of advocates.
(5) Exercise professional liability insurance.

135. The Federal Law on Advocacy and Legal Services in the Russian Federation (Article 8) defines advocate's secret (lawyer–client privileged information) as any information relating to the provision of legal advice to the client. An advocate cannot be called and questioned as a witness about the circumstances that became known to him in connection with legal representation. Search warrant (including residential and office premises used for the advocate's business) and criminal investigations in relation to an advocate are permitted only by judicial decision.

IV. Discipline

136. In the course of disciplinary actions, an advocate could be either suspended or terminated (disbarred).

137. The status of an advocate could be suspended by the regional chamber if the advocate failed to perform his professional duty for more than six months. A court, considering an application of compulsory medical measures to an advocate, may consider suspending the status of the advocate. A person whose advocate status is suspended is not entitled to practice law and hold elective positions in the chambers. Violation of these provisions shall entail termination of the status. Resolution of the chamber to suspend the status of the advocate or refuse to renew the status may be appealed in court.

138. As a disciplinary action the advocate's status may be terminated in case of limited legal capacity, criminal conviction on intentional crime and violation of suspension conditions.

139. Advocate's status may also be terminated by the regional chamber based on the conclusion of the Qualification Commission upon:

(1) Failure to perform or improper performance of professional duties.
(2) Violation of the code of ethics.
(3) Failure to comply with chamber's decisions.
(4) Establishing the unreliability of the information submitted to the Qualification Commission at the time of initial application.

§3. Legal Aid

140. Legal aid in Russia is regulated by Federal Law on Legal Aid in the Russian Federation (No 324-FZ of 21 November 2011, in force since 15 January 2012).

141. The Federal Law on Legal Aid establishes the basic guarantees of rights of Russian citizens to receive legal aid in Russia and the organizational and legal basis for the formation of State and non-State systems of legal aid. The eligibility for legal aid depends on a person's circumstances, nature of the case, and the form of legal aid (legal advice or the court representation). Legal aid may be provided through the State-owned legal offices or advocates. The State legal offices provide all types of legal aid and may contract advocates for this purpose.

142. Legal aid provided by advocates is regulated by Federal Law on Legal Aid and Federal Law on Advocacy and Legal Services. The regional chambers of advocates are responsible for advocates' participation in the State system of legal aid.

Chapter 3. Bailiffs

§1. Federal Bailiff Service

143. The Federal Bailiff Service[19] is a federal body of executive authority under the Ministry of Justice responsible for the order in the courts; the execution of judicial acts, acts of other bodies and officials; law enforcement; and monitoring and supervision within its competence.

Main areas of Federal Bailiff Service's competence are as following:

(1) Provision and support of the order at the Constitutional Court of the Russian Federation, the Supreme Court and the Supreme Arbitration Court of the Russian Federation, courts of general jurisdiction and arbitration courts.
(2) Enforcement of courts acts, as well as acts of other bodies under the legislation of the Russian Federation.
(3) Criminal prosecution in cases under the jurisdiction of the Federal Bailiff Services.

144. Federal Law on Bailiffs regulates the requirements for persons appointed to the position of bailiff; the organization of the Federal Bailiffs Service; use of physical force, special tools and firearms; and legal and social guarantees for bailiffs.

145. A bailiff must be a citizen of the Russian Federation over the age of 20, having completed secondary general or vocational education (for the senior bailiff – a law degree), capable in his professional and personal qualities, and having health conditions that allow him to perform professional duties. The bailiff is a public employee.

146. Depending on the performed functions, the bailiffs are divided into court bailiffs who support the order and procedure in the courts, and the bailiff-performers who enforce judicial acts and the acts of other bodies. Court bailiffs are entitled to possess and carry firearms and special equipment.

147. Federal Law on Enforcement Proceedings states general principles of enforcement proceedings, enforcement authorities (Federal Bailiff Service and its territorial bodies), types of executing documents, terms of enforcement, participating parties, stages of enforcement proceedings, different types of enforcement actions (delivery of summons, searching for the debtor's property, temporary restrictions on the debtor's exit from the Russian Federation, the creditor-forced occupancy in a dwelling, the debtor's eviction from the premises, foreclosure of the funds and property, retention of wages and other income, and the seizure).

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19. Federal Law of 2 Oct. 2007, N 229-FZ On Enforcement Proceedings and Federal Law of 21 Jul. 1997, N 118-FZ On Bailiffs are two main laws regulating bailiffs' activity and courts acts enforcement in Russia.

148. The Federal Bailiffs Service has territorial bodies in all subjects of the Russian Federation as well as district offices. Starting 1 January 2012, the number of Federal Bailiffs Service employees exceeded 84,000.[20]

§2. Competence

149. The Federal Bailiffs Service within the existing competence:

(1) Ensure the order at the courts.
(2) Enforce court decisions, and acts of other bodies and officials.
(3) Seize and confiscate property as part of the execution of courts decisions.
(4) Arrange for the custody and enforcement of the arrest and the seized property.
(5) Carry out search for the debtors (citizen or organization), as well as the debtor's property, including for bankruptcy proceedings.

150. According to the Federal Law on Enforcement Proceedings (Article 67), in case of debtor's failure to comply with executive document within a specified period of time without reasonable excuse, the bailiff may at the request of the claimant or on his own initiative make the decision on the temporary restriction on the debtor's departure from the Russian Federation. Copies of this decision shall be sent to the debtor and to the migration and border authorities.

151. Performing fee for bailiffs' activity is set at 7% of the amount of recovery or the cost of the property levied, but not less than RUB 500 from the individual debtor and RUB 5,000 from the debtor organization. In case of non-pecuniary executive document, the performing fee is set at RUB 500 for individuals and RUB 5,000 for the debtor organization (Federal Law on Executive Proceedings, Article 112). Bailiffs' decisions and their actions (inactions) may be appealed to the chain of command and challenged in the court.

20. Decree of the President of the Russian Federation of 13 Oct. 2004, N 1316 Issues of the Federal Bailiffs Service.

Part II. Jurisdiction

Chapter 1. Domestic Jurisdiction

§1. General Courts

I. Subject Matter Jurisdiction

A. General Rule

152. Subject matter jurisdiction and territorial jurisdiction issues are regulated by Chapter 3 of the CPC. Generally, the district general courts in the capacity of court of the first instance have jurisdiction over all civil cases with the exception of jurisdiction of justices of the peace, military courts, regional courts and the Supreme Court of the Russian Federation.

153. General courts jurisdiction include the following:

(1) The adversary proceedings referred to defence of infringed or challenged rights, freedoms and legitimate interests, the disputes, arising from civil, family, labour, housing, land, ecological and other legal relations, with the participation of citizens, organizations, State authorities, and local self-government bodies.
(2) The issue of a court order for the enforcement proceedings.
(3) The cases arising from public legal relations (e.g., voting rights, challenging State and other authorities' decisions, citizenship issues).
(4) The cases of special proceedings (e.g., adoption of a child, establishing legal facts, recognizing of a person missing or a citizen deceased).
(5) The cases on challenge of extrajudicial arbitration awards and on issue of court orders for compulsory execution of extrajudicial arbitration awards.[21]
(6) The cases on acknowledgement and enforcement of judgments made by foreign courts and foreign arbitral awards.

154. General courts have jurisdiction over the cases with participation of foreign citizens, people without citizenship, foreign organizations, organizations with foreign investments and international organizations. Economic disputes

21. This class of cases arises from decisions of voluntary extrajudicial arbitration (*treteiski)* courts. The jurisdiction of State arbitration courts which jurisdiction will be discussed further.

between legal persons as well as some other legal disputes are under jurisdiction of arbitration courts.

B. Main Claims and Ancillary Claims

155. Generally, the court has competence over all claims including the claim joinder, and counter claims.

C. Overview of the Different Jurisdictions

1. Justice of the Peace

156. A justice of the peace in the capacity of the court of the first instance has jurisdiction over:

(1) Issue of a court order.
(2) Dissolution of marriage in absence of dispute on children between the spouses.
(3) Separation of the common property acquired during marriage if the amount of claim does not exceed RUB 50,000.
(4) Other family law cases, except for the cases on challenge of paternity (maternity), on establishment of paternity, on deprivation of parental rights and on adoption of a child.
(5) Property disputes, except related to inheritance and intellectual property laws, and if the amount of claim not does exceed RUB 50,000.
(6) The cases on the order of property exploitation.

2. Military Courts

157. When stipulated by federal constitutional law, civil cases shall be examined by military courts and other specialized courts. According Article 7 of the Federal Constitutional Law of 23 June 1999, N 1-FKZ on Military Courts in the Russian Federation, military courts have jurisdiction over all civil cases involved rights, freedoms and lawful interests of the military personnel, people undergoing military training, the actions (or inaction) of military administration, military officials and their decisions.

3. Regional Courts

158. Regional courts (supreme republican courts and courts of other subjects of the Russian Federation) in the capacity of the court of the first instance have jurisdiction over the following civil cases:

(1) Related to State secrets.

(2) On impugnment of the normative legal acts, issued by regional state authorities, that infringe the rights, freedoms and legitimate interests of citizens and organizations.[22]
(3) On suspension of the activity or liquidation of regional subdivision of a political party, interregional and regional non-governmental associations; on liquidation of local religious organizations; on suspension or termination of the activity of mass media, distributed predominantly on the territory of one subject of the Russian Federation.
(4) On impugnment of the decisions (non-making decisions) of the regional election commission (irrespective of election or referendum level).
(5) On dissolution of the regional election commissions.
(6) On compensation for non-compliance with 'reasonable term' requirements for cases under the jurisdiction of the justices of the peace and district courts.

4. The Supreme Court of the Russian Federation

159. The Supreme Court of the Russian Federation in the capacity of Court of First Instance has jurisdiction over the following civil cases:

(1) On impugnment of non-normative legal acts of the President of the Russian Federation, non-normative legal acts of Chambers of the Federal Assembly, and non-normative legal acts of the Government of Russia.
(2) On impugnment of the normative legal acts of the President of the Russian Federation, normative legal acts of the Government of Russia and normative legal acts of other federal authorities infringing rights, freedoms and legitimate interests of citizens and organizations.[23]
(3) On impugnment of the decrees on suspension or termination of judges' authority or on termination of their dismissal (except dismissal by disciplinary reasons).
(4) On suspension of the activity or liquidation of political parties, federal and international non-governmental associations, on liquidation of centralized religious organizations possessing of local religious organizations on territories of two and more subjects of the Russian Federation.
(5) On appeal against decisions (evasion of making decisions) by the Central Election Commission of the Russian Federation (irrespective of election or referendum level), except for the decisions leaving valid those made by subordinate election commissions or appropriate commissions for referendum.
(6) On settlement of the disputes arising between federal authorities and authorities of subjects of the Russian Federation, between authorities of different subjects of the Russian Federation, which have been transferred by the President of the

22. This provision, interrelated with some other provisions of the CPC, was partially proclaimed by the Constitutional Court of the Russian Federation as unconstitutional (Decree of 18 Jul. 2003, N 13-P, ss 1 and 2).
23. This provision, interrelated with some other provisions of the CPC, was partially proclaimed by the Constitutional Court of the Russian Federation as unconstitutional, not having legal force and not operational (Decree of 27 Jan. 2004, N 1-P. As to this matter, see also the Decree of the Constitutional Court of the Russian Federation No. 37-O of 4 Mar. 2004.

Russian Federation for examination by the Supreme Court according to Article 85 of the Constitution of the Russian Federation.
(7) On breaking up of the Central Election Commission of the Russian Federation.
(8) On compensation for non-compliance with 'reasonable term' requirements for cases under the jurisdiction of the federal courts, except district courts and military garrison courts.

II. Territorial Jurisdiction

A. General Rule

160. As a general rule, a claim shall be brought to the court at the defendant's place of primary residence. A claim to legal person shall be brought to the court at the place organization's headquarter or branch legal registration.

B. Main Claims and Ancillary Claims

161. Generally, the court has competence over all claims including the claim joinder, and counter claims.

C. Overview of the Different Rules

1. Jurisdiction at the Plaintiff's Choice (Alternative Jurisdiction)

162. A choice between courts under alternative jurisdiction rules is vested in the plaintiff.

A claim against the defendant – natural person, whose place of residence is unknown or who is not a resident of Russia, may be brought to the court at the location of his property or at his last known place of residence in Russia.

A claim against legal person, resulting from the activity of its branch or representative office, may be brought to the court at the location of its branch or the representative office.

A plaintiff may bring a claim on collection of alimonies and the paternity affiliation to the court at her place of residence.

Claims on dissolution of marriage may also be brought to the court at the plaintiff's location if a minor lives alongside of her, or the plaintiff's travel to the defendant's location is hindered because of plaintiff's health conditions.

Claims for compensation of a damage caused by severe injury, or other physical injury or death of the breadwinner, may be brought by the plaintiff to the court at the place of his residence or at the place of the damage caused.

Claims for restoration of labour, pension and housing rights; return of a property or its value; related to compensation for losses caused to a citizen due to illegal conviction, illegal criminal prosecution, illegal imprisonment as a criminal proceeding

preventive measure, or written obligation not to leave a place, as a criminal proceeding preventive measure, or illegal administrative arrest, may be brought to the court also at the place of the plaintiff's residence.

Claims for protection of the consumer's rights may also be brought to the court at the place of plaintiff's residence or whereabouts, or at the place of entering or executing the contract.

Claims for compensation for losses caused by ships collision, collection of rewards for rendering assistance and rescue on the sea may also be brought to the court at the location of the defendant's ship or at a homeport of the ship.

Claims, resulted from contracts, in which the place of execution is specified, may also be brought to the court at the place of the contract execution.

2. Exclusive Jurisdiction

163. Claims for the land rights, mineral rights, real estate (including commercial), other objects tightly connected with land and claims against the property sequestration shall be brought to the court at the real property location.

The testator creditors' claims, if brought before the inheritance has been accepted by heirs, fall under the jurisdiction of the court at the place of the inheritance opening.

Claims against carriers, based on the contracts of carriage, shall be brought to the court at the location of the carrier.

3. Jurisdiction of Several Interrelated Cases

164. A claim against the several defendants residing or located in different places can be brought to the court of the residence or location of one of the defendants on plaintiff's choice.

165. A counter-claim shall be brought at the court of the original claim.

A civil claim, resulting from a criminal case, if it was not presented or was not allowed in the criminal proceeding shall be filed in the court in accordance with the rules of jurisdiction, stipulated by the CPC.

4. Prorogated Jurisdiction

166. The parties have the right to change the territorial jurisdiction by a mutual agreement prior to the claim being accepted by the court for judicial proceedings. Jurisdiction of the regional courts, the Supreme Court of Russia, and exclusive jurisdiction cannot be changed by the mutual agreement.

III. Resolution of Jurisdiction Conflicts

167. A case, once accepted by a court for judicial proceedings according to the rules of jurisdiction, must be decided by this court even though it will further come under the jurisdiction of another court. Disputes on jurisdiction matter between general courts, and between general courts and justices of the peace are not allowed.

168. When claim to the court consists of several interconnected inseparable claims, part of which are referred to the court of general jurisdiction, and another part – to the arbitration court, the case shall be examined and solved by the court of general jurisdiction.

If the claims are separable, the judge shall make a decision to accept the claims referred to the court of general jurisdiction, and to refuse those referred to the arbitration court.

When jurisdiction of the case has been changed in the process of a justice of the peace proceeding, the latter shall transfer the case to the district court.

169. The court shall transfer a case for proceeding of another court, if:

(1) A defendant, whose place of residence or whereabouts was not known before, made a motion to transfer the case to a court at his place of residence or whereabouts.
(2) Both parties filed a motion for consideration of the case at the location of the most evidence.
(3) Examination of a case in the given court revealed that the case has been accepted to the proceedings in defiance of rules of jurisdiction.
(4) Substitution of judges or examination of the case in this court becomes impossible after demurrer to one or several judges or on other reasons. If so, a higher court shall refer the case to the appropriate court.

170. The decision of a court on either transfer or on refusal to transfer a case to another court may be appealed in a separate procedure. The case may be transferred to another court upon the deadline of appeal against this decision, but when a complaint has been brought – after the court decision on filed complaint.

The case, transferred from one court to another, must be accepted for judicial proceedings by the court in which it was sent.

§2. Arbitration Courts

I. Subject Matter Jurisdiction

A. General Rule

171. Arbitration courts have jurisdiction over disputes related to business and other economic activities.

172. Arbitration courts consider economic disputes and other cases that involve:

(1) Legal persons.
(2) Natural persons engaged in entrepreneurial activities without forming a legal entity but having the status of individual entrepreneur, acquired in accordance with the law (self-employed natural persons).
(3) The Russian Federation, and different levels of federal and local authorities.
(4) Natural persons who do not have the status of individual entrepreneur (in cases specified by the APC and other federal laws).

173. The claim accepted by the arbitration court in compliance with the rules of jurisdiction must be considered on its merits, even though a natural person without independent claims will join the proceeding in the future.

174. Arbitration courts have jurisdiction over the cases with participation of Russian legal entities, citizens of the Russian Federation, as well as foreign organizations, international organizations, foreign citizens and Stateless persons engaged in entrepreneurial activities, legal entities with foreign investments, unless otherwise stipulated by an international treaty of the Russian Federation.

B. Main Claims and Ancillary Claims

175. Generally, the arbitration court has competence over all claims including the claim joinder, and counter claims.

C. Overview of the Jurisdictions

1. Economic and Civil Law Disputes

176. Arbitration courts have jurisdiction over economic and other business-related disputes, arising from civil relations, that involve legal persons and individual entrepreneurs, and in cases stipulated by the APC and other federal laws, other organizations and citizens.

2. Administrative and Public Law Issues

177. Arbitration courts have jurisdiction over the following economic disputes arising from administrative and other public relations:

(1) Challenge of regulations in areas of taxation; currency regulation and currency control; customs regulations; export control; patent and intellectual property; antitrust and natural monopolies; regulations of banking, insurance, audit, the use of atomic energy; public utilities and power tariffs' regulations; money laundering

regulations; investment funds' creation and liquidation; insolvency (bankruptcy); state and municipal procurement; advertising; lotteries; retail markets activities; and, if provided by federal law, in other spheres.[24]
(2) Challenge of non-normative legal acts, decisions and actions (or inaction) of State bodies, local authorities, other bodies and officials infringing the rights and legitimate interests in area of business and other economic activities.
(3) Administrative offences within the competence of the arbitration courts.
(4) Recovery from legal entities and individuals engaged in entrepreneurial and other economic activities, compulsory payments, penalties and sanctions, if federal law does not stipulate a different procedure for their collection.
(5) Other administrative and public law cases, if the federal law brought them within the competence of the arbitration courts.

3. Facts of Legal Significance

178. Arbitration courts consider in order of special proceedings cases of establishing the facts of legal significance for the creation, change and termination of the rights of organizations and individuals in business and other economic activities.

4. Arbitration Court Order for the Enforcement of Extrajudicial Arbitration Court (*treteiski sud*) Decisions

179. Arbitration courts consider the following cases:

(1) to challenge extrajudicial arbitration courts decisions on entrepreneurial and other economic disputes; and
(2) to issue the arbitration court order for an extrajudicial arbitration court decision on entrepreneurial and other economic disputes.

5. Recognition and Enforcement of Foreign Court Judgments and Foreign Arbitral Awards.

180. Arbitration courts consider cases on the recognition and enforcement of foreign judgments and foreign arbitral decisions on disputes arising from entrepreneurial and other economic activities.

24. This class of cases falls under jurisdiction of the arbitration courts, regardless of whether the plaintiffs are legal entity, individual entrepreneurs or natural persons.

6. Special Jurisdiction of Arbitration Courts

181. Special jurisdiction of arbitration courts include:

(1) Insolvency (bankruptcy).
(2) Corporate disputes (APC, Article 225.1).
(3) Disputes about the refusal of State registration, evasion of State registration of legal entities and individual entrepreneurs.
(4) Disputes arising from the securities depositary actions, relating to the shareholders' rights.
(5) Disputes arising from the activities of state corporations and related to their legal status, governance, creation, reorganization, liquidation, organization and powers of their bodies, decision-makers within their agencies.
(6) Protection of business reputation in the field of business and other economic activities.
(7) Other cases arising from entrepreneurial and other economic activities if stipulated by federal law.

182. Cases under special jurisdiction of arbitration courts, regardless of whether the parties of a dispute or a claim are legal persons, individual entrepreneurs, other organizations, or natural persons, should be considered and resolved by the arbitration court.

II. Territorial Jurisdiction

A. General Rule

183. As a general rule, a claim shall be brought to the court at the defendant's place of legal registration or primary residence. Cases under jurisdiction of arbitration courts are discussed in the first instance by regional arbitration courts, except cases referred to the jurisdiction of the Supreme Arbitration Court of the Russian Federation and federal circuit arbitration courts.

B. Main Claims and Ancillary Claims

184. Generally, the court has competence over all claims including the claim joinder, and counter claims.

C. Overview of the Different Rules

1. Federal Circuit Arbitration Courts

185. The federal circuit arbitration courts, as courts of the first instance, have jurisdiction over cases related to the compensation for breach of the right to trial

within a reasonable time, or right to the performance of a judicial act within a reasonable time.

2. The Supreme Arbitration Court of the Russian Federation

186. The Supreme Arbitration Court of the Russian Federation is considering as a trial court:

(1) Cases challenging legal normative acts of the President of the Russian Federation, the Government of the Russian Federation, federal executive authorities related to the rights and legitimate interests of the plaintiff in business and other economic activities.
(2) Cases challenging legal non-normative acts of the President of the Russian Federation, the Federation Council and State Duma of the Russian Federation, the Russian Government, the Government Commission for Control over Foreign Investments in the Russian Federation affected the rights and legitimate interests of the plaintiff in business and other economic activities.
(3) Economic disputes between the Russian Federation and subjects of the Russian Federation, and between the subjects of the Russian Federation themselves.

3. Jurisdiction at the Plaintiff's Choice (Alternative Jurisdiction)

187. In case of alternative jurisdiction, the choice between arbitration courts belongs to the plaintiff.

A claim against the defendant, whose location or place of residence is unknown, may be brought to the arbitration court based either on the location of the property, or on his last known place of residence in the Russian Federation.

A claim against the defendants who are legally registered or who live in different regions of Russia may be brought to the arbitration court at the location or residence of one of the defendants.

A claim against the defendant located or residing in a foreign country may be brought to the arbitration court at the location of the defendant's property in Russia.

A claim arising from the contract, which specifies the place of execution, may be brought to the arbitration court in the place of the contract execution.

A claim against the legal entity arising from the activities of its branches, representative offices located outside of the headquarter location, may be brought to the arbitration court at the primary location of the legal entity or location of its branch or representative office.

Claims for damages caused by the collision of vessels, collection of fees for providing assistance and rescue at sea may be brought to the arbitration court at the location of the vessel, or the defendant's homeport of the vessel, or the place where damage had been caused.

4. Prorogated Jurisdiction

188. General territorial jurisdiction and alternative jurisdiction may be modified by agreement of the parties before the arbitration court accepted the claim for proceedings.

5. Exceptional Jurisdiction

189. Claims on the real property rights are under jurisdiction of the arbitration court at the location of the property.

Claims on the rights to air and sea vessels, inland vessels, space objects fall under jurisdiction of the arbitration court at the place of their registration.

Claims against the carrier arising out of contract of carriage of goods, passengers and their baggage, including if the carrier is one of the defendants presented to the arbitration court at the location of the carrier.

Disputes involving arbitration court as a party are under jurisdiction of the Arbitration Court of Moscow region (*oblast')*. If the involved arbitration court is located in Moscow judicial district, such case is under jurisdiction of the Arbitration Court of Tver region (*oblast')*.

Bankruptcy claims shall be filed to the arbitration court at the location of the debtor.

Corporate disputes shall be filed to the arbitration court at the place of legal entity registration.

Statements of establishing the facts of legal significance are under jurisdiction of the arbitration court at the place of plaintiff's registration or residence; statements establishing the facts of legal significance related to real property are under jurisdiction of the arbitration court at the location of the real property.

Statements disputing the decisions and actions (or inaction) of a bailiff shall be filed at the location of the bailiff.

Claims on disputes between Russian organizations engaged in activities or having property in a foreign country shall be filed to the arbitration court at the place of defendant's State registration in the Russian Federation; or, if both entities have no State registration in Russia – to the Arbitration Court of Moscow region.

The statement on recognition and enforcement of foreign courts judgments and foreign arbitral awards shall be filed to the arbitration court at the place of a debtor's registration or residence or, if the location or place of residence of the debtor is unknown, at the location of the debtor's property.

III. Resolution of Jurisdiction Conflicts

190. Disputes over jurisdiction between the arbitration courts in Russia are not allowed. The case, sent from one arbitration court to another, shall be accepted for proceedings by the court in which it is directed.

The case accepted for proceedings in compliance with the rules of jurisdiction by one arbitration court must be decided on its merits, even if subsequently it came under the jurisdiction of another arbitration court.

191. The arbitration court shall refer the case to another arbitration court at the same level, if:

(1) The defendant, whose place of registration or residence was not previously known, made a motion to refer the case to the arbitration court at his place of registration or residence.
(2) Both parties filed a motion for consideration of the case at the location of most of the evidence.
(3) In proceedings before the court it was revealed that the case was accepted in violation of the rules of jurisdiction.
(4) In proceedings before the court it was established that the court itself is involved in this case.
(5) After the removal of one or more judges, or for other reasons it is impossible to form a composition of the court for consideration of the case.

192. The decision to transfer the case may be appealed to the arbitration Court of Appeal within ten days from the date of its issuance. Such complaint is considered without summoning the parties within five days from the date of its receipt by the court.

Chapter 2. International Jurisdiction

§1. Rules Applicable in the Absence of a Treaty

I. General Courts

193. General courts proceedings involving foreign legal and natural persons is regulated by Part V of the CPC (Chapters 43, 44 and 45).

194. As a general rule, foreign persons are entitled to use the courts in the Russian Federation for the protection of their violated or contested rights, freedoms and legitimate interests. Foreign persons enjoy the same procedural rights and perform the same procedural duties as Russian citizens and organizations. The Government of the Russian Federation may impose retaliatory restrictions against foreign persons of those States in which courts allowed the same restrictions towards Russian citizens and organizations (CPC, Article 398).

195. The standing of foreign citizens and Stateless persons is defined by their personal law. The personal law of a foreign citizen is the law of the country of citizenship. If the citizen along with the citizenship of the Russian Federation has a foreign nationality, her personal law is Russian law. In the presence of several foreign citizenships, the citizen's personal law is the law of the country of her domicile. If the foreign national has a residence in the Russian Federation, her personal law is Russian law. The personal law of persons without citizenship is the law of a country of her domicile. A person who has no procedural legal capacity because of her personal law, may be recognized as legally capable under Russian law, if in accordance with Russian law she has such capacity.

196. The personal law of a foreign legal entity is the law of a country of registration. The personal law of a foreign legal entity defined its procedural rights. A foreign entity that does not have procedural capacity under its personal law may be recognized as procedurally capable under Russian law. A standing of international organizations is defined in accordance with respective international treaty, its charter or agreements with the competent authority of the Russian Federation.

197. Foreign States, international organizations and persons with diplomatic immunity are generally excluded from Russian courts jurisdiction, unless otherwise provided by generally recognized principles and norms of international law, international treaty or federal law.

198. Unless otherwise established by Chapter 44 of the CPC, jurisdiction of cases involving foreign parties in Russian courts is determined by general rules of jurisdiction. Russian courts consider cases involving foreign parties, if the organization-defendant is located in Russia or the citizen-defendant has a residence in Russia.

199. Courts may also hear cases involving foreign persons if:

(1) The governing body, branch or agency of a foreign legal entity is located in Russia.
(2) The defendant has property within the territory of the Russian Federation.
(3) In the case of alimony and paternity claimant has a residence in the Russian Federation.
(4) In the case of damages caused by injury, other health impairment or death of a breadwinner, harm is caused in the territory of the Russian Federation or the plaintiff has his domicile in the Russian Federation.
(5) In the case of compensation for damage to property, action or other circumstance giving rise to a claim for damages took place in the territory of the Russian Federation.
(6) The claim follows from the contract under which full or partial execution should take place or took place in the Russian Federation.
(7) The claim follows from the unjust enrichment that occurred in the Russian Federation.
(8) In the case of divorce, the plaintiff has his domicile in the Russian Federation, or at least one spouse is a Russian citizen.
(9) In the case of personal and business reputation, the plaintiff has his domicile in the Russian Federation.

200. General courts in the Russian Federation have the exclusive jurisdiction over the following cases (CPC, Article 403):

(1) The cases of the right to real property located in Russia.
(2) Cases of disputes arising from the contract of carriage if the carriers are located in Russia.
(3) The case of divorce of Russian citizens to foreign citizens or Stateless persons, if both spouses have a residence in the Russian Federation.
(4) Cases arising from public relations under Chapters 23–26 of the CPC (e.g., challenging normative acts, election rights).

201. General courts also have the exclusive jurisdiction over the special proceedings cases (Article 403 of the CPC), if:

(1) The applicant in the case of establishing the legally significant fact has a residence in Russia or the fact in issue has had or has a place in Russia.
(2) In cases of adoption, legal capability, emancipation, forced psychiatric institutionalization and forced psychiatric examination, a person in question is a Russian citizen or has a residence in the Russian Federation.
(3) The person against whom the application is submitted for recognition as missing or the declaration of the deceased, is a Russian citizen or had the last known place of residence in Russia and this issue involves the establishment of rights and duties of Russian citizens or organizations located in Russia.
(4) An ownerless declaration is related to the thing located in Russia or declaration of municipal ownership is related to the ownerless real property located in Russia.
(5) Voidance proceeding for bearer securities owned by a Russian citizen, person residing in Russia, or by organization located in Russia; and restoration of rights to such bearer securities.

202. The jurisdiction of cases involving foreign persons may be changed upon agreement of the parties before the case is accepted by the courts; except jurisdiction of regional courts, the Supreme Court of Russia, and exclusive jurisdiction established by Article 30 (real property, inheritance and carrier's disputes) and Article 403 (special proceedings cases).

203. The case accepted by the court to the proceeding in compliance with the rules of jurisdiction, remains under the jurisdiction of this court, even if due to a change of nationality, domicile or residence of the parties or other circumstances it has become the jurisdiction of the court of another country.

204. The court refuses to accept the claim to the proceeding or discontinues proceeding of the case, if there is a court decision on the dispute between the same parties on the same subject and on the same grounds made by the foreign court, located in a State that has an international treaty with the Russian Federation, providing for mutual recognition and enforcement of court decisions.

205. Decisions of foreign courts, including the decision on approval of settlement agreements, are recognized and enforced in the Russian Federation, if provided by an international treaty of the Russian Federation. The decision of a foreign court may be presented to the enforcement in a period of three years from the date of entry into force.

II. Arbitration Courts

206. Different from the CPC, the Arbitration Procedural Code has a special provision on the rules of application of foreign law (Article 14). The general rule states that arbitration courts shall determine the content of applicable foreign law and regulations in accordance with their official interpretation, practice of implementation, and a doctrine in the respective foreign country. In order to establish the content of foreign law the arbitration court may apply for assistance and clarification from the Ministry of Justice and other competent authorities or organizations of the Russian Federation and abroad, or to attract experts. Parties in the case may also submit documents confirming the content of foreign law to which they refer to substantiate their claims or objections, and otherwise assist the court in establishing the content of the law and regulations.

207. In case of business disputes, the burden of proving the content of foreign law may be imposed by the court on the parties.

208. If notwithstanding the undertaken measures the content of foreign law has not been established within a reasonable time, the arbitration court shall apply the rules of Russian law.

209. The arbitration courts in Russia have jurisdiction over the following cases involving foreign persons:

(1) The defendant resides or has a property in Russia.
(2) The governing body, branch or agency of a foreign legal entity is located in Russia.
(3) The dispute over a contract under which execution should take place or took place in Russia.
(4) The claim arose out of damage to the property by an act or other circumstance that took place in Russia, or upon the occurrence of the damage in Russia.
(5) The dispute arose out of unjust enrichment, which took place in Russia.
(6) The plaintiff in the case of protection of business reputation is located in Russia.
(7) The dispute over securities issued in Russia.
(8) The complainant in the case of establishing the legal fact, indicates the presence of this fact in Russia.
(9) The dispute over the State registration of Internet domain names and the provision of Internet services in Russia.
(10) In other cases, if there is a close connection between the legal dispute and the territory of the Russian Federation.

210. The case accepted by the arbitration court for proceeding in compliance with the jurisdiction rules, shall be considered on its merits, even if during the proceedings due to a change in the location or place of residence, or other circumstances the case falls within the jurisdiction of a foreign court.

211. The arbitration courts have exclusive jurisdiction over the following cases involving foreign persons (Article 248 of the APC):

(1) Disputes in respect of State-owned assets of the Russian Federation, including disputes related to privatization of State property and compulsory acquisition of property for public purposes.
(2) Disputes over real property located in Russia.
(3) Intellectual property disputes if that requires registration or issuance of a patent or a certificate in the Russian Federation.
(4) Disputes about invalidation of entries in official registers (inventories), made in Russia.
(5) Disputes relating to the establishment, liquidation or registration of legal persons and individual entrepreneurs in Russia, as well as a challenge to the decisions of the governing bodies of these entities.

212. The arbitration courts also have exclusive jurisdiction over cases involving foreign persons arising from administrative and other public relations.

213. The arbitration court in Russia may have exclusive jurisdiction over a business dispute involving foreign persons if all parties agreed upon the jurisdiction issue and provided that such agreement does not alter the exclusive jurisdiction of a foreign court.

214. Foreign States, international organizations and persons with diplomatic immunity are generally excluded from Russian arbitration courts' jurisdiction, unless otherwise

provided by generally recognized principles and norms of international law, international treaty or federal law.

215. The arbitration court abandons a claim if there is a proceeding before the foreign court on the dispute between the same parties on the same subject and on the same grounds provided that the case is not under the exclusive jurisdiction of Russian arbitration courts.

216. The arbitration court discontinues proceeding of the case, if there is a court decision on the dispute between the same parties on the same subject and on the same grounds made by the foreign court, provided that the case is not under the exclusive jurisdiction of Russian arbitration courts and there are no grounds to refuse the enforcement of such decision in accordance with Article 244 of the APC.

217. Decisions of foreign courts on business disputes, decision of foreign arbitral tribunals and international commercial tribunals are recognized and enforced in the Russian Federation, if this is provided by an international treaty of the Russian Federation and federal law. The decision of a foreign court may be presented to the enforcement of a period of three years from the date of entry into force.

218. Foreign persons enjoy the procedural rights and perform the procedural duties on a par with Russian legal and natural persons. The procedural preferences may be available to foreign persons, if they are established by an international treaty of the Russian Federation.

§2. International Treaties

219. According to Article 15(4) of the Constitution:

> Universally recognized principles and norms of international law as well as international agreements of the Russian Federation should be an integral part of its legal system. If an international agreement of the Russian Federation established rules, which differ from those stipulated by law, then the rules of international agreement shall be applied.

220. The analogous approach is confirmed in the Civil Procedural Code (Article 1(2)) and in Arbitration Procedural Code (Article 3(3)).

221. Russia has ratified several international conventions on civil procedure: Hague Convention of 1 March 1954 on Civil Procedure in 1966 (in force since 1967); Hague Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents (since 1992); Hague Convention of 18 March 1970 on the Taking Evidence Abroad in Civil or Commercial Matters (since 2001); Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (since 2001); and Convention of 10 June 1958 on

the Recognition and Enforcement of Foreign Arbitral Awards – the 'New York' Convention (since 1960).

222. The Russian Federation also ratified several multilateral agreements in the area of civil and arbitration procedure within the Commonwealth of Independent States (CIS, in Russian: *Sodruzhestvo Nezavisimykh Gosudarstv*, SNG).

223. As of December 2011, over forty bilateral agreements on civil procedure and legal assistance in civil, family, labour and other areas of law entered into force, and nineteen more agreements were signed but are not yet in force.[25]

25. For full list of multi- and bilateral agreements see the official website of the Ministry of Justice of the Russian Federation at <www.minjust.ru/ru/activity/international_co-operation/dogovor/>.

Part III. Actions and Claims

Chapter 1. Actions

§1. Definitions

I. Actions by Claims

A. General Courts

224. A civil trial in general courts may be initiated either by *claim (isk)* or *application (zayavlenie).* Claims are used in property, contract, commercial disputes and most other private law matters. Applications are used in public law matters, administrative cases and special proceedings.

225. The form and content of the claim are regulated by Chapter 12 of the CPC. The claim shall include the name of the court; names and locations (place of residence) of plaintiff(s) and defendant(s); what is the violation or threatened violation of the rights, freedoms or legitimate interests of the plaintiff and his claim; the circumstances on which the plaintiff bases its claims and evidence to support these circumstances; the monetary amount in dispute; information on compliance with a mandatory pre-trial dispute settlement, if it is established by federal law or stipulated by the agreement of the parties; and a list of documents attached to the application.

226. A defendant is entitled to bring a counter-claim to the plaintiff for a joint review with the initial claim. Filing a counter-claim shall be made in accordance with general rules of proceeding.

B. Arbitration Courts

227. A proceeding in arbitration courts may be initiated either by *claim (isk)* or *application (zayavlenie).* Similarly general courts claims are used in property, contract, commercial disputes and other private law matters, whereas applications are used in public law matters, tax law and bankruptcy cases.

228. The form and content of arbitration court claim are regulated by Chapter 13 of the APC. The claim shall be filed in writing, but different from general courts

the claim may also be submitted by filing an electronic form posted on the official website of the arbitration court on the Internet.

229. The claim must include the name of the arbitration court; names, location and other contact information of the plaintiff(s) and defendant(s); the content of the claim with reference to laws and other regulations; the circumstances of the claim and evidentiary base of these circumstances; a monetary amount; information on compliance with pre-trial dispute settlement procedure, if it is provided by federal law or contract; required interim measures of security of enforcement; and the list of attached documents.

230. A defendant is entitled to bring a counter-claim to the plaintiff for a joint review with the initial claim. Filing a counter-claim shall be made in accordance with general rules of proceeding.

II. Actions by Application

A. General Courts

231. Applications in general courts are used in public law cases and special proceedings.

232. Applications for public law matters are used to challenge legal normative acts, decisions and actions (inactions) of different authorities, election rights cases, migration law cases (e.g., temporary institutionalization of foreign citizens) and cases of administrative supervision for persons released from penitentiary system.

233. The application for public law proceeding shall indicate what decisions and actions (inactions) should be declared illegal, what rights and freedoms of the person are violated by these decisions or actions (inaction).[26]

Filing a grievance in the chain of command to a higher authority or officer is not required for submission of the application to the court.

234. The judge shall refuse to accept the public law application or terminate the proceeding based on the legal doctrine res judicata.

Special proceeding cases before general courts include the following cases:

(1) On establishing the legally significant facts.
(2) On adoption of a child.
(3) On recognition of a person as missing, or to declare a person deceased.

26. Public law applications are also regulated by the Law of the Russian Federation of 27 Apr. 1993, No. 4866-I On Application to the Court Actions and Decisions Violating Rights and Freedoms of Citizens.

(4) On recognition of the person's limited capacity or incapacity; limitation or deprivation of the right of a minor under the age of 14–18 years old to dispose of their income.
(5) On emancipation (recognition of a full legal capacity) of a minor.
(6) On recognition of movable thing as ownerless and recognizing the right of municipal ownership of the vacant real property.
(7) On restoration of the rights of the lost bearer securities or warrant securities (Voiding).
(8) On the involuntary admission of a citizen in a psychiatric hospital and compulsory psychiatric examination.
(9) On corrections or changes in civil status register.
(10) On notary actions or refusal of notary actions.
(11) On restoring the lost court proceeding.

235. The cases of special proceedings shall be considered and resolved by the courts under the general rules of proceedings with the special features established by Chapters 28–38 of the CPC.

236. If during the case of special proceeding the court establishes the existence of a dispute about the law, the court makes a decision to abandon the application without consideration, and explains to the applicant and other interested persons their right to settle the dispute in the manner of claim proceedings.

237. Depending on the nature of the case, other laws may also establish some procedural rules. Family law cases (e.g., dissolution of marriage, establishing and challenging of fatherhood, adoption of a child) are also regulated by the Family Code of the Russian Federation of 29 December 1995.[27] Individual labour disputes are regulated by Chapter 60 of the Labour Code of the Russian Federation of 30 December 2001.[28] Administrative supervision of persons released from penitentiary system is regulated by Article 173.1 of the Criminal Execution (Penalty) Code of the Russian Federation of 8 January 1997.[29]

B. Arbitration Courts

238. Applications in arbitration courts are used in administrative and other public law cases:

(1) To challenge legal normative acts.
(2) To challenge non-normative acts, actions (inactions) of authorities and officials.
(3) On administrative violations and penalties.
(4) On mandatory payments and penalties.
(5) To establish facts of legal significance.

27. FZ No. 223-FZ of 29 Dec. 1995.
28. FZ No. 197–FZ of 30 Dec. 2001.
29. FZ No. 1–FZ of 8 Jan. 1997.

(6) On bankruptcy, corporate disputes and class actions.
(7) On challenging voluntary arbitral courts decisions and enforcement of these decisions.
(8) On recognition and enforcement of foreign courts decisions, and
(9) Summary proceeding cases.

239. General procedural rules, established by the APC, may be clarified by other laws. The Code of Administrative Violations of the Russian Federation of 30 December 2001 (FZ of 30 December 2001, No. 195-FZ) establishes procedural rules for administrative violations (Part IV). Bankruptcy proceedings are regulated by general Federal Law on Insolvency (Bankruptcy) of 26 October 2002, No. 127-FZ (Chapter 3) and several debtor-specific laws (e.g., Federal Law on Insolvency (Bankruptcy) of Credit Organization of 25 February 1999, No. 40-FZ; Federal Law on the Peculiarities of Insolvency (Bankruptcy) of Natural Monopolies' Entities of the Fuel and Energy Complex of 24 June 1999, No. 122-FZ).

§2. Admissibility

240. The admissibility of claims and applications in general and arbitration courts is based on the same legal doctrines and rules:

(1) doctrines of res judicata and lis pendens;
(2) separation of jurisdiction between general and arbitration courts and between different level of courts;
(3) rules of filing procedure; and
(4) requirements related to the parties and their representatives.

241. The most restrictions on admissibility are imposed by imperative doctrines of res judicata and lis pendens that cannot be changed by the court or parties.

The deficiency of jurisdiction, while non-reparable in the first instance, could be rectified by filing the claim in a correct court.

Rules of filing procedures and requirements related to the parties and their representatives are usually reparable in the same court.

242. A judge within five days of receipt of the claim shall accept the claim for proceeding, refuse to accept, return or abandon without movement.

243. The judge may refuse to accept the claim on jurisdictional ground, or legal doctrines of res judicata and lis pendens. The judge returns the claim in case of non-compliance with a mandatory pre-trial dispute settlement, some defects of claim's form (unsigned or signed by unauthorized or incapacitated person), or if the claim has been withdrawn by plaintiff before the start of proceeding. The judge abandons the claim if the plaintiff did not correct the claim's deficiencies within a reasonable time.

244. The counter-claim is accepted if there is a mutual relationship between claim and counter-claim and their joint consideration will lead to more rapid and proper

consideration of disputes; the counter-claim is directed to offset the initial requirements; and a satisfaction of the counter-claim would result in the dismissal of the claim in part or in whole.

245. If there are several cases related to each other on the same grounds of the claim and (or) the evidences presented, as well as there being a risk of conflicting judgments in other cases, the arbitration Court of First Instance on its own initiative or based on parties' motion may bring these things into one case for their joint consideration. The arbitration Court of First Instance also has the right to separate joined claims if it serves the requirements of effective justice. Such court decisions may be appealed.

246. Contrary to general courts' rules, the defendant in arbitration courts has procedural duty to submit to the court and to the parties his objections based on relevant laws and evidences.

§3. Vexatious Litigation

247. There are no special provisions in the Civil Procedural Code and the Arbitration Procedural Code to counteract vexatious and frivolous litigation.

Article 10 of the Civil Code of the Russian Federation[30] states the limits of civil rights execution in the following way: actions of natural or legal persons intending to harm other person or abuse the rights in other forms are not permitted. Paragraph 2 of Article 10 of the Civil Code provides that if person abuses the rights, general or arbitration courts my deny protection of these rights.

248. It is necessary to note, that Article 10 of the Civil Code is related only to the substantive rights and cannot be directly used in case of abuse of procedural rights. Russian civil courts and litigation parties do not have specific legal means to oppose vexatious litigation. However, some already available procedural means may be effectively used against abuse of civil procedure, for example, the distribution of legal costs, the preclusion of presentation of unrelated materials and denial of motions.

249. Some extreme forms of vexatious litigation may amount to criminal conduct. The Criminal Code of the Russian Federation[31] in Chapter 31 'Crimes Against Judiciary' penalized, for example, falsification of the evidence (Article 303) and disrespect for the court (Article 297).

30. Civil Code of the Russian Federation. Part I. Federal Law of 30 Nov. 1995, No. 51-FZ.
31. Federal Law of 13 Jun. 1996, No. 63-FZ.

Chapter 2. Claims and Defences

§1. Definition

250. Based on the type of relief sought by the plaintiff two types of claims may be theoretically distinguished in Russian civil procedure: claims for performance (to force the defendant to perform a specified act or series of acts) and declaratory claims (to resolve a dispute about legal rights or obligations without awarding a relief).

251. The Civil Procedural Code and the Arbitration Procedural Code do not separate claims for performance and declaratory claims in terms of content requirements, procedural rights, way of proceeding or any other terms; as such, the above-mentioned distinction remains a theoretical one.

252. The separate class of civil claims is represented in cases when a defendant's wrongful conduct gives rise to both criminal and civil liability. Civil claims as a consequence of crime are regulated by the Criminal Procedural Code of the Russian Federation, are considered within criminal proceedings, and civil procedural rules may play ancillary role only.

§2. Amendment of Actions

I. Elements of Actions

253. Each action includes two elements: grounds of the claim and claim (request) itself. Under grounds of the claim legal theory and procedural law understand material legal facts and substantive law provisions on which the claim is based.

254. The purpose of the claim or the claim itself means desirable procedural outcome: to force the defendant to perform a specified act or series of acts or to resolve a dispute about legal rights or obligations without awarding a relief.

According to Article 39 of the CPC, the plaintiff may change (amend) either the ground of the claim or the claim itself, but not both simultaneously. If the plaintiff brought the motion to change both grounds and claim, the judge shall reject it. The similar provisions are included into Article 49 of the APC.

II. Amendment of Claims

255. Amendments to the claim could be made in forms of changing the purpose (desirable outcome) of the claim, increasing or decreasing the size of the claim, entering into settlement (*mirovoe soglashenie,* peace agreement) or withdrawing of the claim (Article 39 of CPC; Article 49 of APC).

256. The court may not accept a settlement or withdrawing of the claim if it is contrary to the law or violate the rights or legitimate interests of others. In these circumstances the court shall decide the case on its merits.

In case of amendments to the claim and increasing the size of the claim the proceeding shall start from the date of such amendments.

III. Amendment of Grounds

257. Amendments to the ground of the claim may be made by way of changing of the set of material facts or by changing substantive law provisions that support the claim. In case of amendments to the grounds of the claim the proceeding shall start from the date of such amendments.

§3. Defences

258. The defendant may object to the claim, bring a counter-claim, admit the claim partially or in full, and enter into the settlement.

259. The court may not accept a settlement or admission of the claim if it is contrary to the law or violate the rights or legitimate interests of others. In these circumstances the court shall decide the case on its merits. In case of amendments to the claim and increasing the size of the claim the proceeding shall start from the date of such amendments.

§4. Joinder of Claims

260. A joinder of claims is permitted if:

(1) The claims are related to the common rights or duties of several plaintiffs or defendants.
(2) The rights and duties of several plaintiffs or defendants have the same grounds.
(3) The subject of the claim is similar rights and responsibilities.

261. Joinders of claim may intervene the proceeding before the court of the first instance has made a decision.

262. Each of the plaintiffs or defendants acts independently but joinders of parties may be represented by the same representative. If the consideration of the case is impossible without a joinder(s) of defendants, the court may involve such joinder on its own initiative. In this case, the hearing shall start from the outset.

263. During the pre-hearing or proceeding, the court, at the request or with the consent of a plaintiff, may accept the replacement of the improper defendant. After replacing the improper defendant, the case shall be heard from the beginning. If the plaintiff does not agree to replace the improper defendant by another person, the court considers the matter according to the presented claim.

Chapter 3. Sanctions on Procedural Irregularities

§1. Formal Requirements

264. The imposition of judicial fines on procedural irregularities is regulated by Chapter 8 of the Civil Procedural Code for general courts and by Chapter 11 of the Arbitration Procedural Code – for arbitration courts.

265. Judicial fines imposed by the court in cases and in the amounts provided in these Codes. Judicial fines are administrative by nature and, as such, are reproduced in the Code of Administrative Violations of the Russian Federation.

266. Judicial fines imposed by the court on not participating in the case by public officials, local governments, or other organizations for breach of procedural duties stipulated by federal law, shall be collected from their personal funds.

267. According to CPC judicial fines may be imposed in cases of:

(1) Failure to present evidences to the court or failure to inform the court on inability to present evidences – in the amount of RUB 1,000 for officials and RUB 500 for natural persons (Article 57(2)). Imposition of a penalty does not relieve the officials to provide the required evidence.
(2) Failure to comply with the court's order to secure the claim (prohibit the defendant or third parties from certain acts in relation to the subject of the claim) – up to RUB 1,000 (Article 140(2)).
(3) Violating the order in the court – up to RUB 1,000 (Article 159(3)).
(4) Failure of an interpreter to appear in the court or on the proper performance of his duties – up to RUB 1,000 (Article 162(4)).
(5) Failure of a witness, expert, specialist or interpreter to appear at the court for reasons deemed disrespectful – up to RUB 1,000. For second failure to appear at the hearing without a good cause the witness may be subjected to forced appearance executed by bailiffs (Article 168(2)).
(6) Failure of officials to comply and report the compliance with private ruling of the court – up to RUB 1,000. Imposition of a penalty does not relieve the officials to report and comply with the private ruling of the court (Article 226(2)).
(7) Failure of a representative of public or local authorities, or public officials to comply with the court order on a mandatory appearance before the court in public law cases – up to RUB 1,000 (Article 246(4)).

268. The Code of Administrative Violations establishes fines for non-compliance with courts or bailiffs' orders (Article 17.3); non-compliance with a private ruling of the court (17.4); and provision of false witness, expert evidence or interpretation (Article 17.9).

269. All fines come into force ten days after the fined person received a copy of a court ruling. Within ten days after receipt of the copy, that person may file a statement of elimination or reduction of the fine. This application will be considered in the

court hearing within ten days. If the court refused to set aside or reduce the fine, the person may file a private complaint.

270. Generally, the judicial fines imposed by arbitration courts on natural persons may not exceed RUB 2,500; on officials – RUB 5,000; and organizations – RUB 100,000. Judicial fines imposed on State officials, local authorities and other agencies, organizations, shall be recovered from their personal funds. In case of corporate disputes, corporate executives may be fined up to RUB 5,000 (Articles 225.4(4), 225.6(10), 225.12(2) and 225.12(3)). The arbitration court ruling on fines may be appealed within ten days from the date of receipt of a copy of the ruling.

271. Disrespect for the court may amount to criminal liability according to Article 297 of the Criminal Code of the Russian Federation.

§2. Time Limits

272. Time limitations for remedial actions are established by the Civil Code of the Russian Federation and other federal law. The general time limitation in Russia is three years (Article 196 of the Civil Code).

273. Procedural time limitations and rules of calculation are defined by Chapter 9 of the CPC and Chapter 10 of the APC. Generally, procedural deadlines may be determined by the specific date or by the period. If time limitation expires, the respective procedural rights are deemed void. A complaint made after a procedural deadline, unless filed with a motion for time restoration, shall be returned without consideration. Court-established procedural time limitation may be extended by the court.

274. Time limitations may be suspended by the court in a case of the suspended proceedings or reinstated in exceptional cases where the court finds compelling reasons that objectively eliminate the possibility to comply with time limitations.

275. Upon the general court ruling on reinstatement or refusal to reinstate the procedural term the private complaint may be filed. The arbitration court ruling on reinstatement or refusal to reinstate the procedural term may be appealed.

Part IV. Proceedings

Chapter 1. Introduction

276. Over 14,000,000 (14 million) civil claims were brought before general courts and justices of the peace in Russia in 2010.[32] This number represents 4% increase in comparison with 2009. Over 90% of civil claims were resolved based on their merits. Quite remarkably, only 230,000 cases (less than 2%) were processed with violation of the established procedural terms. In addition, almost 5,300,000 persons were subjected to the administrative fines and brought before the courts for administrative proceedings.

277. Article 154 of the CPC establishes the general time limit for civil cases consideration: two months from the date of receipt of the claim in the district court, and one month for the justices of the peace. The cases on alimony shall be considered within one month.

278. Arbitration courts, as a general rule, shall consider and resolve the case within three months of the date of receipt of the claim in the court (Article 152 of the APC). Over 1,500,000 cases were resolved by the arbitration courts system in 2010. Less than 7% were resolved with violation of the established procedural terms.[33]

279. The civil procedure is divided into two stages: the pre-trial proceeding and the main hearing. The pre-trial proceeding includes initiation of the trial, defining possible actions by parties, mandatory and possible actions by trial judge, and the preliminary hearing.

280. The main hearing should be organized according to the principles of immediacy, continuity and orality. The purpose of the preparatory stage is to prepare efficient main hearing in accordance with these principles.

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32. The judicial statistics for general courts system could be found at the official website of the Judicial Department under the Supreme Court of the Russian Federation at <www.cdep.ru/>.
33. The judicial statistics for arbitration courts system could be found at the official website of the Supreme Arbitration Court of the Russian Federation at <www.arbitr.ru/>.

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Chapter 2. Pre-trial Proceedings

281. A pre-trial proceeding is regulated by Chapter 14 of the CPC.
The tasks of pre-trial proceeding are as following:

(1) clarification of the relevant facts;
(2) determination of the relevant law;
(3) resolution of the parties and third persons involved in the case; and
(4) disclosure of evidence.

282. After receiving the claim, the judge makes a decision to prepare the case for trial, and indicates what action should be made by the parties and other persons involved in the case, and the timing for these actions.

283. The judge and the parties have the following responsibilities during the pre-trial proceeding:
The plaintiff or his representative shall:

(1) Send the defendant a copy of the evidences supporting the claim.
(2) Claim before the judge a request for the taking of evidences, which cannot be obtained without a court order.

The defendant or his representative:

(1) Clarify the plaintiff's claim and evidences.
(2) Present to the plaintiff or/and the court a written objection to the claim and supporting evidences.
(3) Claim before the judge a request for the taking of evidence, which cannot be obtained without a court order.

The trial judge shall:

(1) explain to the parties their procedural rights and obligations;
(2) question the plaintiff on the merits of the claim and, if necessary, request additional evidence at a certain time;
(3) question the defendant on the circumstances of the case, objections to the claim and supporting evidence;
(4) decide questions on joinder(s) of cause, joinder(s) of parties, replacement of the improper defendant, joined consideration of several claims, or separation of the claim;
(5) support conciliation, mediation and explain to the parties their right to seek resolution of the dispute in the voluntary arbitral tribunal and the consequences of such action;
(6) announce the time and place of the main hearing;
(7) call witnesses;

(8) appoint an expert examination if necessary, and allow the issue of bringing in the process a specialist and/or an interpreter;
(9) at the request of the parties or other persons involved in the case, seeks from legal or natural persons those evidence that the parties cannot obtain by their own;
(10) in cases of urgency, with the notification of the involved persons, carry out on-site examination of written and physical evidence;
(11) issue the court orders;
(12) take measures to secure the claim;
(13) decide whether to hold a preliminary hearing, the time and place; and
(14) perform other necessary procedural steps.

284. The plaintiff may unite several claims related to each other in one statement. During pre-trial proceeding, the judge may assign such claim in several separate proceedings if the separate consideration of the requirements would be appropriate.

285. Upon presentation of the claim by several plaintiffs or several defendants, the judge may designate one or more claims in separate proceedings if the separate proceedings will facilitate the proper and timely consideration of the case.

286. The judge, taking into account the position of the involved parties, may join several homogeneous cases involving the same parties, or several claims of one plaintiff against different defendants, or several claims of different plaintiffs against one defendant, if such consolidation will facilitate the proper and timely consideration and resolution of the case.

287. A preliminary hearing is intended to consolidate administrative procedural actions of the parties, define the circumstances relevant to the case, determine the sufficiency of evidences, and examination of time limitations. A preliminary hearing is conducted by a single judge. The parties are notified of the time and place of the preliminary hearing. The parties in the preliminary hearing have the rights to present evidences and argue motions.

288. In the presence of circumstances stipulated by the CPC, the proceedings at the preliminary hearing may be suspended or terminated, or the claim may be left without consideration. A private complaint may be filed on such ruling.

289. A defendant's objection on missing time limitation without good reasons may be considered during the preliminary hearings. If the judge established the fact of missing time limitation without a good reason, the claim shall be denied without examination of the merits of the case. The court's decision may be appealed to the appeal or cassation court.

290. In disputes about children at the request of the parent(s) in the preliminary hearing with a mandatory participation of the State guardianship and custody authority, the judge may determine the children's residence and (or) the procedure for the exercise of parental rights for the trial period. On these issues, a decision is made upon a

positive conclusion of the guardianship and custody authority and with a mandatory consideration of the children's opinion.

291. A preliminary trial shall be recorded in accordance with the recording requirements under the CPC.

292. The judge, recognizing that the case is ready, make a ruling about the case appointment to the main proceedings, and notify the parties and other persons involved in the case of the time and place of the hearing.

293. Chapter 14 of the APC similarly regulates pre-trial proceedings in the arbitration courts. A distinctive feature of pre-trial proceeding in the arbitration courts is that an issue of arbitration assessors' involvement shall be resolved at this stage.

294. In the arbitration courts a main hearing at the first instance may be immediately open right after a preliminary hearing completion if there is no mandatory requirement on three judges' panel and all involved persons are present at the preliminary hearing or involved person(s) are absent but were notified of the time and place of the preliminary hearing and did not file any motion.

Chapter 3. Proceedings in First Instance

§1. Adversary Proceedings

I. Preparation

295. The judge[34] within five days of receipt of the claim is obliged to consider its decision to accept, refuse, return or abandon the claim without movement. A private complaint may be filed upon the judge's ruling on refusal, return or abandonment of the claim.

296. The parties shall be informed on the judge's ruling and required actions within pre-trial proceeding. During preparation for the trial, the court may order measures to secure the future decision. Upon decision that the case is ready for the trial, the judge issues the ruling determining the place and time of the main hearing.

II. Main Hearing

A. Opening of the Trial

297. A main hearing procedure is regulated by Chapter 15 of the CPC for general courts and by Chapter 19 of the APC for arbitration courts.

The presiding judge (or judge alone) directs the court session, creates the conditions for full and complete examination of the evidence and circumstances of the case, removes from the trial all that is irrelevant to the case.

All objections from any of the participants of the trial shall be entered into the trial record. The presiding judge (panel of judges) shall offer explanations regarding their actions.

The presiding judge shall take the necessary measures to ensure the proper order of the trial. Orders of the presiding judge are mandatory for all participants, as well as for the persons present in the courtroom.

At the entrance of the judge(s) in the courtroom, all present in the room shall rise. Announcement of the decision and announcement of the court that ends the case without a decision shall be listened to by all present in the courtroom while standing.

The presiding judge opens the hearing and announces the civil case to be considered; hears the court clerk report on attendance and establishes the identity of the participants; explains the interpreter's rights and responsibilities; and removes the witnesses from the courtroom; announces the composition of the court and explains the procedure of the disqualification of the judge or recuses himself due to a potential prejudice or partiality.

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34. Rules of proceeding at the general and arbitration courts are very similar; as such, in order to avoid the redundancy, we provide details of general courts proceeding below with references to the arbitration courts only if it is absolutely necessary.

Finally, the judge explains to the persons involved in the case, their procedural rights and obligations.

B. Trial

298. A trial shall be conducted in accordance with principles of immediacy, continuity, and orality. Article 153.1 of the APC provides an opportunity to participate in the trial via video-conferencing.

299. The court must directly examine evidences in the case: to hear explanations of the parties and third parties, witnesses, expert opinions, advice and explanations of specialists familiar with written evidence, to examine the evidence, listen to audio and view videos.

300. In case of replacing of one of the judges, the trial of the case must be made at the outset. The trial court may not consider other civil, criminal and administrative cases pending the ruling of the case or during recess.

301. A proper salutation for judges in Russia is 'Respected Court' and all testimony and explanations before the court shall be given while standing. Exception from this rule may be allowed with the permission of the presiding judge.

302. In case of violation of the order of the hearing, the presiding judge on behalf of the court announces a warning; in case of second violation, the person may be removed from the courtroom. The court also may impose on the violator administrative fine of up to RUB 1,000. If the violation amounts to a crime, the judge can refer such cases to the relevant authorities for criminal proceedings.

303. The presiding judge defines the order of parties' presentations and of the examination of the evidences. After examining the evidences, the presiding judge shall call all involved parties for the conclusion of the case. In the absence of such statements, the judge announces the trial completed and opens judicial debate (closing arguments).

304. In closing arguments, the plaintiff and his representatives act first, then – the defendant and his representatives. Joinders of the claim appear after arguments made by both parties, and joinders of parties appear after respective parties. After speeches by all persons involved in the case and their representatives, they can make a replica in connection with the foregoing. Right of last remark always belongs to the defendant and his representative.

305. In closing argument the persons involved in the case may not invoke the non-disclosed facts or uninvestigated evidences.

C. Postpone and Delay of the Trial

306. In case of failure to appear at the hearing of any of the persons involved in the case, for which there is no information on their notice, hearing is postponed.

The court defers the trial if the person involved in the case was notified of the time and place of the hearing and reasons for their failure to appear deems justifiable.

The court may consider the case in absence of any of the involved persons, if they were duly notified and did not provide information about the causes of absence or the court finds the reasons for their failure appears to be disrespectful.

The parties are entitled to ask the court to consider the case in their absence.

307. In case of failure to appear at the hearing of witnesses, experts, specialists or interpreters, the court hears the opinions of those involved in the case on the possibility to hear the case in their absence and makes a ruling on the continuation of the trial or of its postponement.

308. The witness, expert, specialist or interpreter who fail to appear at trial for reasons deemed by the court disrespectful, may be fined up to RUB 1,000. The witness, for failure to appear at the hearing without a good cause for the second time, may be subjected to the forced appearance.

309. The hearing after its delay or postponement begins at the outset.

III. Judgment

A. Deliberation

310. After the completion of closing remarks, the court leaves the courtroom to the deliberation room for final ruling. Only judges directly involved in the case may be present in the deliberation room. The presence of other persons in the deliberation room is not allowed. The breach of the deliberation room's secrecy is an unquestionable ground for the cancellation of the decision (Article 364(2)(8) of the CPC).

311. If during the deliberation the court decides that it is necessary to find out new facts relevant to the proceedings, or to study new evidence, the court makes a decision on the resumption of the trial. After additional proceeding, the court again hears the judicial debate.

312. After the judge(s) reach and sign the decision, the court returns to the courtroom and the presiding judge pronounces the decision. Then the presiding judge orally explains the award procedure and time limit for appeal. When the court announces only the resolution part of the decision, the court shall explain when the full decision will be ready.

B. Different Kinds of Judgments

313. As a general rule, the court decision enters into force after time for appeal or cassation is expired.

314. In the following cases the court decision is subject for immediate execution:

(1) alimony;
(2) payment of employee wages for three months;
(3) reinstatement on the job; and
(4) inclusion of citizens of the Russian Federation in the list of voters or referendum participants.

C. Formal Aspects of the Judgment

315. The court decisions shall consist of four parts: introduction, description, reasoning and conclusion (CPC, Article 198; APC, Article 170).

316. In the introductory part of the decision the court shall include the date and place of the decision of the court, the name of the court that made the decision, the names of the judge(s), court clerk, the parties and others involved in the case, and the content of the claim.

In the descriptive part, the court shall indicate the plaintiff's claim, the defendant's objections and explanations of others involved in the case.

317. In the reasoning part the court shall evaluate the evidence to determine what facts relevant to the case have been established and what are not established, what are the relationship of the parties, what law should be applied in the case, and on what circumstances the court's decision is based.

Different from general courts, the reasoning part of arbitration court decisions may contain references to the decisions of the Plenum of the Supreme Arbitration Court of the Russian Federation on issues of judicial practice, or references to the Resolutions of the Presidium of the Supreme Arbitration Court.

318. The conclusive part of the court's decision shall contain provisions on whether the claim is allowed or dismissed in whole or in part, on distribution of legal costs, and on time and procedure for appealing the decision.

319. Generally, the court shall decide on the plaintiff's claim. However, the court may go beyond the stated claim in the cases stipulated by federal law (e.g., decides on the amount of alimony in a case of divorce, Article 24 of the Family Code of the Russian Federation). The court is not bound by plaintiff's application in public law cases (Article 246(3) of the CPC).

320. Article 169 of the APC requires that the decision should be stated in language understandable to the lay persons.

D. Delivery of the Judgment

321. The court decisions are pronounced under the name of the Russian Federation.

The court's decision shall be adopted immediately after the hearing. Drawing up a reasoned court decision may be deferred for a period of not more than five days after the hearing, but the conclusive part of the decision should be declared in the same hearing in which the trial is over. The conclusive part of the court decision shall be signed by all the judges and attached to the case.

E. Res Judicata

322. The legal doctrine of res judicata precludes re-litigation of the same claim between the same parties. According to both civil and arbitration procedural codes in order to apply the doctrine of res judicata, the claim should be fully identical – by grounds and by relief sought.

323. The application of the doctrine of res judicata may be initiated by either a judge or a defendant. Based on this doctrine the court shall terminate the proceeding (Article 134(1)(2) of the CPC; Article 150(1)(2) of the APC).

F. Interpretation and Rectification of Judgments

324. The court has no right to cancel or change decision once it is pronounced. However, the court on its own initiative or on application by involved person may provide interpretation and rectification of judgment.

325. The question of interpretation and rectification of judgment is considered in the hearing. Persons involved in the case shall be notified of the time and place of the hearing, but their absence is not an obstacle to resolving the issue of corrections to the court's decision. Depending on nature of changes, the court's decision on interpretation may be appealed or a private complaint may be filed.

The court may correct any clerical or apparent arithmetical mistakes.

326. The court may make an additional decision if:

(1) The court did not decide on part of the claim while the evidences and explanations on this part were presented and investigated.
(2) The court ruled on the question of the law but did not decide on the award.
(3) The court has not resolved the issue of court costs.

The adoption of an additional court decision can be made before the main decision enters into force.

327. In case of uncertainty, the court may explain the decision without changing its contents. Explanation of the court decision is allowed if it is not entered into force and the time limit for enforcement has not expired yet.

The court may delay or allow repayment by instalments pursuant to a court decision or may change the way and procedure of its execution.

The court may also decide on inflation-based indexation of sums of money awarded.

§2. Court Order Proceedings

328. Chapter 11 of the CPC 'The Court Order' regulates special type of proceeding available in the general courts system only.

A court order is an execution document, issued by a single judge on an application for the recovery of money or personal property in the following cases:

(1) Claim is based on a notarized transaction.
(2) Claim is based on a transaction made in writing.
(3) Claim is based on the notarized protest of a bill of exchange.
(4) Claim on alimony for minor children not related to paternity (maternity) matter, or the need to involve other stakeholders.
(5) Claim on recovery taxes, duties and other mandatory payments from the natural persons.
(6) Claim on recovery of accrued but unpaid employee wages.
(7) Internal Affairs authority claim to recover costs of the search of the defendant or the debtor, or the child.

329. An application for a court order shall be filed in the court according to the general rules of jurisdiction.

The court order shall be issued within five days from the receipt of application without a hearing and parties' participation.

§3. Default Proceedings

330. Default proceeding is regulated by Chapter 22 of the CPC. The case may be considered in absence of the defendant if she failed to appear before the court, was duly notified, did not report valid reasons for not appearing and did not request the hearing in her absence.

331. The court shall issue ruling on a default proceeding. The default proceeding is possible only if all of several defendants are absent. If the plaintiff does not agree with the default proceeding, the court postpones the case and issues the notice on the time and place of a new trial.

The default proceeding is conducted according to the same rules as established for the main hearing.

332. Application to set aside a default judgment shall be filed at the same court and contain circumstances indicating a valid reason for the defendant's absence and inability to inform the court, and evidence confirming these facts, and the circumstances and evidence that could affect the content of the decision of the court.

333. The court, having considered the application to set aside a default judgment makes a decision to reject the application or set aside a default judgment and reopen the case before the same or a different panel of judges.

334. The default judgment shall be set aside if the court finds that defendant's failure to appear in the hearing was due to valid reasons, of which he was unable to timely notify the court, and the defendant in this case refers to the circumstances and provides evidence that could affect the content of the decision of the court.

335. After resumption of the case, the court resumes trial on its merits. In case of the second default, the defendant has no right to apply for the decision reconsideration under default proceeding rules.

Chapter 4. Review Proceedings

§1. General Courts

I. Introduction

336. The Federal Law of 9 December 2010, No 353-FZ on Amendments to the Civil Procedural Code considerably changed the structure of the general courts system. The Law came into force on 1 January 2012.

337. The decisions of all courts of first instance (and not just justices of the peace, as was set until January 2012), not entered into force, may be appealed to higher courts, namely, decisions of justices of the peace may be appealed to the district court, district courts' decisions – to the regional court, decisions of regional courts – to the judicial collegium of the Supreme Court, and the Supreme Court decision, taken in the first instance – to the Appeals Chamber of the Supreme Court of the Russian Federation.

In addition, the term to appeal the trial court's decision has been changed: the appeal may be filed within one month from the date of the court decision in its final form (previously ten days). The appeal case shall be considered according to the rules governing the first instance hearing; and the appeal court does not have the possibility of referring the case for a new trial in the Court of First Instance.

338. Starting 1 January 2012, the cassation instance considers court decisions entered into force (previously – not entered into force decisions of the first instance court).

339. The supervision cases shall be considered by the Presidium of the Supreme Court only if the Supreme Court considered these cases as a Court of Appeal or as a Court of First Instance. As the supervisory authority, the Presidium of the Supreme Court also considers the decisions of the cassation divisions of the Supreme Court – Administrative, Civil and Military Collegia.

II. Appeal

340. Before 1 January 2012, only the decisions of justices of the peace may be appealed (Chapter 39 of the CPC). Starting 1 January 2012, all decision of the Court of First Instance, not into the force of law may be appealed.

341. A right to appeal belongs to the parties and others involved in the case, including the prosecutor who is involved in the case. The appeal may also be filed by persons who were not involved in the trial but whose rights and obligations were changed by the court decision.

342. According to Article 320.1 of the CPC the appeal courts in Russia are:

(1) District courts – for the decisions of justices of the peace.
(2) Regional courts – for the district courts and garrison military court decisions.
(3) Civil and Administrative Collegia of the Supreme Court – for the decisions of regional courts if they consider the case as courts of the first instance; the Military Collegium of the Supreme Court – for the decisions of the military district (fleet) military courts if they consider the case as courts of the first instance.
(4) The Appeal Collegium of the Supreme Court – for the decisions of the Supreme Court of the Russian Federation, adopted in the first instance.

343. Except district appeal courts, comprised of a single judge, the appeal court is comprised of three professional judges.

344. As a general rule, appeals may be filed in the court of the first instance within one month from the date of the court decision in its final form. The appeal cannot contain requirements that are not claimed in the proceedings in the Court of First Instance.

345. The appeal court shall consider the case in accordance with the rule established for the proceeding at the court of the first instance with the exception of the rules of combination and separation of claims; amending the claim, grounds of the claim or the size of the claim; accepting a counter-claim; replacing improper defendant; or bringing new parties into the proceeding.

346. The appeal court reviews the case within the reasoning set forth in the appeal and the objections to the appeal. Additional evidence may be taken by the Court of Appeal only if a person involved in the case justified the impossibility of their submission to the trial court for reasons beyond his control, and the court finds these reasons as valid. If only a part of the decision is appealed, the court shall consider only this part of the decision; however, the court has the right to review the whole decision. New claims that were not brought before the court of the first instance shall not be accepted and considered by the appeal court.

347. The appeal shall be review by district and regional courts within two months, and by the Supreme Court – within three months from the day of receipt.

The appeal court may:

(1) Uphold the decision of the court of the first instance and dismiss the appeal.
(2) Set aside the decision of the court of the first instance in whole or in part, and render a new decision.
(3) Set aside the decision of the court of the first instance in whole or in part, and dismiss the claim.
(4) Abandon the appeal if the appeal was brought beyond the time limitation and the issue of the time limit restoration was not resolved.

The appeal court decision enters into force from the day of its adoption.

348. Article 330(4) of the CPC establishes the following mandatory grounds for setting aside the decision of the court of the first instance:

(1) illegal composition of the court of the first instance;
(2) the absence of one of the parties if not notified about time and place of the hearing;
(3) violation of the official language rule;
(4) decision was made in relation to the rights and obligation of persons not involved in the trial;
(5) decision is not signed by the judges or signed by improper judge;
(6) absence of the trial protocol; and
(7) violation of the deliberation room secrecy.

349. The first instance court decision may also be set aside on grounds of unestablished or unproved material facts or improper implementation of substantive or procedural laws.

350. Under improper implementation of substantive law the Civil Procedural Code means not implementing the proper law, implementing the improper law and improper interpretation of the law.

351. Violation or improper implementation of procedural law may be ground for setting aside the first instance court decision only if it resulted in adoption of the lawless decision. The decision that is correct by its nature shall not be set aside based on formal grounds only.

352. In some circumstances, the appeal may be filed on the interim ruling of the court of the first instance (e.g., when such ruling excludes further movement of the case). Such appeal may be filed within fifteen days from the day of the court ruling adoption.

III. Cassation

353. The court rulings entered into force (with an exception of the rulings of the Supreme Court) may be challenged in the cassation court if all available legal means are exhausted (CPC, Chapter 41, Article 376(2)).

354. The application for cassation may be filed within six months from the day of the decision entered into force by any person whose rights and legal interests are violated by the court's decisions and rulings. The application for cassation shall be filed directly in the court of cassation instance.

355. The cassation on appeal rulings of regional, district court and justices of the peace shall be filed in the Presidium of the regional court. The cassation on appeal ruling of lower level of military courts shall be filed in the Presidium of military district (fleet) military court. The cassation on the rulings of the Presidium of the

regional court and military district (fleet) military courts shall be filed in the Civil, Administrative or Military Collegium of the Supreme Court respectively.

356. The General Prosecutor and its deputy have the right to bring the cassation before any court of the cassation instance; regional prosecutor, military district and fleet prosecutors may file the cassation in the Presidium of the respective court.

357. Based on arguments of the cassation and case materials, the judge may dismiss the application for cassation or leave the hearing. The Chair and its Deputy of the Supreme Court may overrule the Supreme Court's judge's ruling to dismiss the cassation and leave the hearing.

358. The cassation shall be considered within one month (two months in the Supreme Court) if the case was not requested and within two months (three months in the Supreme Court) if the case was requested.

359. The court decision may be set aside or changed in whole or in part in case of substantial violations of substantive or procedural laws that resulted in the improper decision and violations of the rights, freedoms, legal and public interests.

360. The cassation court may:

(1) Uphold the previous judicial acts and dismiss the cassation.
(2) Set aside any of the previous judicial acts in whole or in part and return the case to the respective court.
(3) Set aside any of the previous judicial acts and abandon the claim or terminate the proceeding.
(4) Uphold one of the previous judicial acts.
(5) Set aside or change any of the previous judicial acts and render a new ruling if substantive law was improperly implicated or interpreted.
(6) Abandon the cassation.

361. The cassation court reviews only questions of law within the filed arguments; the court has no rights to review unchallenged judicial acts or unchallenged part of judicial acts. The cassation court shall not challenge the factual grounds of the previous decisions, or adopt recommendations related to the evidentiary base, or adopt recommendations on what decision shall be made further.

The recommendations of the cassation court on the interpretation of the law are mandatory for the lower courts.

362. Cassation court ruling enters into force at the day of its adoption.

IV. Supervision

363. The court of the supervisory instance in Russia is the Presidium of the Supreme Court of the Russian Federation.

The following judicial acts may be challenged in the Presidium of the Supreme Court:

(1) Decisions of the regional and district (fleet) military courts entered into force if such decisions were appealed in the Supreme Court.
(2) Decisions and rulings of the Supreme Court as the first instance if such decisions were appealed.
(3) Rulings of the Appeal Collegium of the Supreme Court.
(4) Rulings of the Administrative, Civil or Military Collegium of the Supreme Court as the appeal instances.
(5) Rulings of the Administrative, Civil or Military Collegium of the Supreme Court as the cassation instance.

364. The General Prosecutor and its Deputy may apply for the supervisory review by the Presidium of the Supreme Court if the prosecution was involved in the proceedings.

365. The application for the supervisory review shall be filed directly in the Supreme Court of the Russian Federation within three months after the judicial acts entered into force.

366. The judge of the Supreme Court considering the application for the supervisory review may dismiss the application or leave the hearing. The Chair and its Deputy of the Supreme Court may overrule the Supreme Court's judge ruling to dismiss the application and leave the hearing.

367. The application for the supervisory review shall be considered within two months if the full case was not requested and within three months if the case was requested.

368. Challenged judicial acts may be set aside and changed during the supervisory review if these acts violate:

(1) personal rights and freedoms established by the Constitution of the Russian Federation; commonly recognized principles and provisions of international law and international treaties of the Russian Federation;
(2) rights and legal interests of unspecified categories of persons or other public interest; and
(3) common approaches in interpretation and implementation of the law.

369. The Presidium of the Supreme Court may:

(1) Uphold all previous judicial acts and dismiss the application.
(2) Set aside any of the previous judicial acts in whole or in part and return the case to the respective court.

(3) Set aside any of the previous judicial acts and abandon the claim or terminate the proceeding.
(4) Uphold one of the previous judicial acts.
(5) Set aside or change any of the previous judicial acts and render a new ruling if substantive law was improperly implicated or interpreted.
(6) Abandon the application for the supervisory review.

370. The supervision court reviews only proper interpretation and implementation of the substantive and procedural laws within the filed arguments. The Presidium has no rights to review unchallenged judicial acts or unchallenged part of a judicial act. The Presidium shall not challenge the factual grounds of the previous decision, or adopt recommendations related to the evidentiary base, or adopt recommendations on what decision shall be made further.

The recommendations of the Presidium on the interpretation of the law are mandatory for the lower courts.

371. The supervision court ruling enters into force at the day of its adoption and may not be challenged further.

§2. Arbitration Courts

I. Appeal

372. The decision of the arbitration court of the first instance not entered into force may be appealed in the appeal arbitration court. The appeal cannot claim new requirements that have not been the subject of the arbitration Court of First Instance.

373. Appeal may be filed within one month after the decision of the arbitration court of the first instance. The deadline for an appeal, missed for reasons beyond the control of an applicant, including the lack of information about the judicial act complained of, at the request of the party can be restored by the arbitration Court of Appeal, provided that the appeal has been filed not later than six months from the date of the decision.

The appeal may be filed in writing or by filling out the form posted on the official website of the respective arbitration court.

374. The appeal is considered by three professional judges without participation of lay judges (arbitrazh assessors). The appeal court has no rights to unite or separate claim; change claim, grounds or size of claim; replace the improper defendant; or involve other persons.

375. The appeal arbitration court shall consider the case within a period not exceeding two months from the date of receipt of the appeal together with the case.

376. The appeal court reviews questions of both law and facts. The court may allow new evidences if the person involved in the case justified the impossibility of

their submission to the trial court for reasons beyond his control, or if the trial court denied its examination.

377. If only part of the decision has been appealed, the appeal court examines the legality and validity of the contested decision only in part. The appeal court has no right to accept or consider claims that were not part of the initial claim.

378. The appeal arbitration court may:

(1) Uphold the decision and dismiss the appeal.
(2) Set aside or change the decision in whole or in part and render a new judicial act.
(3) Set aside or change the decision and terminate the proceeding or abandon the claim completely or in part.

The appeal court decision enters into force from the day of its adoption.

379. Article 270 of the APC establishes the following mandatory grounds for setting aside the decision of the court of the first instance:

(1) illegal composition of the court of the first instance;
(2) the absence of one of the parties if not notified about time and place of the hearing;
(3) violation of the official language rule;
(4) decision was made in relation to the rights and obligation of persons not involved in the trial;
(5) decision is not signed by the judges or signed by improper judge;
(6) absence of the trial protocol; and
(7) violation of the deliberation room secrecy.

380. The first instance court decision may also be set aside on grounds of unestablished or unproved material facts or improper implementation of substantive or procedural laws.

381. Under improper implementation of substantive law the Arbitration Procedural Code means not implementing the proper law, implementing the improper law, and improper interpretation of the law.

382. Violation or improper implementation of procedural law may be ground for setting aside the first instance court decision only if it resulted in adoption of the lawless decision. The decision that is correct by its nature shall not be set aside based on formal grounds only.

383. In some circumstances, the appeal may be filed on the interim ruling of the court of the first instance (e.g., when such ruling excludes further movement of the case). Such appeal may be filed within fifteen days from the day of the court ruling adoption. The appeal court may uphold the ruling and dismiss the appeal; set aside

the ruling and return the issue to the Court of First Instance for a new review; or set aside the ruling in whole or in part and render a new ruling.

II. Cassation

384. Chapter 35 of the APC establishes rules and procedure for the cassation of arbitration courts' judicial acts.

385. The application for cassation review may be brought on the decision of the arbitration court of the first instance entered into force (except for decisions of the Supreme Arbitration Court of the Russian Federation) if the decision was the subject of the arbitration Court of Appeal, or if the arbitration Court of Appeal rejected the reinstatement of the appeal time limitation.

386. The cassation applications are considered by the circuit arbitration (cassation) courts. The cassations on compensation for breach of the right to trial within a reasonable time, or right to execution of a judicial act within a reasonable period are considered by the same circuit court in a different panel of judges.

The circuit arbitration court is comprised of the three professional judges.

387. The cassation shall be filed within two months from the date of arbitration court acts' entry into force through the court that has adopted the decision. The time limit for the cassation, missed for reasons beyond the control of an applicant, including the lack of information about the court decisions, at the request of the person can be restored by the cassation arbitration court, provided that the application has been filed not later than six months from the date of entry into force of the contested judicial act.

The cassation may be submitted in writing or by filling out the form posted on the official website of the arbitration court.

388. The cassation shall be heard within two months from the date of receipt of the cassation application together with the case at the circuit arbitration court.

389. Upon consideration of the application the circuit arbitration court may:

(1) Uphold all previous judicial acts and dismiss the application.
(2) Set aside or change any of the previous judicial acts and render a new ruling if substantive law was improperly implicated or interpreted.
(3) Set aside any of the previous judicial acts in whole or in part and refer the case to the respective court.
(4) Set aside any of the previous judicial acts in whole or in part and refer the case to another arbitration court of the first instance within the same arbitration circuit.
(5) Uphold any of the previous judicial acts.
(6) Set aside any of the previous judicial acts and abandon the claim or terminate the proceeding.

390. The cassation courts generally have the same grounds for setting aside the previous judicial acts as the appeal arbitration courts have, namely: misapplication of substantive law and incorrect application of procedural law that led to the wrong decisions.

Interpretation of the applicable law, adopted by the cassation court, is binding for the lower courts.

391. The rulings of the cassation courts come into force from the date of its adoption.

III. Supervision

392. The Presidium of the Supreme Arbitration Court of the Russian Federation is the supervisory instance for the arbitration courts system.

393. An application for the supervisory review of judicial acts may be filed in the Supreme Arbitration Court within a period not exceeding three months from the date of entry into force of the last contested judicial act in the case, and only if all other legal opportunities to challenge these acts are exhausted. The deadline for the supervisory review, missed for reasons beyond the control of an applicant, including the lack of information about the judicial acts, at the request of the person can be restored by the judge of the Supreme Arbitration Court, provided that the application has been filed not later than six months from the date of entry into force of the contested judicial act.

394. An application for the supervisory review shall be considered by a panel of judges of the Supreme Arbitration Court within one month from the receipt of the application without notice to the persons involved in the case. The panel decides whether to grant the supervisory review before the Presidium of the Supreme Arbitration Court or dismiss the application.

395. The challenged judicial acts may be set aside and changed during the supervisory review if these acts violate:

(1) personal rights and freedoms established by the Constitution of the Russian Federation; commonly recognized principles and provisions of international law and international treaties of the Russian Federation;
(2) rights and legal interests of unspecified categories of persons or other public interest; and
(3) common approach in judicial law interpretation and implementation.

396. The Presidium of the Supreme Arbitration Court may:

(1) Uphold judicial act(s) and dismiss the application.
(2) Set aside any of the previous judicial acts in whole or in part and return the case to the respective court.
(3) Set aside the judicial act in whole or in part and render a new act.

(4) Set aside any of the previous judicial acts and abandon the claim or terminate the proceeding.
(5) Uphold one of the previous judicial acts.
(6) Award a compensation for the violation of the right to the judicial procedure within a reasonable term or dismiss an application for such compensation.

Interpretation of the law, adopted by the Presidium, is mandatory for the lower courts.

397. The rulings of the Presidium of the Supreme Arbitration Court enter into force at the day of its adoption and shall be published in the *Vestnik of the Supreme Arbitration Court of the Russian Federation* and the official website of the Supreme Arbitration Court.

Part V. Incidents

Chapter 1. Challenge of Judges

§1. Disqualification of the Judge in a Case

398. The grounds for the disqualification of a judge or justice of the peace are established in Chapter 2 of the CPC.

The justice of the peace and the general court judge shall be disqualified if he:

(1) was involved in the previous consideration of the case as a public prosecutor, court secretary, representative, witness, expert, specialist or interpreter;
(2) is a relative or legal relative of any of the persons involved in the case, or their representatives;
(3) is personally, directly or indirectly, interested in the outcome of the case or there are other circumstances giving rise to doubts about its objectivity and impartiality.

399. The court cannot include judges who are related to each other.

In addition, a repeated participation of the trial judge is inadmissible. A judge, and a justice of the peace, who previously took part in the proceeding, cannot participate in the further proceedings in the courts of other instances.

400. Grounds for the disqualification of the judge shall also apply to the prosecutor, court secretary, expert, specialist and interpreter. An expert or specialist, in addition, cannot participate in the proceedings if he was either in service or otherwise dependent on any of the persons involved in the case or their representatives. Participation of the prosecutor, court secretary, expert, specialist, interpreter in the previous consideration of the case as, respectively, the prosecutor, court secretary, expert, specialist, translator, is not grounds for their removal.

401. Chapter 3 of the APC provides different grounds for the disqualification of the arbitration courts judges.

The arbitration court judge shall be disqualified if he:

(1) Was involved in the previous consideration of this case as a judge.
(2) Was involved in the previous consideration of this case as a prosecutor, an assistant judge, clerk of the court, representative, expert, specialist, interpreter or a witness.
(3) Was involved in the previous consideration of this case as a judge of a foreign court, foreign arbitration court or arbitration tribunal.

(4) Is a relative of the persons involved in the case, or their representatives.
(5) Is the person, directly or indirectly, interested in the outcome of the case or there are other circumstances that might call into question his impartiality.
(6) Is or was depending on the person involved in the case or his representative.
(7) Made public statements or gave an assessment on the merits of the case.

402. The court cannot include judges who are related to each other. An arbitration assessor shall be disqualified based on the same grounds.

Similar to the general courts, a repeated participation in the trial of the same case in the arbitration courts of the different instances is inadmissible.

403. An assistant to a judge, court clerk, expert, specialist, interpreter cannot participate in the hearing and shall be subject to disqualification on the same grounds. An expert is disqualified if he conducted an audit or inspection, materials of which have become evidence in the case. A participation of an assistant to a judge, clerk of the court, expert, specialist, interpreter in the previous consideration of the case in the arbitration court as, respectively, an assistant to a judge, clerk of the court, expert, specialist, translator, is not grounds for their removal.

§2. Procedure

404. If there are grounds for disqualification, the general court judge, prosecutor, court clerk, expert, specialist or interpreter must resign. Based on the same grounds, a motion for disqualification may be filed by the persons participating in the case.

405. A self-disqualification or a motion for disqualification shall be motivated and take place prior to the consideration of the case on its merits; and are allowed after the start of the hearing only if grounds for disqualification was not evident to the judge or the parties before the hearing.

406. The question of disqualification of the judge reviewing the case alone is considering by the same judge in the deliberation room. The disqualification of the judge sitting on the panel is considering by other panel members without his participation. The disqualification of the whole panel is considered by the panel; and the disqualification of a prosecutor, court secretary, expert, specialist and interpreter is reviewed by the judge (court) considering the case.

407. In case of disqualification, the case shall be transferred to another judge or the panel at the same court. If it is not possible due to the absence of the available judges, the case is forwarded by the higher court to the other court at the same level.

408. A ruling on disqualification cannot be appealed separately; if a motion for disqualification was dismissed, this matter may be included in the main appeal.

409. The APC (Article 25) establishes different procedure for the disqualification of the arbitration court judges. The disqualification of a judge trying the case alone shall be considered by the chairperson of the arbitration court, its deputy, or the chairperson of the respective judicial chamber in this court.

The disqualification of a panel judge is considered by the panel itself in the absence of the challenged judge by a simple majority of votes. In case of equal number of votes cast for and against the disqualification, the judge is disqualified.

The disqualification of several judges or a panel shall be considered by the chairperson of the court, its deputy or the chairperson of the respective judicial chamber in this court.

410. The disqualification of an assistant to a judge, clerk of the court, expert, specialist and interpreter is considered by the judge (court) hearing the case.

411. The disqualified judge shall be replaced by another judge and the case shall be considered in the same court by a different judge or by a different panel. If it is impossible to consider the case due to disqualification, the case shall be transferred to another arbitration court at the same level.

Chapter 2. Intervention

§1. Participation in the Trial

412. In Russian civil procedural law, an intervention (joining the ongoing trial) is possible only in the courts of the first instance and only before the court made its decision. In case of intervention, the proceeding shall start form the beginning, and as such, there is no difference between initial joining the case and joining the ongoing trial.

§2. Types of Intervention

413. There are two main types of joinders in Russian civil procedure: joinders with independent procedural requirements with respect to the cause, and joinders with no independent procedural requirements with respect to the cause.

I. Joinder with Independent Procedural Requirements

414. Joinders with independent procedural requirements have the same procedural rights as a plaintiff in general courts. Joinders with independent procedural requirements in arbitration courts have the same procedural rights as a plaintiff except the obligations related to the pre-trial settlement if it is required by law or a contract (Article 50 of the APC).

415. If a joinder with independent procedural requirements joins the case after the start of the proceeding, the proceeding shall start from the very beginning. If the motion to join is rejected by the court, it could be appealed to the higher court.

II. Joinder without Independent Procedural Requirements

416. Third parties without independent requirements may intervene on the side of the plaintiff or defendant before the Court of First Instance made a decision. They may be involved at the request of a party or on the initiative of the court.

417. Such joinders enjoy the procedural rights and perform the procedural duties of the parties, except the right to change the grounds of the claim or the claim itself; increase or decrease the size of claims; terminate the claim; accept the claim; enter into a settlement agreement; filing a counter- claim; or demand the enforcement of a judicial act.

418. If the motion to join as a third party is rejected by the court, it could be appealed to the higher court. If third parties joined the case, the proceeding shall start from the very beginning.

III. Procedural Succession

419. In case of withdrawal of a party from a trial or changed legal status (e.g., the death of a citizen, reorganization of a legal entity, inheritance), the court admits the replacement of its successor. The succession may be placed at any stage of civil proceedings.

All actions taken by the predecessor have the same legal force for the successor.

On the court ruling related to the procedural succession matters, a private complaint may be filed.

IV. Participation of the Prosecutor

420. The prosecutor (the Office of the Attorney General of the Russian Federation) has the rights to initiate or intervene in proceedings both in general and arbitration courts. The cause of intervention depends on jurisdiction of the court.

421. The prosecutor may ask the general court to protect the rights, freedoms and lawful interests of citizens; an indefinite number of persons; interests of the Russian Federation; interests of subjects of the Russian Federation; and local authorities.

422. An application on defence of the rights, freedoms and lawful interests of citizens may be filed by a prosecutor only if a citizen is unable to represent himself because of the state of health, age, disability and other valid reasons. This restriction does not apply to the prosecutor's actions in cases of violated or disputed social rights, freedoms and legitimate interests in labour relations; family, maternity, paternity and childhood related cases; social security; housing rights in the public and community housing; health care, including medical care; the right to a healthy environment; and the right to education cases.

423. The prosecutor who filed the application has the same procedural rights and obligations of the plaintiff, except the right to enter into a settlement agreement and the obligation to pay court costs. In case of failure of the prosecutor's application filed to protect the legitimate interests of another person, the consideration of its merits may continue, if the person or his legal representative does not terminate the claim.

424. According to Article 45(3) of the CPC, the prosecutor shall also make recommendations regarding matters of job reinstatement; compensations for damage to life or health; and some other cases.

425. The prosecutor may apply to the arbitration court in the following cases (Article 52 of the APC):

(1) To contest regulations, non-normative legal acts of public authorities of the Russian Federation, bodies of state power of subjects of the Russian Federation, local

authorities concerning the rights and legitimate interests of organizations and individuals in business and other economic activities.

(2) To invalidate transactions made by public authorities of the Russian Federation, bodies of state power of subjects of the Russian Federation, local self-government, state and municipal unitary enterprises, government agencies, as well as legal persons, the authorized capital (fund) which is the share of Russian Federation, the share of the Russian Federation, the share of municipal formations.

(3) To apply the consequences of invalidity of a void transaction made by public authorities of the Russian Federation, bodies of state power of subjects of the Russian Federation, local self-government, state and municipal unitary enterprises, government agencies, as well as legal entities in the charter capital (fund) which is the fraction participation of the Russian Federation, the share of the Russian Federation, the share of municipalities.

426. The prosecutor enjoys the same procedural rights and obligations of the plaintiff. The failure of the prosecutor's application does not deprive the plaintiff's right to request the continuation of the hearing.

V. Actions on Behalf of Other Persons

427. In the cases provided by law, the State authorities, local governments, organizations or citizens, based on the respective request, may apply to the court to protect the rights, freedom and lawful interests of other persons, or to protect the rights, freedoms and lawful interests of an indefinite number of persons.

Application to protect the legitimate interests of an incapacitated or a minor citizen may be filed regardless of the request of such person or his legal representative.

428. Persons who apply to protect the legitimate interests of others, have all procedural rights and obligations of the plaintiff, except the right to enter into a settlement agreement and the obligation to pay court costs.

VI. Participation of the State, Local and Other Authorities

429. In some cases stipulated by federal law, the State or local authorities on its own initiative or at the initiative of those involved in the case may enter into the general court proceedings to give an opinion on the case for the implementation of their duties and rights, freedoms and lawful interests of other persons or interests of the Russian Federation, subjects of the Russian Federation or municipals. The court may involve the State agency or local authority on its own initiative for the above-mentioned purposes.

The APC allows the participation of the State, local and other authorities only for the purpose of public interests protection.

Chapter 3. Withdrawal and Termination of a Claim

430. The plaintiff has the right to withdraw his claim before the start of the proceeding or terminate the claim at any time of the proceeding.

The court shall not accept withdrawal or termination if it is contrary to law or violates the rights and legitimate interests of others (Article 39 of the CPC; Article 49 of the APC). If the court does not accept the withdrawal or termination of the claim, the proceeding shall continue and the case shall be considered on its merits.

431–439

Chapter 4. Postponement of the Main Hearing

431. In general courts a postponement of the main hearing is allowed if the court finds that proceeding is impossible due to the absence of any of the parties; filing a counter-claim; or the necessity of additional evidence submission.

432. The court may postpone the hearing for a period not exceeding sixty days, at the request of both parties in case they decided to hold a mediation procedure.

The general court may also postpone the hearing if such is required or allowed by other laws. For example, the court has a right to postpone the proceeding for a period not exceeding three months for reconciliation in case of marriage dissolution (Article 22(2) of the Family Code of the Russian Federation).

433. The hearing after its postponement begins again. In case of postponement, the court may interrogate witnesses present themselves, if both a plaintiff and a defendant are also present.

434. According to the APC, in arbitration courts the main hearing may be postponed (Article 158), interrupted (Article 163), or divided into separate hearings (Article 160).

435. The main reason for postponement of the main hearing is a failure to appear in the trial of a person participating in it, if the court has no information about this person's notification on the time and place of trial. If the person was properly notified of the time and place of the hearing and filed a motion to postpone the trial and the reasons for failure to appear at trial, the arbitration court may adjourn the proceedings if it considers these reasons respectful.

436. In addition to the impossibility to hear the case and the necessity to present new evidence, as provided for general courts, the arbitration courts may also postpone the hearing in case of technical problems with the use of technical means conducting the hearing, including video-conferencing systems.

437. In case of postponement, the arbitration court may interrogate available witnesses, if both parities are present. The testimony of these witnesses shall be announced in the new trial.

The trial may be postponed for a period not exceeding one month, or sixty days in case of mediation.

Different from general courts, the trial in arbitration courts is resumed from the point at which it was postponed. Re-examination of the evidence is not made.

438. The arbitration court may adjourn the proceedings at the request of both parties, if they apply for mediation procedure to resolve the dispute.

439. The arbitration trial may also be delayed for a period not exceeding ten days by the chairperson of the court, its deputy or chairperson of the collegium in case of judge's illness or other reasons.

440. If the claim includes request on liability and interconnected request on measures of liability, the arbitration court upon parties' agreement may consider such issues in separate hearings (Article 160, APC). If the arbitration court dismissed the request on grounds of liability, the second hearing on the claim on measures of liability has not been heard. If the arbitration court allowed the request on grounds of liability, the second hearing shall take place immediately or within five days.

441. The arbitration court on its own initiative or based on participant's request may announce a recess in the hearing (Article 163, APC) for a period not more than five days. After the recess, the trial is resumed from the point at which it was interrupted; re-examination of the evidence is not made.

442–446

Chapter 5. Substitution of the Parties

442. Russia's procedural codes do not specifically regulate the substitution of the plaintiff. Procedurally, it could be done by joining the trial on the plaintiff's side followed by withdrawal of the plaintiff initiated the case.

443. The CPC (Article 41) regulates the substitution of the improper defendant and the APC regulates the substitution of the improper defendant (Article 47) and the procedural succession (Article 48).

444. The substitution of the improper defendant is possible during the pre-trial stage or during the proceeding at the request of the plaintiff or on the court own initiative with the consent of the plaintiff. After the substitution, the pre-trial begins from start. If the plaintiff does not agree to replace the improper defendant by another person, the court considers the case according to the presented claim.

445. The arbitration courts (Article 47(2)), in case if the plaintiff does not agree to substitute the improper defendant, may involve a proper defendant as a co-defendant. This action is possible only if the plaintiff consents to it. After the substitution or co-defendant involvement, the case shall start from the beginning.

If the plaintiff does not agree to replace the defendant or involve another person as the co-defendant, the arbitration court considers the case according to the presented claim.

446. The APC also regulates the procedural succession in cases of reorganization of legal entity, legal or contract succession, or death of natural person. In these cases, the arbitration court shall replace the predecessor with the successor. The succession is possible at any stage of the arbitration process. The procedural succession or rejection to do so may be appealed.

All previously committed procedural actions of the predecessor have the same legal force for the successor.

Part VI. Legal Costs and Legal Aid

Chapter 1. Legal Costs

§1. Types of Costs

447. Court costs consist of State levy and costs associated with the proceedings (CPC, Chapter 7; APC, Chapter 9). The size and procedure of State levy's payment are established by the Tax Code of the Russian Federation (Part II) (FZ No. 117-FZ/2000).

448. Chapter 25.3 'The State Levy' of the Tax Code covers State levies for the Constitutional Court of the Russian Federation, regional constitutional (charter) courts, general courts, justices of the peace and arbitration courts.

The State levy for the application to the Constitutional Court is RUB 300 for natural persons and RUB 4,500 for legal entities. The State levy for regional constitutional (charter) courts is RUB 200 for natural persons and RUB 3,000 for legal entities.

In general courts and justices of the peace the size of State levy for material depend on the size of the claim and is defined as a percentage of the claim but cannot be less than RUB 400 and more than RUB 60,000. The size of the State levy for non-monetary claims varies from RUB 2,000 for natural persons to RUB 4,000 for legal entities.

In arbitration courts the size of State levy for material claims also depend on the size of the claim and is defined as a percentage of the claim but cannot be less than RUB 2,000 and more than RUB 200,000. The size of the State levy for non-monetary claims varies from RUB 2,000 for natural persons to RUB 4,000 for legal entities.

449. Generally, the State levy shall be paid upfront in full. The Tax Code (Article 333.35) provides exemptions for some natural (e.g., participants of the Great Patriotic War – the World War II) and legal persons, as well as grounds and procedure for deferral, instalment payment or refund of State levy.

450. The cost of proceeding in general courts includes monies payable to witnesses, experts, specialists and translators; costs for interpreter services incurred by foreign citizens and Stateless persons, unless otherwise stipulated by an international treaty of the Russian Federation; travel and accommodation for parties and third persons, incurred in connection with their attendance at the court; advocate's fees; costs of

off-court inspections; compensations for actual loss of time; postage costs; and other necessary expenses recognized by the court (Article 94, CPC). Article 106 of the APC provides generally the same open-ended list of the eligible procedural expenses.

§2. Compensation of Legal Costs

I. General Courts

451. The cost of claim is determined by the value of the claim (e.g., monetary and property claims), by one year accrual amount (e.g., alimony), or by three year accrual amount (e.g., lifetime or indefinite term payments). The cost of claim is indicated by the plaintiff but in the event of a significant mismatch of the listed and the real value of the claimed property, determination of the cost of the claim may be made by the judge.

452. Witnesses, experts and interpreters shall be reimbursed for costs of travel, housing and per diem. A compensation for employed witness is based on actual time spent on the duties of a witness, and their average earnings. Compensation for an unemployed witness is based on actual time spent on the duties of the witness and the statutory minimum wage. Experts, specialists and translators are being paid for the court work only if the work is beyond the scope of their duties as employees of State agencies. The amount of remuneration is determined by the court in consultation with the parties and in agreement with experts and translators.

453. Monies payable to witnesses, experts and specialists shall be paid upfront to the court account by the party that initiated the call. If both parties support the call the amount payable shall be equal. If the attendance of witnesses, appointment of experts, the involvement of experts and other actions are initiated by the court, the respective expenses are reimbursed from the federal budget (or regional budget for cases before the justices of the peace).

The general court judge or the justice of the peace may exempt a natural person from the above-mentioned reimbursement or reduce the amount payable based on this person's financial circumstance. In such case, these expenses are paid from the respective budget.

454. The general rule is that the losing party shall pay the winning party all court costs. Expenses initiated by the court are paid by respective budget. If the claim is granted in part, court costs are allocated between the parties proportionally to the court decision: the plaintiff is awarded the reimbursement in proportion to the allowed claim, and the defendant – in proportion to the refused claim. The same rule applies to the allocation of legal costs incurred by the parties in the appeal, cassation and supervisory courts.

455. In case of frivolous or vexatious claims, or unreasonable and systematic delay of the proceeding, the court may charge in favour of other party a compensation for loss of time. The amount of such compensation is determined by the court 'within

reasonable limits' and taking into account the specific circumstances (Article 99, CPC).

456. Upon written request, the court awards the advocate fees to a winning party. As advocate's fees vary significantly from region to region (the highest fee occurs in Moscow and St. Petersburg) and even within the region, Article 100 of the CPC supports the court discretion in this issue and principle of 'reasonable limits'.

457. In case of termination of the claim, the plaintiff shall reimburse the defendant the incurred costs. If the defendant voluntarily accepted the claim, he shall reimburse the plaintiff. In case of settlement, the parties shall decide the issue of the allocation of costs, including advocate fees, or, alternatively, it shall be decided by the court upon approval of the settlement.

458. If one of the parties is exempt from the State levy or court costs, the losing party shall pay the State levy and court costs to the appropriate budget proportionally to the granted claim.

459. A private complaint may be filed on the court ruling related to the legal costs.

II. Arbitration Courts

460. The cost of claim in arbitration courts is determined by the value of monetary, property or land claim. The cost of claim is determined by the plaintiff but may be determined by the arbitration court if obviously incorrect.

461. Witnesses, experts and interpreters shall be reimbursed for costs of travel, housing and per diem. A compensation for employed witness is based on actual time spent on the duties of a witness, and their average earnings. A compensation for unemployed witness is based on actual time spent on the duties of the witness and the statutory minimum wage.

462. Experts are being paid for the court work only if the work is beyond the scope of their duties as employees of State forensic institutions. The specialists are being paid for the court work only if the work is beyond the scope of their duties as employees of the arbitration court apparatus. The amount of remuneration is determined by the court in consultation with the parties and in agreement with an expert or an interpreter.

463. Monies payable to experts and witnesses shall be deposited to the arbitration court account. If the motion to call a witness or an expert is supported by both parties, the expenses are paid equally. The court may dismiss such motion if the party failed to deposit the required amount and the case may be reviewed based on available evidences.

464. The amount of money owed to the experts and witnesses shall be paid from the deposit account of the arbitration court. Payment for the services of an interpreter, an expert, or a specialist involved in according with the court own discretion shall be made through the federal budget. Payment for the services of an interpreter provided to the foreigners and Stateless persons shall be made by such persons, unless otherwise stipulated by an international treaty of the Russian Federation.

465. The losing party shall compensate the winning party all court costs. If the claim is granted in part, court costs are allocated between the parties proportionally to the court decision: the plaintiff is awarded the reimbursement in proportion of the allowed claim, and the defendant – in proportion of the refused claim. Costs of legal representation are awarded within 'the reasonable limits' (Article 110(2) of the APC). Unpaid cost of the expert service shall be awarded in favour of the expert or the State forensic institution proportionally to the allowed claim. The same rule applies to the allocation of legal costs incurred by the parties in the appeal, cassation and supervisory courts.

466. In case of frivolous or vexatious claims, or unreasonable and systematic delay of the proceeding, the court may charge in favour of other party a compensation for loss of time. The amount of such compensation is determined by the court 'within reasonable limits' and taking into account the specific circumstances.

467. The Arbitration Procedural Code states different grounds for the cost due to abuse of the process. If the claim has been caused by violation of a mandatory pre-trial procedure, including late reply or failure to reply to the claim, the violator shall pay the costs regardless of the outcome of the case. The arbitration court may reallocate all costs to the party abusing the process, including disruption of the hearing, delaying the trial, and obstructing the proceedings. Based on written motion the arbitration court may reduce the amount of allocated costs if the party presents proof of their excessive amount.

468. Issues of distribution of costs shall be resolved at the same time as the main decision has been made. An application on the legal costs incurred in appeal, cassation or supervision courts, if the higher court did not rule on costs, may be filed in the arbitration court of the first instance within six months from the date of entry into force of the last judicial act.

Chapter 2. Legal Aid

469. Legal aid in Russia is regulated by Federal Law on Legal Aid in the Russian Federation (No 324-FZ of 21 November 2011, in force since 15 January 2012).

470. The Federal Law on Legal Aid establishes the basic guarantees of rights of Russian citizens to receive legal aid in Russia and the organizational and legal basis for the formation of State and non-State systems of legal aid. Federal law delineates the powers in area of legal aid between the different federal, regional, and local authorities, including the President of the Russian Federation, the Government of the Russian Federation, the Office of the Attorney General and others.

471. The State system of legal aid includes federal executive authorities and their subordinate agencies; executive bodies of subjects of the Russian Federation and their subordinate agencies; the State budgetary funds, and State legal offices. Lawyers and private notaries may also participate in providing of free legal assistance to citizens.

472. Legal aid is available to citizens through the State legal aid system and non-State system of legal aid, which includes the legal clinics and private legal aid centres.

473. Legal aid is provided in the form of:

(1) Oral or written legal advice.
(2) Preparation of applications, claims, motions and other legal documents.
(3) Representation in the courts, State and local government agencies, and other organizations.

Legal aid may also be provided in other, not prohibited by law, forms.

474. Legal aid is carried out by individuals and entities that are parties of the State legal aid system; non-State system of legal aid; and other persons that are eligible to provide legal aid in accordance with federal laws, the laws of the subjects of the Russian Federation and municipal regulations.

475. The minimum qualification requirements for persons who provide legal aid is a degree in law, unless otherwise provided by federal law.

476. Legal aid may be provided through the State-owned legal offices or advocates. The State-owned legal offices are established in legal form of a State-owned unitary enterprise based on operational management (*kazennoe predpriyatie,* State enterprise, Article 115 of the Civil Code of the Russian Federation). The State legal offices provide all types of legal aid and may contract advocates for this purpose.

477. Legal aid provided by advocates is regulated by Federal Law on Legal Aid and Federal Law of 31 May 2002, No. 63-FZ on Advocates' Activity and the Advocacy in the Russian Federation. The regional chambers of advocates are responsible for advocates' participation in the State system of legal aid.

478. Private and public notaries provide legal aid by way of advising on the notary acts in accordance with the legislation on notaries.

479. The eligibility for legal aid depends on persons' circumstances, nature of the case, and the form of legal aid (legal advice or the court representation).

480. The following categories of citizens are eligible for legal aid:

(1) Citizens with the average family income below the subsistence minimum established in the region of the Russian Federation in accordance with Russian law, or live alone citizens with incomes below the subsistence minimum.
(2) Disabled persons with the first and the second groups of disability.
(3) The Great Patriotic War (the World War II) veterans; those with honour distinctions as 'The Hero of the Russian Federation', 'The Hero of the Soviet Union', and 'The Hero of Socialist Labor'.
(4) Children with disabilities, orphans, children left without parental care, as well as their legal representatives and representatives, if they apply for legal aid to protect the rights and legitimate interests of such children.
(5) Citizens who are entitled to legal aid in accordance with Federal Law of 2 August 1995, No. 122-FZ on Social Services, Senior Citizens and Persons with Disabilities.
(6) Institutionalized juveniles and their legal representatives, if they apply for legal assistance to protect the rights and legitimate interests of minors (except criminal proceedings).
(7) Citizens who are entitled to free legal aid in accordance with the Law of the Russian Federation the Russian Federation on 2 July 1992, N 3185-1 on Psychiatric Care and Guarantees of Citizens' Rights in its Provision.
(8) Citizens who are deemed legally incapable by a court, as well as their legal representatives, if they apply for legal aid to protect the rights and lawful interests of these citizens.
(9) Citizens who are entitled to legal aid in accordance with other federal and regional laws.

481. Legal aid in the form of oral or written legal advice is provided to eligible citizens in the following cases:

(1) Real estate transactions, if this real estate is the only dwelling of the citizen and his family.
(2) Housing disputes, if it is the only dwelling of the citizen and his family.
(3) Land disputes if the only dwelling is located on this land.
(4) Consumer protection in case of provision of communal services.
(5) Labour law disputes in case of violation of the guarantees established by the Labour Code of the Russian Federation.
(6) Recognition of the person as unemployed and the establishment of unemployment benefits.
(7) Compensation for damage caused by the death of a breadwinner, mutilation or other impairment of health-related work.

(8) Provision of social support, welfare, and subsidies for housing and communal services.
(9) Pensions for old age pensions, disability and survivor benefits for temporary disability, maternity, unemployment due to industrial injury or occupational disease, a lump sum at birth, a monthly allowance child care, social assistance for the burial.
(10) Establishing and contesting paternity (maternity), and alimony payments.
(11) Rehabilitation of people affected by political repression.
(12) Restriction of legal capacity.
(13) Violations of human rights and freedoms under the mental health care.
(14) Medical and social examination and rehabilitation of persons with disability.
(15) Extrajudicial appeal of acts of State and local authorities and officials.

482. Legal aid in form of the court representation is provided to eligible citizens if they are:

(1) Plaintiffs or defendants in cases of real estate transaction, housing or land disputes if it is related to the only dwelling.
(2) Plaintiffs in cases of alimony; compensation for damage caused by the death of a breadwinner, mutilation or other impairment of health-related work.
(3) Citizens in case of an application for limitation of their legal capacity.
(4) Victims of political repression – on issues related to rehabilitation.
(5) Citizens in case of forced psychiatric hospitalization or extension of involuntary hospitalization in a psychiatric hospital.

483. The independent system of legal aid comprised of law student legal clinics and non-governmental legal aid centres.

484. Legal aid is funded from federal and regional budgets in accordance with budget legislation.

Part VII. Evidence

Chapter 1. General Principles

§1. Definition of Evidence

485. Article 55 of the CPC defines evidence as information about the facts on which the court determines the existence or absence of facts justifying the claims, position of the parties, and other facts of importance for the proper consideration and resolution of the case. This information can be obtained from the testimonies of the parties and third parties, the witnesses' testimonies, written and physical evidence, audio and videotapes, and expert opinions. Such information shall be obtained only in the manner prescribed by law. Evidence obtained in violation of the law have no legal force and cannot be used as the basis for the decision of the court (Article 50(2) of the Constitution).

486. Russian law of evidence considers evidence as information about the facts and, at the same time, means of proof that contain such information. Irrelevant information or inadmissible means of proof do not constitute procedural evidence.

487. Article 64 of the APC in addition to the testimonies of the parties and third parties, the witnesses' testimonies, written and physical evidence, audio and videotapes, and expert opinions also includes a specialist consultation. In arbitration proceeding oral testimonies may be obtained by the use of video-conferencing systems.

§2. The Burden of Proof

488. Each party must prove the facts referred as grounds for their claims and objections, unless otherwise provided by federal law. The court determines what circumstances are relevant to the case and which party must prove these circumstances, even if the parties did not initially refer it.

489. Article 61 of the CPC provides some exemptions from the burden of proof. Facts recognized by the court as well-known facts, do not need to be proved. The fact may be recognized as well-known even at local level.

490. The Civil Procedural Code establishes different thresholds for exemptions from the burden of proof depending on whether facts were established by previous

judicial acts in civil, arbitration or criminal courts. Facts established by general court decision in the previous case are deemed res judicata in a consequent case involving the same persons. Facts established by a valid decision of the arbitration court shall not be proven again and cannot be challenged by persons, if they were involved in the arbitration court case. A criminal case verdict entered into force is mandatory for the civil court considering a civil liability issue on matter whether convicted person committed actions that cause the harm.

491. In some cases law directly allocates the burden of proof. Russia's civil law adopts two basics presumptions: guilt of caused harm and guilt of breach of civil obligation. According to Article 401(2) of the Civil Code, those who breach the civil obligation shall prove the absence of guilt.

492. Article 65 of the APC directly allocates the burden of proof of circumstances that gave rise to the challenged act, decisions or actions (inaction) to the appropriate public authorities or officials.

493. Circumstances that are important for the proper consideration of the case are determined by the arbitration court based on claims and objections in accordance with substantive law.

494. Each person involved in the case shall disclose all evidences supporting the claim and the defence before the trial or within the period defined by the court. Parties are entitled to refer only to the evidence disclosed in advance. If the evidence is presented in violation of the principle of disclosure, including the violation of the established deadline for disclosure, the arbitration court may allocate to those who violate the legal costs regardless of the outcome of the case.

495. In arbitration courts well-known facts, facts established by a previous arbitration court or general court in a case involving the same persons and issues of whether certain actions have been committed and whether they were committed by a particular person established by a criminal verdict are exempt from the proof.

496. Additionally, arbitration courts of the first instance and appellate arbitration courts accepted without further proof facts and circumstances mutually recognized by all parties (Article 70, APC). The parties' agreement on certain facts shall be in writing and entered into the court record. If one of the parties recognizes the circumstances claimed by the opposite party, it frees the other side of any proof of such circumstances. The circumstances claimed by the parties in support of their claims or objections shall be deemed accepted by the other party, if it has not been directly challenged or disagreed. The arbitration court does not accept the recognition of circumstances, if it is evident that such recognition is committed to conceal certain facts or under the influence of fraud, violence, threats or delusion. In this case, these circumstances shall be proved on general grounds. Circumstances, once recognized and certified by the parties and accepted by the court, are exempt from further investigation during the proceedings.

§3. The Dispositive Principle

497. According to the dispositive principle, the court has no rights to collect evidence on its own initiative. The only exception is public law cases when the court may collect evidence on its own. The court may also invite parties to submit additional evidence. If the presentation of required evidence is difficult or impossible for individuals, the court at their request may assist in the gathering of evidence.

498. The motion for reclamation of proof shall indicate the evidence, as well as indicate what circumstances can be confirmed or refuted in this evidence, the reasons that prevent obtaining evidence, and the location of the evidence. The court issues a query to get the evidence. Officials or citizens, who have no opportunity to present the evidence at the request of the court, must notify the court within five days of receipt of the request stating the reasons. In the case of failing to notify the court or submitting the evidence without justifiable reasons, the court may impose penalty up to RUB 1,000 of officials and up to RUB 500 on natural persons. Imposition of penalty does not relieve the relevant officials and persons who own alleged proof from the obligation to submit it to the court.

499. The APC provides that parties shall disclose evidences, including forwarding copies of documents to others involved in the case, if they have these documents missing. The arbitration courts have the right to offer those involved in the case to submit additional evidences for the proper consideration of the case and make a lawful and reasonable judicial decision before the trial or within the period fixed by the court, including due to changes in the plaintiff's claim or filing a counterclaim.

500. A person who has no opportunity to independently obtain the necessary evidences may request a court query demanding such evidence. The motion shall indicate by evidence, what circumstances relevant to the case may be established by this evidence, reasons that prevent obtaining evidence and its location. In public law and administrative cases the arbitration court seeks evidence from authorities and officials on its own initiative. Failure to comply with the arbitration court query or failure to notify the court within five days about an inability to present the evidence result in administrative fines imposed by the arbitration court. The court may re-impose the fine in case of ongoing non-compliance. Imposition of court fines may be appealed but does not relieve the person from whom evidence is required, from the obligation to submit it to the arbitration court.

§4. The Court Order on Evidence

501. If the evidence is located in another district the court by way of the court order may request the relevant court to perform certain actions (e.g., interrogate the witness, inspect the physical evidence). Parties involved in the case shall be notified but their absence does not preclude the execution of the order. Such order shall contain a brief information about the case and parties involved, circumstances to be clarified, and evidence that the local court should collect while executing the order.

This order is mandatory for the court to which it is addressed, and must be completed within one month from the date of its receipt. During the time of execution of the court order the main proceeding may be suspended.

502. The arbitration court has the right to request the appropriate arbitration court to perform certain actions in relation to the evidence located in the other region of Russia. The court order is mandatory for the arbitration court that was instructed, and must be completed no later than ten days from the date of receipt of a copy of the order. Parties involved in the case shall be notified but their absence does not preclude the execution of the order.

§5. Security of Evidence

503. If persons involved in the case have reasons to fear that the submission of evidence may be impossible or difficult, they may ask the court to secure such evidence.

504. A motion to secure the evidence may be filed in the court of the main hearing or in the local court where the evidence is located. The motion must specify the contents of the case; information about the parties and their places of residence; evidence that is necessary to secure and circumstances which are necessary to confirm this evidence, and reasons for the applicant to request the security of proofs. At the judge's ruling on the refusal to provide security of evidence a private complaint may be filed.

505. In arbitration proceedings security of evidences is governed by the same rules as security of claims (Chapter 8, APC).

§6. Evaluation of Evidence

506. The court evaluates the evidence based on a comprehensive, complete, objective and immediate inspection of all available evidence in the case. Article 67(2) of the CPC states that no evidence has a pre-determined force. In practice an expert conclusion, especially submitted by an expert, affiliated with a State forensic institution, is often considered as the most reliable evidence.

507. The court assesses the relevance, validity and reliability of each evidence separately, as well as the sufficiency of the evidence and the mutual relationships in their entirety. The results of such evaluation must be reflected in the court decision, which contains the reasons for which some evidence are taken as a means to substantiate the findings of the court, while other evidence are rejected by the court, as well as the grounds on which one evidence prevails over the other.

508. Generally, the Arbitration Procedural Code states the same principles of evaluation of evidences as the Civil Procedural Code does. According to Article 71(5) of the APC, no evidence shall have a pre-determined force.

The arbitration court cannot take for granted the fact, confirmed by the only copy of a document, if the original document was lost or not transferred to the court and copies of the document presented by parties are not identical to each other and the actual content of the original cannot be confirmed by other evidence.

The evaluation of evidence shall be included into a judicial act, along with reasons of acceptance or refusal to accept the evidences.

Chapter 2. Admissibility and Relevance of Evidence

509. The Civil Procedural Code requires that evidence shall be relevant (Article 59) and admissible (Article 60). The principle of relevance means that the court will only accept evidence that is relevant to the consideration and resolution of the case. The principle of admissibility means that circumstances of the case which should be confirmed by required means of proof, could not be confirmed by any other evidence.

510. Determination of the relevance of the evidence is left to the discretion of the court. Irrelevant evidence shall be excluded from the consideration. The court shall not issue the request for irrelevant evidence under Article 57 of the CPC. The determination of relevance starts from pre-trial proceeding and continues through proceeding. The court may reject the evidence as irrelevant and explain in the decision reasons of such conclusion. The scope of relevant evidences depends on nature of the claim.

511. The principle of admissibility means that if the law requires a certain form of evidence this evidence cannot be replaced by other evidence. For example, according to the Civil Code of Russia (Article 162(1)), failure to follow simple written form of the transaction deprive the parties from confirmation of the transaction and its terms and conditions by means of witness testimony, but does not deprive them of the right to provide written and other evidence. The Civil Code requires simple written form for all transaction between legal and natural persons, between natural persons if the cost of transaction is ten times higher than minimum wage, and in other occasions prescribed by law.

A forensic psychiatric expertise is a mandatory evidence for a special proceeding case of limitation of legal capacity and cannot be replaced by other evidence.

512. The Arbitration Procedural Code exercises more stringent principle of relevance. Article 67 of the APC states that the arbitration court shall not admit to the court documents a request for support of persons involved in the case, evaluation of their activities, and other documents are not relevant to the circumstances of the case. The court shall refuse to include such material in the case file. Denial of admission of such documents is noted in the court records.

513. Similar to general court, circumstances of the arbitration case, which by law must be supported by certain evidence, cannot be confirmed in the arbitration court by other evidence.

Chapter 3. Administration of Evidence

§1. Documentary and Physical Evidence

I. Documentary Evidence

514. Documentary evidence is a document containing information about the circumstances relevant to the consideration and resolution of the case: contracts, certificates, business correspondence and other documents and materials made in the form of digital, graphic records, including those received via fax, email or other communication or otherwise allowing to establish authenticity of the document means. Officially verified decisions of the courts, court orders and records are considered as documentary evidence.

515. The documentary evidence shall be submitted in the original form or in the form of duly certified copy. Original documents shall be submitted when according to the laws the facts in dispute may be confirmed only by such documents, and when copies presented by parties are different in content.

516. A document originated in a foreign State is recognized as documentary evidence if duly legalized. Foreign official documents are recognized in the court as documentary evidence without their legalization in cases provided by international treaty of the Russian Federation.[35]

517. Assessing the documents or other written evidence, the court must verify that such document or other written evidence comes from the body authorized to represent this kind of evidence, signed by the person entitled to sign a document, and contain all the other inalienable details of this type of evidence (Article 67(2) of the CPC). When assessing a copy of a document or other written evidence, the court verifies whether there has been no change in the content of copies, compared with its original. The court cannot accept facts supported by the copy of a document only, if the original was lost and not transferred to the court and copies of this document submitted by the parties are not identical to each other, and it is impossible to establish the actual content of the original document based on other evidences.

518. The documentary evidences attached to the court records may be returned to the parties after the court decision enters into force, but copies of such documents, verified by a judge, remains in the court record. The documentary evidence may be returned before the court decision enters in force at discretion of the court.

519. Article 75(3) of the APC extends the admissible documents to those obtained via Internet, as well as documents signed with electronic signature or another analogue of the signature in the cases and manner established by this APC, other federal laws,

35. Russia has signed the Hague Convention of 5 Oct. 1961, Abolishing the Requirement of Legalization for Foreign Public Documents (in force since 31 May 1992).

other regulations, contract or identified within its authority by the Supreme Arbitration Court of the Russian Federation. If copies of documents submitted to the arbitration court are in electronic form, the court may require the submission of the originals of these documents.

II. Physical Evidence

520. Physical evidences are things that by its exterior, physical characteristics, location or other features may contain information relevant to the case. As a general rule, physical evidence shall be stored in the courthouse. Physical evidence that cannot be brought before the court are kept in their place of location or in another location determined by the court. They must be inspected by the court, described in detail, and, if necessary, photographed and sealed. The court and the guardian shall take measures to preserve evidence in the same condition. The cost of storing physical evidences is allocated between the parties in accordance with general rules of court costs' allocation.

521. Perishable evidences shall be immediately inspected and examined by the court at their location or at another location determined by the court, and then returned to the person who submitted them for the inspection, or sent to organizations that can use them for other purposes. In the latter case, the owner of the physical evidence is entitled to restitution of the same kind and quality or cost compensation. The court notifies parties about the time and place of such examination. Failure to appear of properly notified parties does not preclude the examination of physical evidence.

522. Upon the court decision being entered into force, the physical evidence shall be returned to the persons from whom they were received, or sent by persons over whom the court recognized the right of these items, or sold in the manner specified by the court. Items that are under federal laws cannot be owned or held by the citizens (e.g., illegal drugs, counterfeit money or other counterfeit things), shall be passed to the respective authority. After the examination, the physical evidence may be returned to the persons from whom they were received if it will not preclude the further proceeding.

523. A person, presenting audio- or video records must indicate when, by whom and under what circumstance such records have been made. Audio- and video records are kept in the courthouse. The records may be returned to the persons from whom they were received only in exceptional circumstances but copies of such records may be produced at requestor's cost.

§2. Witnesses

I. Competence to Appear As a Witness

524. According to Article 69 of the CPC, a witness is a person who may be aware of any information on the circumstances relevant to the consideration and

resolution of the case. The information reported by a witness, if he cannot specify the source of his knowledge, is not considered as the evidence.

A party requesting to summon a witness shall indicate the circumstances relevant to the consideration and resolution of the case that can be confirmed by the witness, witness' first and last name, and place of his residence.

II. Duty to Appear As a Witness

525. A person, summoned as a witness, has duties to appear and testify. A witness may be interrogated by the court at his residence if he cannot appear before the court due to illness, old age, disability or other justifiable reasons. A witness has a right to compensation of travel expenses and loss of time.

526. The refusal of a witness from testifying or false testimony are subject to criminal prosecution and punishment (Articles 307 and 308 of the Criminal Code of the Russian Federation). A note to Article 308 of the Criminal Code states that no person shall be criminally liable for refusing to testify against himself, his spouse or his close relatives.

III. The Right to Refuse to Testify

A. Relatives of a Party

527. A person has the right to refuse to testify in the following circumstances:

(1) the spouse against spouse;
(2) children, including adopted children, against parents and adoptive parents;
(3) adoptive parents against children, including adopted children;
(4) brothers and sisters against each other;
(5) grandfather, grandmother against grandchildren; and
(6) grandchildren against grandparents.

B. Self-incrimination

528. A person has the right to refuse to testify against himself.

C. The Right to Secrecy

529. The Civil Procedural Code recognizes the legal representative – client privilege, as well as secrecy of the court deliberation room and secrecy of religious confession. Legal representatives, judges, juries, court assessors and religious ministers have

the right to secrecy, meaning that they shall not be even interrogated on issues that become known in connection with their professional duties.

530. Article 69(3)(1) of the CPC extends the right to secrecy from advocate–client privilege to all legal representative in civil, criminal and administrative cases, and mediators. Legal representatives in the civil case, criminal case, case on administrative offence, or mediators shall not be interrogated as witnesses on the circumstances that become known to them in connection with performance of duties as representative, advocate or mediator.

531. Judges, juries, peoples and arbitration assessors shall not be interrogated on the issues that have arisen in the deliberation room during the discussion of the court decision or sentence.

532. The ministers of religious organizations that have passed State registration shall not be interrogated on the circumstances that become known to them in confession.

D. The Obligations of Confidentiality

533. According to the CPC the following persons has the right to refuse to testify (the right to keep information confidential):

(1) Legislators – with respect to the information that became known to them in connection with the execution of the parliamentary term in office.
(2) The Commissioner for Human Rights in the Russian Federation – with respect to the information that became known to him in connection with the performance of their duties.

534. The legislators and the Commissioner for Human Rights may be asked to testify and may testify if prefer to do so.

IV. Witnesses in the Arbitration Courts

535. The Arbitration Procedural Code does not include provisions on the witness' right to refuse to testify (Article 88), meaning that only general rules, established by the Constitution and federal laws shall apply. For example, Article 51 of the Constitution provides that nobody shall be obliged to testify against himself, his (her) spouse or close relatives, the range of whom shall be determined by federal law (in this case – the Family Code of the Russian Federation).

536. The arbitration court on its own initiative may call as a witness a person who participated in drafting the document, researched by the court as a written evidence, either in creating or changing the subject, investigated by the court as a physical evidence.

537. The witness shall testify orally. At the suggestion of the court, the witness may present his testimony in writing. A written witness testimony shall be attached to the case. If the witness cannot specify the source of his knowledge, the testimony shall not be considered as evidence.

§3. Inspection On-site and in the Court Room

538. The court may conduct an inspection and examination of written or physical evidence on their place of storage or on their location if it is impossible or difficult to deliver such evidence to the court. The trial court shall perform the inspection directly, if three judges sit on the panel, all of them shall perform the inspection at the same time. If the evidence is located far outside the court's location, the court may send a judicial request to perform the inspection to the court of evidence location.

539. The court notifies involved parties on the on-site inspection of evidence, but their absence does not preclude the inspection. Experts and witnesses may be involved in the on-site inspection of evidence if necessary. The on-site inspection and examination of evidence shall be recorded.

§4. Expert Evidence

540. Expert evidence is the most regulated type of evidence in both procedural codes. The court appoints an expert examination at the request of a party or with the consent of those involved in the case if specialized knowledge is required. If the purpose of examination prescribed by law or stipulated in the contract is necessary to verify the statement of the false proof or if an extra or re-examination is required, the arbitration court may appoint the expert examination on its own initiative (APC, Article 82).

541. The range and content of the matters on which examination should be performed is determined by the court. The parties have the rights to submit the questions for expertise; to suggest an expert or a particular expert institution; to challenge the expert; to provide explanations to the expert; to apply for an additional or re-examination.

542. The expert is subject to criminal liability in case of knowingly giving false conclusion (Article 307 of the Criminal Code).

543. The expertise may be conducted by State forensic experts[36] or other persons having expertise in accordance with federal law. The expertise can be assigned to several experts of the same field (commission expertise) or to several experts in various fields (comprehensive expertise).

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36. Federal Law of 31 May 2001, No. 73-FZ On State Forensic Activity in the Russian Federation.

544. An expert shall provide his conclusion in writing and sign it. At the request of a party or on the court's own initiative the expert may be called at trial and is obliged to respond to additional questions of parties and the court.

545. In lack of clarity or completeness of the expert opinion, as well as any additional questions, the additional or re-examination may be assigned to the same or another expert.

546. The cost of the expertise is allocated in accordance with general rules on court cost allocation.

§5. Party Testimony

547. Party testimony is subject to verification and evaluation, along with other evidence. If the party withholds its right to prove the claim or objection, the court may justify its findings based on testimony of the other side.

548. If one party recognized the circumstances on which the other party bases its claims or defences, it frees the other from the need for further proof of these circumstances. Such recognition is entered into court records; a written recognition is attached to the case.

549. If the court has reason to believe that the recognition is committed to conceal the real facts of the case or under the influence of fraud, violence, threats, honest mistake, the court does not accept the recognition. In this case, these circumstances shall be proofed on general grounds.

550. Article 81 of the APC provides that explanations of the persons involved in the case may be done in writing or orally. At the suggestion of the court a person involved in the case may present his case in writing. A written explanation shall be attached to the case. The person submitting this explanation must answer the questions of others involved in the case and the arbitration court.

§6. Consultation with a Specialist

551. Consultation with a specialist is evidence specific to the arbitration courts only (APC, Article 87.1). The arbitration court may attract a specialist if professional opinion of a person who has theoretical and practical knowledge on the merits of the case before the arbitration court is required. Advisors of the specialized apparatus of the arbitration court having appropriate expertise may be involved as specialists.

Specialists provide advice faithfully and impartially based on professional knowledge and inner convictions.

Advice is given orally; the court and parties may ask questions in order to obtain clarifications and additions to the specialist's advice.

The specialist is subject to the same criminal liability as the expert.

Part VIII. Special Proceedings

Chapter 1. Special Proceedings in General Courts

§1. General Provisions

552. Special proceedings in general courts are regulated by sub-part IV 'Special Proceedings' of the Civil Procedural Code (Chapters 27–38). Special proceedings mean that the case shall be resolved in accordance with general rules with the features prescribed by Chapters 27–38 of the CPC. If during special proceedings the court established the existence of a dispute of law, the court makes a decision to abandon the special proceeding application without consideration, and explains to the applicant and involved persons their right to settle the dispute in the manner of general proceedings.

553. By way of special proceeding general courts hear the following cases:

(1) on establishing the legally significant facts;
(2) on child adoption;
(3) on recognition of a person missing or on declaration of death;
(4) on recognition of the limited capacity or incapacity of a person; limitation or deprivation of a minor under the age of 14–18 years from the right to independently dispose their income;
(5) on declaration of a minor fully capable (emancipation);
(6) on acknowledgment of movable waif and acknowledgment of the municipal ownership of real property waif;
(7) on restoration of the rights of the lost bearer securities in bearer or order securities (Voiding);
(8) on compulsory psychiatric hospitalization of a citizen and compulsory psychiatric examination;
(9) on corrections or changes in civil status records;
(10) on allegations of a notary activity or on refusal to their performance; and
(11) on allegations of restoring the lost proceedings.

This list is not exhaustive and federal laws may classify other matters for special proceeding.

§2. Legally Significant Facts

554. The court shall establish the facts influencing arising, change, termination of personal or property rights of citizens and organizations (CPC, Chapter 28).

The court hears cases on the establishment of:

(1) Blood relations.
(2) The fact of being dependent.
(3) The fact of registration of birth, child adoption, marriage, divorce and death.
(4) The fact of recognition of paternity.
(5) The fact of ownership of legal documents (except for military documents, passport and certificates issued by bodies for registration of civil status) by the person, whose name, patronymic or surname, specified in the document, differ from this person's name, patronymic or surname, specified in his passport or certificate of birth.
(6) The fact of ownership and use of intangible property.
(7) The fact of the accident.
(8) The fact of death in a certain time and under certain circumstances in the event of the body for civil status registration refusing death registration.
(9) The fact of acceptance of the inheritance and of place of opening of the inheritance.
(10) Other legally significant facts.

555. The court shall establish the facts of legal significance only in the event of applicant's impossibility to otherwise obtain the appropriate documents proving these facts or impossibility to restore lost documents.

The application shall be filed in a court at the applicant's place of residence, except for the application to establish the fact of ownership and use of real estate, which should be filed to the court at the location of real estate. The statement must include the purpose for which the applicant must establish that fact, evidence proving the impossibility of obtaining proper documentation by the applicant or the inability to recover lost documents.

556. The court's decision on establishing the legally significant fact is a document confirming this fact, and for the fact to be registered, the court decision is the basis for such registration, but it does not replace the document issued by the authorities responsible for registration.

§3. Child Adoption

557. The application for adoption of a child (CPC, Chapter 29) shall be filed by citizens of the Russian Federation, willing to adopt a child, to their local district court or at the location of the child to be adopted.

558. Citizens of the Russian Federation permanently residing abroad, foreign citizens or persons without citizenship, willing to adopt a child – citizen of the Russian Federation,

shall file an application for adoption to their regional court or to the regional court at the location of the adopted child.

559. The following document, specific to this type of proceeding shall be enclosed: a health certificate of the adoptive parents; a document on income; a document confirming housing; and a conclusion of the respective State agency. The documents of the adoptive parents – foreign citizens should be legalized and translated into Russian and the translation should be notarized.

560. The judge, when preparing the case to the trial, shall bind the guardianship and custody State bodies at their place of residence or the location of the child being adopted, to provide the court with the opinion on the validity and conformity of the adoption with interests of the adopted child. A statement of adoption is considered in a closed court session with the obligatory participation of adoptive parent(s), a representative of the guardianship and custody State body, the prosecutor, the child if he has reached the age of 14 years, and where necessary, parents, other stakeholders and the child at the age of 10–14 years.

561. Upon consideration of the application for a child's adoption, the court makes a judgment to meet the request of the adoptive parents (parent) or refuse to meet the request. When meeting the request for a child's adoption, the court recognizes the child adopted by certain persons (a person) and specifies all the data concerning the adopted child and the adoptive parents (a parent) in the court judgment, which are required for State registration of the adoption with the civilian registrar's office. The court, granting an application for adoption, may refuse to meet the request of the adoptive parents about their record as a parent(s) of the child in the act of recording his birth, as well as a change of date and place of birth. The rights and duties of the adoptive parents and the adopted child shall be established since the day of invalidation of the court judgment concerning the child's adoption. The cases on abolition of the adoption shall be examined and settled according to the general rules of the adversarial proceedings.

§4. Recognition of a Person Missing or on Declaration of Death

562. An application for recognition of a citizen as missing person or a declaration of the citizens' death (Chapter 30) shall be filed at the court of the place of residence or location of the person concerned.

563. The application for recognition of a citizen as missing person or declaration of the citizen's death must indicate on what purpose the applicant needs to recognize the citizen as missing person or to declare his death. Also the facts should be stated in confirmation of missing the person, or the circumstances threatening the missing person with mortal danger or suggesting his death as the result of a certain accident. As to the servicemen or other citizens missing as the result of military operations, the application should indicate the day of completion of the military operations.

564. The judge, while preparing the case for the trial, shall clarify who is able to inform of the missing person, and also shall inquire of the appropriate local institutions about the last known place of the missing person's residence, his place of work, bodies for internal affairs, and military units about any available relevant information. Upon receipt of the application for recognition of a citizen as a missing person or on declaration of the citizen's death, the judge may offer the body of guardianship or trusteeship to appoint the trust administrator of such a citizen's estate. The cases on recognition of a citizen as a missing person or on declaration of the citizen's death shall be examined with the mandatory participation of a prosecutor.

565. The court's decision on the recognition of the citizen as missing is the basis for the transfer of his property to the person to whom the guardianship authority enters into a contract of trust management of the property, if need be to administer it permanently. The court decision on declaration of death is the ground to make a record on his death to the civil registrar's book.

566. In the case of the appearance or discovery of the whereabouts of a citizen deemed to be missing or declared dead, the court, by way of a new decision, revokes its earlier decision. The new judgment is the ground, respectively, for cancellation of administration of the citizen's estate and for annulment of the record on death in the civil registrar's book.

§5. Recognition of the Limited Capacity or Incapacity of a Person; Limitation of a Minor from the Right to Independently Dispose Their Income

567. According to Chapter 31 of the CPC, the case on special disability of a citizen as the result of alcohol or narcotic drug abuse may be initiated on the basis of the application filed by his family members, guardianship agency, psychiatric or neurological institutions.

The case on incapability of a citizen due to psychiatric disorder may be initiated on the basis of the application filed by his family members, relatives (parents, children, sisters and brothers) regardless of co-residence with him, guardianship agency, psychiatric or neurological institutions.

The case on restriction or revocation of the 14–18 age group minors' right to independently manage their salary, scholarship or other income may be initiated on the basis of the application filed by parents, adoptive parents, legal guardian or guardianship agency.

568. The above-mentioned applications shall be filed to the local court at the place of residence of the citizen, or if the citizen is hospitalized to psychiatric or psychiatric and neurological institution, at the location of this institution.

In an application on the limitation of legal capacity of a citizen should be set out circumstances indicating that the citizen, who abuses alcohol or drugs, puts his family in a difficult financial situation. In an application on the recognition of a person incapacitated shall be stated circumstances, indicating the presence of a citizen of a

mental disorder, so that he cannot understand the significance of his actions or control them. The application on restriction or revocation of the 14–18 age group minors' rights to independently manage their salary, scholarship or other income must state the facts evidencing the minors' unreasonable use of their salary, scholarship or other income.

569. In the course of preparing to court trial concerning recognition of a citizen's disability from available sufficient data of his mental disorder, a judge shall appoint forensic psychiatric examination to define the person's mental state. When a citizen, against whom the case has been instituted, obviously avoids psychiatric examination, the court within the framework of court session with a participating prosecutor and psychiatrist can make a decision on a citizen's compulsory passing through such examination.

570. Application filed under Chapter 31 of the CPC is considered with the participation of the citizen, the applicant, the public prosecutor and a representative of the guardianship agency. The citizen against whom the case is decided on the recognition of his incapacity, must be called at trial, if his presence in court does not create a danger to his life or health or to life or health of others, to give him a court to present its case in person or through their chosen representatives.

If a citizen's participation in the court hearing poses a threat to his life or health or to life or health of others, the case is considered by the court at the location of the citizen, including a psychiatric hospital or neuropsychiatric institutions, with the participation of the citizen.

The applicant is exempt from paying the court costs of such special proceedings unless the court finds that the applicant acted in bad faith; in this case the applicant shall recover the full costs of the proceedings.

571. The court's decision limiting the citizen's capacity or recognizing the citizen's incapability is the ground for the guardianship agency to appoint him a guardian.

If grounds for limitation of citizen's capacity are no longer valid, the court, based on Articles 29(3) and 30(2) of the Civil Code of the Russian Federation, shall make a decision to abolish the restriction of a citizen in his legal capacity. The appointed guardianship shall be cancelled on the basis of the court ruling.

§6. Declaration of a Minor Fully Capable (Emancipation)

572. According to Chapter 32 of the CPC, a minor having achieved the age of 16 years may apply to the court at his place of residence for declaring him fully capable in the case, stipulated by Article 27(1) of the Civil Code of the Russian Federation (if the minor is employed or self-employed).

Declaration of the minor as fully capable may be accepted by the court without the consent of the parents, adoptive parents or guardian of the minor.

573. An application to declare a minor fully capable is considered in the presence of the applicant's parents, adoptive parents, guardian or representative of

the guardianship authority, the public prosecutor. If the court allow the request to declare the minor fully capable (emancipated), he is declared fully capable from the date of entry into force of the court's decision.

§7. Acknowledgment of Movable Waif and Acknowledgment of the Municipal Ownership of Real Property Waif

574. An application for recognition of a movable ownerless item shall be filed to court by a person, who came in possession of it, at the place of the applicant's residence or stay. An application for recognition of a movable item exempted by federal executive bodies within their competence as ownerless shall be filed to court by the local financial body at the item's location (CPC, Chapter 33).

The court, recognizing that the owner waived the right of ownership to movable thing, shall make a decision on recognition of a movable item as waif and transfer it into the property of the person, who came in possession of this.

575. The application for recognition of the municipal right of ownership of ownerless real estate shall be filed to the court at the real estate's location by the body authorized for administration of municipal estate or property owned by the federal cities of Moscow or St. Petersburg. If the body, authorized for administration of municipal estate, applies to the court before expiration of a year since registration of the estate by a body authorized for State registration of right of ownership of the real estate, the judge refuses receipt of the application, and the court shall stop the proceedings.

576. The court, recognizing that the real property has no owner or the owner of the real property is unknown and it is accepted for registration in due course, decides to recognize the right of the municipal property or property of the city of federal significance, Moscow and St. Petersburg, on this thing.

§8. Restoration of Rights for the Lost Bearer or Order Securities (Voiding)

577. A person who lost bearer or order security, in the cases specified in federal law, may request the court to invalidate the lost securities and the restitution of his rights for those (CPC, Chapter 34).

578. The rights to forfeited documents may be restored even if the document loses signs of paying capacity as a result of inadequate storage or for other reasons.

579. An application for annulment of lost securities and the restoration of rights shall be submitted to the court at the location of the issuer. The judge, after receiving the application for invalidation of the lost securities and for restoration of rights to those, shall issue a ruling forbidding the document's issuer to make any payments on a document and send a copy of the ruling to the registrar. The court ruling shall

stress also the necessity to publish at the applicant's account through local printed media the information on filed application.

580. The holder of the claimed document shall state his rights to the document and submit the originals to the court before the expiration of three months from the date of publication. The court considers the application after three months of the date of publication.

581. If the court allows the application, this ruling becomes the ground for granting the applicant a new document instead of being recognized as invalid. The holder of the document, not declared for any reason in a timely manner of his rights in this document, after the entry into force of the court's decision may bring a claim against groundless acquisition or saving of the property to a person authorized for receipt of a new document in place of the old one.

§9. Involuntary Psychiatric Hospitalization of a Citizen and Forced Psychiatric Examination

582. Involuntary psychiatric hospitalization and forced psychiatric examination are regulated by Chapter 35 of the CPC. An application by the representative of a psychiatric hospital for involuntary admission or the extension of involuntary admission of a citizen suffering from mental disorder shall be submitted to the court at the location of a psychiatric hospital, where a citizen has been placed. Such application shall be supported by a conclusion of a commission comprised of psychiatrists.

583. The application for involuntary admission of a citizen shall be filed within forty-eight hours from the admission of a citizen in a psychiatric hospital. The judge shall consider such application within five days from the date of initiation of the case. The court hearing may be held in the courthouse or a psychiatric hospital. A citizen has the right to personally participate in the hearing of the case on his involuntary admission or an extension of his involuntary commitment. The application is considered with the participation of the prosecutor, the representative of a psychiatric hospital, and a representative of the citizen.

584. An application on prolongation of involuntary admission of a citizen with a mental disorder in a psychiatric hospital shall be submitted to the court after first six months of the admission and after that – on an annual basis.

585. An application for forced psychiatric examination is filed by a psychiatrist in the court at the residence of a citizen. Within three days from the date of application the judge personally shall review the application of forced psychiatric examination of the citizen and makes a decision.

§10. Corrections or Changes in Civil Status Records

586. According to Chapter 36 of the CPC, the court considers cases for corrections or changes to the Civil Status Registry (singular *akt grajdanskogo sostoyaniya)*, if the organ of civil status registry in the absence of a dispute about law refuses to make corrections or changes in the record. An application for corrections or changes to the record of civil status records shall be submitted to the court at the place of residence.

587. The court's decision, which installed properly record in the records of civil status, is the basis for correction or modification of such records by the registry office.

§11. Applications of a Notary activity or on Refusal to their Performance

588. A concerned person is authorized to apply to the court at the location of notary office or at the location of the official, authorized for execution of notary activity, to correct a notary action or failure to perform a notary action (CPC, Chapter 37).

An application of improper certification of wills and powers of attorney, or refusal to certify a will or power of attorney by the officials mentioned in the federal laws (e.g., hospital officials, military commander, officers at places of detention or ship captain) shall be submitted to the court at the location of the institution or at the homeport of the vessel.

589. The application shall be submitted to the court within ten days from the date the applicant became aware of an incorrect notary action or refusal to perform a notary action.

590. Disputes about the law based on a notary action are considered by the court in the order of claim proceedings.

591. The court decision, which allows the application shall either revoke the notary action or bind it to perform such action.

§12. Applications of Restoring the Lost Proceedings

592. An application of restoring the lost court proceeding (CPC, Chapter 38) may be filed to the court, which decided the case, by a person involved in the case.

If the goal, specified by the applicant, is not related to protection of his rights and legitimate interests, the court shall dismiss the application.

593. The proceedings that have been lost before examination of the case on its merits, is not subject to restoration. The plaintiff in the case is authorized to bring a new claim.

594. In case of insufficiency of the collected materials for an accurate reconstruction of the lost proceeding, the court terminates the proceeding for the restoration and explains to the persons involved in the case, their right to sue in accordance with the general procedure.

595. Consideration of the application on restoration of lost proceedings shall not be restricted by proceedings' mandatory retention period. However, court shall also terminate proceedings in case of lost proceedings, if the application has been filed for restoration of the proceedings for the purpose of its execution, and if the term of submission of the court order has expired and is not to be restored by court.

Chapter 2. Special Proceedings in Arbitration Courts

596. Special proceedings in arbitration courts are regulated by Chapters 27–31 of the Arbitration Procedural Code.

§1. Legally Significant Facts

597. The arbitration court shall establish the legally significant facts influencing arising, change, termination of rights of legal entities and individual entrepreneurs in business and other economic activities (APC, Chapter 27).

598. The arbitration court considers the case of the establishment:

(1) The fact of possession and use of real estate by a legal entity or individual entrepreneur as its own.
(2) The fact of State registration of a legal entity or individual entrepreneur in a certain time and place.
(3) The fact of belonging of a title document to a legal person or individual entrepreneur, if the legal entity's name, first name or surname of an individual entrepreneur, said in a document does not match the name of the entity in its constituent documents, first name or surname of an individual entrepreneur in his passport or birth certificate.
(4) Other facts that give rise to legal consequences in the sphere of entrepreneurial and other economic activities.

599. If in a case of establishing the facts of legal significance, it appears that there is a dispute on the law, the arbitration court gives a statement and leaves the application without consideration, and explains to the applicant and other interested parties their right to settle the dispute in the manner of claim proceedings.

600. The court shall establish the facts of legal significance only in the event of the applicant's impossibility to otherwise obtain the appropriate documents proving these facts or impossibility to restore lost documents.

The application shall be filed to the arbitration court at the applicant's place of registration or residence, except for the application to establish the fact of ownership and use of real estate, which should be filed to the court at the location of real estate.

Cases concerning the establishment of the facts of legal significance are seen by a single judge in a court session with participation of the applicant and other interested parties. Arbitration assessors cannot be involved in such cases.

601. The decision of the arbitral tribunal to establish the legally significant fact is the basis for the official registration of such fact but it does not substitute documents issued by the authorities responsible for registration.

§2. Remedy for Breach of Right to Trial Within Reasonable Time or Right to Execution of a Judicial Act Within Reasonable Time

602. This type of remedy was introduced by Federal Law of 30 April 2010, No 69-FZ (Chapter 27.1 of the APC). A person who believes that his rights to a trial within a reasonable time or the right to execution of a judicial act within a reasonable time has been violated may apply to the arbitration court to award compensation.

603. An application on award for the violation of the right to trial within reasonable time may be filed within six months from the date of entry into force of the last judicial act on the case, or before the end of the proceeding, if the case has been proceeding for more than three years and the person previously filed an application to expedite the proceeding. Such application cannot be considered by the judge, if he has previously taken part in the proceedings in connection with which the grounds for such application.

604. An application on award for the violation of the right to execute a judicial act within reasonable time may be filed until the end of the execution of a judicial act, but not earlier than six months from the date of expiry of the period set by federal law for the execution of judicial acts, and not later than six months from the date of completion of the execution of a judicial act.

605. An application on award of compensation for the violation of the right to trial within a reasonable time, or the right to execution of a judicial act within a reasonable time shall be filed in the court of arbitration, authorized to consider such applications, through arbitration court that made the claimed decision. The application shall be considered within two months from the date of receipt of application along with the case in the court, including the time to prepare the case for trial and the adoption of a judicial act.

606. The decision of the arbitration court to award a compensation referred shall enter into force immediately after its adoption and shall be enforceable in accordance with the budgetary legislation of the Russian Federation. The decision may be appealed to the circuit arbitration court (cassation court).

§3. Insolvency Proceedings

607. According to Chapter 28 of the APC, insolvency (bankruptcy) cases are considered by the arbitration courts according to general procedure with features defined by federal laws governing the insolvency (bankruptcy).[37]

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37. Federal Law of 26 Nov. 2002, No. 127-FZ On Insolvency (Bankruptcy); Federal Law of 24 Jun. 1999, No. 122-FZ On Features of Insolvency (Bankruptcy) of Natural Monopolies of the Fuel and Energy Complex; Federal Law of 25 Feb. 1999, No. 40-FZ On Insolvency (Bankruptcy) of Credit Organizations; Federal Law of 9 Jul. 2002, No. 83-FZ On Financial Recovery of Agricultural Producers.

608. Insolvency proceeding in the first instance is conducted by a single judge. Arbitration assessors cannot be involved in the insolvency proceeding.

609. Court rulings governing the insolvency procedure, separate from the court decision that ends the trial on its merits, may be appealed to the appeal arbitration court within ten days from the date of issuance.

610. An application on the bankruptcy may be filed at the location of the debtor by the debtor itself, creditors and other interested persons in accordance with federal laws governing the insolvency (bankruptcy).

611. A settlement agreement and other forms of reconciliation are allowed in accordance with the APC and other federal laws governing the insolvency (bankruptcy).

§4. Corporate Disputes

612. Chapter 28.1 Review of Corporate Disputes was amended to the APC by Federal Law of 19 July 2009, No 205-FZ.

613. Arbitration courts hear corporate disputes related to the legal entities' establishment and reorganization, its management, share- and stakeholders' disputes, and other corporate disputes (Article 225.1 of the APC).

The arbitration court considering the case of corporate disputes shall disclose information about the filed claim and proceeding on its official website.

614. Corporate disputes can be settled by the parties by way of entering into a settlement agreement or use of conciliation procedures, including the mediation.

The arbitration court does not approve the settlement agreement if it is contrary to law or violates the rights and (or) the legitimate interests of others.

615. The arbitration court may accept interim security measures for corporate disputes. Such measures should not lead to inability or substantial difficulty of the legal entity to continue its regular activities, as well as to a breach of that legal entity of the Russian Federation legislation. The interim measures to corporate disputes may be, in particular, the seizure of the shares, the prohibition of transactions with shares, or the prohibition for legal entity's executive bodies to make certain decisions.

616. The legal entity or its stakeholders may apply to the arbitration court to compel the legal entity to convene a general stakeholders meeting. The claim of forced general meeting shall be considered by the arbitration court within one month from the date of receipt of the claim to arbitration, including the time to prepare the case for trial and decision of the case. The decision on such claim shall take effect immediately, unless other terms are set in the court's decision, and may

be appealed to the arbitration Court of Appeal within ten days from the date of its adoption.

§5. Claims on Behalf of the Group of the Persons

617. Claims on behalf of the group of the persons, well-known in other jurisdictions as class actions, are introduced by Federal Law of 19 July 2009, No 205-FZ (Chapter 28.2 of the APC).

618. A natural or legal person may apply to the arbitration court to protect violated or disputed rights and lawful interests of other persons (group of the persons) who are members of the same legal relationship. A group shall include not less than five natural or legal persons. The public proposal to accede to the group claim may be made during the pre-trial proceeding.

619. The arbitration court may consider the following group claims:

(1) Corporate disputes.
(2) Disputes arising from the professional securities market participants' activity.
(3) Other requirements if a group claim is in compliance with Chapter 28.2 requirements.

620. In order to be recognized as a group claim no additional court rulings or claim certification procedure are required.

621. A person who has filed a group claim is acting without a power of attorney and enjoys procedural rights and obligations of the plaintiff. Authority of this person may be terminated by the arbitration court if he terminated his own claim or at the request of the majority of a group.

622. A group claim shall be considered by the arbitration court within a period not exceeding five months from the date of accepting the claim, including the time to prepare the case for trial.

623. If a consequent claim is filed by a person, who has not exercised the right to accede to the group claim during the proceeding of the group claim, the arbitration court shall leave such claim without consideration and explain the right to accede to the group claim.

If the decision on the group claim has been made, the arbitration court terminates the proceeding on consequent claims.

624. Circumstances established by a valid decision of the arbitration court on a group claim shall not be proved again when considering another claim of the same group's participant to the defendant.

625. The arbitration court decision on the group claim may specify the obligation of the defendant to bring the decision to all parties of challenged legal relationships within the prescribed period of time in the media or other way.

§6. Summary Proceeding

626. Summary proceeding (APC, Chapter 29) may be used in case of absence of dispute between parties or in case of a small amount of a claim.

627. The case is considered as summary proceeding at the request of the plaintiff in the absence of the defendant's objections or at the court initiative with the consent of the parties.

628. The following cases may be considered in summary proceeding:

(1) Property claims based on documents confirming the arrears of payment for the consumed electric energy, gas, water, for heating, communication services, for rental and other costs associated with the operation of premises used for the implementation of entrepreneurial and other economic activities.
(2) Claims based on the documents establishing the defendant's financial liabilities that are recognized by the defendant, but not executed.
(3) Claims for legal persons for up to RUB 20,000, claims to private entrepreneurs for up to RUB 2,000.
(4) Other requirements if there is no dispute between parties.

629. Summary proceeding cases are considered by a single judge in a period not exceeding one month from the date of receipt of the claim, including the time to prepare the case for trial.

630. The summary proceeding is conducted without calling the parties. Court investigates only written evidence, as well as a review, observations on the claims submitted in written form and other documents.

631. If the debtor objects against the claim, and if the party objects on consideration of the case by way of summary proceeding, the arbitration court makes a decision on the review of the case by the general rules of claim proceedings established by the APC.

632. The summary proceeding decision may be adopted only if the debtor has not provided the objections against the claim within the period prescribed by the court. The summary proceeding decision may be appealed within a period not exceeding one month from the date of its adoption, the arbitration Court of Appeal.

§7. Challenging and Enforcing the Third-Party Arbitration Decisions

I. Challenging the Third-Party Arbitration Decisions

633. The rules established by Chapter 30(§1) shall be applied to the third-party arbitration and international commercial arbitration[38] decisions adopted in the Russian Federation (*treteiski sud*). Challenging these decisions can be carried out by persons involved in the third-party arbitration proceeding by submitting an application to the arbitration court against the decision of the third-party arbitration.

634. An application to set aside the decision shall be filed in the arbitration court at the place of the third-party arbitration within a period not exceeding three months from the date of receipt of the contested decision, unless otherwise provided by an international treaty of the Russian Federation or the federal law.

635. The application to set aside the decision of the third-party arbitration is considered by a single judge in a period not exceeding three months from the date of its receipt, including time to prepare the case for trial.

636. The decision of the third-party arbitration may be revoked by the arbitration court only in the following circumstances:

(1) The arbitration agreement is invalid on the grounds stipulated by federal law.
(2) A party was not given proper notice of election (appointment) of arbitrators or arbitration proceedings; including time and place of meeting of the arbitral tribunal, or for other valid reasons could not provide its objections to the tribunal.
(3) The decision of the arbitral tribunal rendered in a dispute not contemplated by the arbitration agreement or not falling within its terms, or contains decisions on matters beyond the scope of the arbitration agreement. If the decisions on matters covered by the arbitration agreement, may be separated from those that are not covered by such agreement, the arbitration court may cancel only that part of the arbitral award, which contains decisions on matters of the arbitration agreement.
(4) The composition of the arbitral tribunal or the procedure of the arbitration agreement between the parties did not meet federal law.

637. The arbitration court shall overrule the decision of the arbitral tribunal, if it determines that:

(1) The dispute cannot be subject to arbitration in accordance with federal law.
(2) The decision of the arbitral tribunal violates the fundamental principles of Russian law.

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38. Here and further, the term 'arbitration court' refers to the State system of arbitration courts and any other terms ('third-party arbitration', 'arbitral tribunal', etc.) refer to extrajudicial domestic, foreign, and international commercial arbitration.

638. The decision of international commercial arbitration may be terminated by the arbitration court on the grounds provided by international treaty of the Russian Federation and federal law on international commercial arbitration. The termination of the arbitral tribunal decision does not preclude the parties to reapply to the arbitral tribunal if the opportunity for reconsideration is not lost, or to file a claim in the arbitration court under the general rules.

639. The ruling of the arbitration court may be appealed to the circuit arbitration court within one month from the date of its adoption.

640. Application on the competence of the arbitral tribunal may be filed within one month after the party receives notice of such ruling. The arbitration court may cancel the arbitral tribunal ruling on its competence or dismiss the applicant's claim.

II. Issuing the Court Order to Enforce the Third-Party Arbitration Decisions

641. The issuing of the arbitration court order to enforce the third-party arbitration decisions is regulated by Chapter 30(§2) of the APC. The established rules shall be applied to the third-party arbitration decision and international commercial arbitration decisions adopted in the Russian Federation.

642. The issuance of a court order to enforce the decision of the arbitral tribunal is considered by the arbitration court on the application of the winning party of the arbitration. An application shall be filed in the arbitration court on the location or place of residence of the debtor or, if the location or place of residence is unknown, on the location of the debtor's assets.

643. The application is considered a single judge in a period not exceeding three months from the date of its receipt, including time to prepare the case for trial.

644. The arbitration court may refuse to issue a court order to enforce the decision of the arbitral tribunal if the losing party provides evidence that:

(1) The arbitration agreement is invalid on the grounds stipulated by federal law.
(2) A party was not given proper notice of election (appointment) of arbitrators or arbitration proceedings, including time and place of meeting of the arbitral tribunal, or for other valid reasons could not submit to the arbitral tribunal its objection.
(3) The decision of the arbitral tribunal made on a dispute not contemplated by the arbitration agreement or not falling within its terms, or contains decisions on matters beyond the scope of the arbitration agreement. If the decision of the arbitral tribunal on matters covered by the arbitration agreement may be separated from those that are not covered by such agreement, the arbitration court may issue a court order of execution only on the part of the arbitral award which contains decisions on matters covered by the arbitration agreement.

(4) The composition of the arbitral tribunal or the procedure of the arbitration agreement between the parties did not meet federal law requirements.
(5) The decision has not yet become binding on the parties of the third-party arbitration proceedings or was cancelled or its enforcement was suspended by the arbitral tribunal or other court in the Russian Federation, or by a foreign court.

645. The arbitration court shall refuse to issue a court order of execution to enforce arbitral award if it determines that:

(1) The dispute cannot be subject to arbitration in accordance with federal law.
(2) The decision of the arbitral tribunal violates the fundamental principles of Russian law.

646. The arbitration court may refuse to issue a writ of execution to enforce the decision of international commercial arbitration on the grounds provided by international treaty of the Russian Federation and federal law on international commercial arbitration.

647. The refusal to issue a court order to enforce the arbitral tribunal decision does not preclude the parties to reapply to the arbitral tribunal if the opportunity for reconsideration is not lost, or to file a claim in the arbitration court under the general rules.

648. The ruling of the arbitration court may be appealed to the circuit arbitration court within one month from the date of its adoption.

§8. Proceeding on Recognition and Enforcement of Foreign Court and Foreign Commercial Arbitration Decisions

649. The decisions of foreign courts adopted on economic disputes, foreign and international commercial arbitration decisions are recognized and enforced in the arbitration courts in the Russian Federation, if recognition and enforcement of such decisions are in compliance with an international treaty of the Russian Federation and federal law.

650. An application of the recognition and enforcement of foreign court decisions and foreign arbitral award may be filed by the parties of the dispute.

651. The application for recognition and enforcement of foreign court decisions and foreign arbitral award is considered by a single judge in a period not exceeding three months from the date of its receipt, unless otherwise provided by an international treaty of the Russian Federation.

652. The arbitration court considering the application may not review a decision of a foreign court on its merits.

653. The arbitration court refuses to recognize and enforce foreign court's decision in whole or in part, if:

(1) According to the applicable foreign law, the decision is not yet in force.
(2) The losing party was not timely and properly notified of the time and place of the hearing or otherwise unable to present to the court his case.
(3) The proceedings in accordance with the international treaty of the Russian Federation or federal law apply to the exclusive jurisdiction of the court in the Russian Federation.
(4) There is a valid court decision in the Russian Federation, adopted on the dispute between the same persons, on the same subject and on the same grounds.
(5) There is a case before the court in the Russian Federation on a dispute between the same parties, on the same subject and on the same grounds, accepted by the court in Russia for the proceeding prior to the initiation of proceedings in a foreign court or tribunal.
(6) The time limitations to bring a foreign court decision for enforcement has expired and was not restored by the arbitration court.
(7) The decision of the foreign court would be contrary to public policy of the Russian Federation.

654. The arbitration court ruling may be appealed to the circuit arbitration court (cassation court) within one month from the date of its adoption.

655. Enforcement of a foreign court or a foreign arbitral award based on Russia's arbitration court order is executed in the manner prescribed by the APC and federal law on enforcement proceedings. The arbitration court order may be presented to the enforcement of a term not exceeding three years from the date of its entry into force.

Part IX. Seizure for Security and Enforcement of Judgments

Chapter 1. Seizure for Security

§1. Seizure for Security in General Courts

656. Based on the motion of the party, the court may take action to secure the claim. Seizure and other interim measures for security of the claim are allowed at any stage of the case, if the failure to secure a claim may make it difficult or impossible to execute the court decision (CPC, Article 139).

657. The general court may impose the following security measures:

(1) Seizure of property.
(2) Prohibition of performing certain acts relating to the matter in dispute, including the transfer of property.
(3) The suspension of sale of property.
(4) The suspension of enforcement of the executive document, contested by the debtor in court.

658. Where necessary, the court may take other measures to secure the claim. The court may apply several measures to secure the claim. Measures to secure the claim must be proportionate to the plaintiff's request and may be substituted by other measures upon the plaintiff's motion.

659. A person who violates the interim security measures may be fined up to RUB 1,000. In addition, the plaintiff is entitled to claim damages caused by non-compliance with the interim securities measures.

660. An application for interim security measure shall be considered on the day of its filing without notice to the defendant and other persons involved in the case. Upon adoption of measures to secure the claim, the court issues a ruling. A private complaint may be filed against the ruling on security measures.

661. Interim security measures are to be executed immediately in order established for the execution of judgments.

662. Interim security measures may be cancelled by the same court at the request of the parties, or on the initiative of the court. The issue on cancellation is considered in the court hearing with notice to all involved persons.

663. The court allowing the security measure may require plaintiff to provide security for possible damage for the defendant. If the claim is denied, the defendant may sue the plaintiff for damages caused by interim measures imposed at the request of the plaintiff.

§2. Seizure for Security in Arbitration Courts

664. Chapter 8 of the APC regulates interim security measures in arbitration courts.

Based on the motion of the party or, in cases prescribed by law – on the motion of the third persons, the court may take action to secure the claim. Seizure and other interim measures for security of the claim are allowed at any stage of the case, if the failure to secure a claim may make it difficult or impossible to execute the court decision, as well as prevent significant harm to the plaintiff.

665. Interim measures in arbitration courts may include:

(1) Seizure of monies (including funds in bank account) or other property belonging to the defendant.
(2) Prohibit the defendant and other persons to perform certain actions relating to the subject of the dispute.
(3) Imposition on the defendant of an obligation to perform certain actions in order to prevent contamination, deterioration of the disputed property.
(4) Transfer of the disputed property on deposit to the plaintiff or another person.
(5) The suspension of the enforcement of court documents.
(6) The suspension of the sale of property.

666. The arbitration court may accept other measures, and at the same time can accept several security measures. Security measures must be proportionate to the claim for payment and may be replaced by other security measures at the request of the plaintiff.

667. An application for security measures may be filed in the arbitration court at the same time with a claim or at any stage before the final decision has been made.

668. The arbitration court considers the application by a single judge no later than the day following the receipt of an application to the court without notice to the parties. The arbitration court allowing the security measures at the request of the defendant or on its own initiative may request the plaintiff to provide banking deposit, bank guarantee, or other financial security for compensation of possible losses for the defendant.

The size of the counter-security may not be less than half the size of initial securities measures.

669. The court ruling on securities measures is to be executed immediately in order established for the execution of the arbitration court decisions.

670. A motion to cancel the security measures shall be considered by the arbitration court within five day; if the defendant provided counter-security, the motion on security measures cancellation shall be considered on the next day. The motion on cancellation of securities measures is considered by a singe judge without notices to the parties.

671. If the claim has been denied, the defendant may sue the plaintiff for the damages caused by the security measures. According to Article 98(2) of the APC the amount of compensation is ranging from RUB 10,000 to RUB 1,000,000 for corporate disputes, and from RUB 1,000 to RUB 1,000,000 for other disputes. A claim for damages shall be presented to the same arbitration court.

672. The arbitration court at the request of natural or legal person may accept preliminary security measures before the filing of the claim (Article 99 of the APC). In case of preliminary securities measures, the claim must be filed within a period not exceeding fifteen days from the date of the application for the securities measures. If the applicant failed to file a claim within the prescribed period, the arbitration court terminates the security measures.

673–680

Chapter 2. Enforcement of Judgments

§1. Enforcement of General Courts Judgments

673. Enforcement of general courts judgments is regulated by section VII of the CPC and by the Federal Law on Enforcement Proceedings.

674. The court order (writ) of execution is issued by the court after the decision comes in force, except the cases of immediate execution, when the writ is issued immediately after the adoption of the decision.

675. Officials guilty in a loss of the court order may be subject to a fine of up to RUB 2,500.

676. Decisions and actions (inactions) of the bailiffs may be appealed by the debtor or the persons whose rights and interests are violated by such decision in the court at the location of bailiff within ten days from the day of the bailiff's decision.

677. Article 446 of the CPC provides the list of assets owned by a debtor-natural person that are exempt from the judicial execution procedure. This list includes real property if it is the only dwelling; personal belongings, except luxury items; State and other personal awards and honours; and other assets.

§2. Enforcement of Arbitration Courts Judgments

678. Enforcement of arbitration courts judgments is regulated by section VII of the APC and by the Federal Law on Enforcement Proceedings.

679. The arbitration court acts may be executed after its entry into force, except the cases of immediate execution.

680. The general time limit for the writ execution is three years from the date of the judicial act entry into force. If the expired time limit was restored by the court, the writ shall be presented for execution within three months from the date of the time of restoration.

Chapter 3. Recognition and Enforcement of Foreign Judgments

§1. The Legislation and International Treaties

681. Recognition and enforcement of foreign judgments in general and arbitration courts are regulated by Chapter 45 of the CPC and by Chapter 31 of the APC respectively.

682. General courts consider the recognition and enforcement of civil law cases, except economic disputes and other matters related to business and other economic activities (CPC, Article 409(2)).

Arbitration courts consider the recognition and enforcement of foreign judgments and foreign arbitral decisions on disputes arising from business and other economic activities (APC, Article 241(1)).

683. Decisions of foreign courts, foreign arbitral tribunals, and international commercial tribunals, including the decision on approval of settlement agreements, are recognized and enforced in the Russian Federation, if it is provided by an international treaty of the Russian Federation. The decision of a foreign court may be presented to the enforcement in a period of three years from the date of entry into force. Missed period for good cause may be reinstated by the court in the Russian Federation in the manner prescribed by general procedural rules.

684. Russia has ratified the Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards – the 'New York' Convention (since 1960) with a reservation that Russia will only recognize and enforce awards from non-contracting States to the extent to which these States grant reciprocal treatment.

685. In addition, Russia has ratified several international conventions on civil procedure: 1954 Hague Convention on Civil Procedure; 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents; 1970 Hague Convention on the Taking Evidence Abroad in Civil or Commercial Matters; 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. The Russian Federation also has ratified several multilateral agreements in areas of civil and arbitration procedure within the Commonwealth of Independent States and over forty bilateral agreements with other countries (nineteen more bilateral agreements are signed but not in force yet).

§2. Procedure in General Courts

686. An application for enforcement of the foreign court decision is considered by regional level of general courts at the location or residence of the debtor in Russia; or, if the debtor does not hold residence or location in the Russian Federation or its location is unknown, at the location of his property.

687. The general court may refuse the enforcement of foreign court's decision if:

(1) According to the applicable foreign law, the decision is not yet in force.
(2) The losing party was not timely and properly notified of the time and place of the hearing or otherwise unable to present to the court his case.
(3) The case relates to the exclusive jurisdiction of the courts in the Russian Federation.
(4) There is a valid court decision in the Russian Federation, adopted on the dispute between the same persons, on the same subject and on the same grounds; or there is a case before the court in the Russian Federation on a dispute between the same parties, on the same subject and on the same grounds, accepted by the court in Russia for the proceeding prior to the initiation of proceedings in a foreign court.
(5) The execution of the decision is likely to prejudice the sovereignty of the Russian Federation, or threaten the security of the Russian Federation or would be contrary to public policy of the Russian Federation.
(6) The time limitation to bring a foreign court decision for enforcement is expired and was not restored by the court in the Russian Federation.

688. Decisions of foreign courts that do not require enforcement are recognized without any further proceedings if an involved person does not file his objection. The objection shall be filed with the regional court at a person's place of residence within a month after he becomes aware of the foreign court decision.

689. Based on its content, the following foreign judgments do not require any further proceedings:

(1) Regarding the foreign citizenship status.
(2) Dissolution or annulment of a marriage between a Russian citizen and a foreign national if even one spouse at the time of the case is living outside Russia.
(3) Dissolution or annulment of the marriage between Russian nationals, if both spouses at the time of the proceedings were living outside Russia.
(4) In other cases stipulated by federal law.

690. The recognition and enforcement of foreign third-party court decisions may be denied:

(1) At the request of the party against whom it is directed, if that party files to the court, proof that:

   – One of the parties to an arbitration (third-party court) agreement was under some incapacity; or the said agreement is not valid under the law of the agreement or the law of the court.
   – The losing party was not properly notified of the appointment of an arbitrator, or arbitration; or for other reasons could not present evidence; or decision is made on a dispute not contemplated by the arbitration agreement, or not falling

within its terms, or contains decisions on matters beyond the scope of the arbitration agreement. In the event that the decisions on matters submitted to arbitration can be separated from decisions on matters not covered by this agreement, part of the award, which contains decisions on matters submitted to arbitration, may be recognized and enforced.
– Composition of the arbitral tribunal or the arbitration is not consistent with the arbitration agreement, or the lack thereof does not conform to the applicable foreign law.
– Decision has not yet become binding on the parties, or has been cancelled, or its enforcement was suspended by the foreign court.

(2) If the court determines that the dispute cannot be subject to the third-party arbitration in accordance with federal law; or the recognition and enforcement of a foreign arbitration would be contrary to public policy of the Russian Federation.

691. The regional court ruling may be appealed to a higher court in accordance with general procedural rules established in the Civil Procedural Code.

§3. Procedure in Arbitration Courts

692. An application of the recognition and enforcement of foreign court decisions and foreign arbitral award may be filed by the parties of the dispute.

693. The application for recognition and enforcement of foreign court decisions and foreign arbitral award is considered by a single judge in a period not exceeding three months from the date of its receipt, unless otherwise provided by an international treaty of the Russian Federation.

694. The arbitration court considering the application may not review a decision of a foreign court on its merits.

695. The arbitration court refuses to recognize and enforce foreign court's decision completely or in part, if:

(1) According to the applicable foreign law, the decision is not yet in force.
(2) The losing party was not timely and properly notified of the time and place of the hearing or otherwise unable to present to the court his case.
(3) The proceedings in accordance with the international treaty of the Russian Federation or federal law apply to the exclusive jurisdiction of the court in the Russian Federation.
(4) There is a valid court decision in the Russian Federation, adopted on the dispute between the same persons, on the same subject and on the same grounds.
(5) There is a case before the court in the Russian Federation on a dispute between the same parties, on the same subject and on the same grounds, accepted by the court in Russia for the proceeding prior to the initiation of proceedings in a foreign court or tribunal.

(6) The time limitations to bring a foreign court decision for enforcement is expired and was not restored by the arbitration court.
(7) The decision of the foreign court would be contrary to public policy of the Russian Federation.

696. The arbitration court ruling may be appealed to the circuit arbitration court (cassation court) within one month from the date of its adoption.

697. Enforcement of a foreign court or a foreign arbitral award based on Russia's arbitration court order is executed in the manner prescribed by the APC and federal law on enforcement proceedings. The arbitration court order may be presented to the enforcement of a term not exceeding three years from the date of its entry into force. In case of missing the deadline it can be restored by the arbitration court at the request of the plaintiff in accordance with general procedural rules.

Part X. Arbitration

Chapter 1. The Legislation

698. Extrajudicial arbitration, conciliation, mediation and other means are designed to settle disputes without formal trials. Also, if mediation is available in Russia only since 2011 (see Part XI), arbitration has some history and, more important, well-established institutions.

699. The Federal Law No. 5338-1 of 7 July 1993, On International Commercial Arbitration regulates international arbitration in Russia; and the Federal Law No. 102-ФЗ of 24 July 2002, On Third-Party Courts in the Russian Federation regulates independent third-party courts (singular, *treteiskii sud).*

700. There are many domestic arbitration bodies in Russia; among these are the arbitration tribunal of the Moscow Stock Exchange, the third-party court of Gazprom, and others.

Chapter 2. The Third-Party Arbitration

701. The Federal Law on Third-Party Courts in the Russian Federation regulates the formation and activity of the third-party courts in the territory of the Russian Federation, except international commercial arbitration. If an international treaty of the Russian Federation established another procedure for the formation and activity of the third-party courts, the rules of international treaty shall apply.

702. The third-party court may be created on a permanent basis or ad hoc. Permanent third-party courts may be formed by chambers of commerce, stock exchanges, associations of entrepreneurs and consumers, and other organizations. The number of established and (or) acting third-party courts is unknown.

Federal, local and municipal authorities cannot form the third-party courts.

703. The dispute may be referred to the third-party arbitration if there is a written arbitration agreement between the parties.

704. The use of mediation procedure is allowed at any stage of the third-party arbitration proceedings.

705. The arbitrator, resolving the dispute alone, should have a law degree. In case of a panel consideration, the chairperson of the tribunal shall have a law degree. The arbitrator shall have full legal capacity without criminal record or undergoing criminal prosecution. The person, whose duties as a judge of a court of law, a lawyer, notary, investigator, prosecutor, or other law enforcement agencies have been terminated in accordance with the law for committing offences that are not compatible with his professional activities, cannot be elected as an arbitrator.

706. The parties may determine the number of arbitrators, which must be odd. Unless the parties agree otherwise, the panel consists of three arbitrators.

707. The third-party arbitration proceedings shall be based on the principles of legality, privacy, independency and impartiality of arbitrators; and dispositive, adversarial, and equal trial.

708. The procedural rules at the third-party arbitration are flexible and may be defined by parties or based on the rules of a permanent court of arbitration.

709. The arbitrator may not disclose any information made known to him during the proceedings, without the consent of the parties or their successors. The arbitrator cannot be questioned as a witness of the information, which it has learned in the course of arbitration proceedings.

710. Parties entered into the arbitration agreement have the voluntary duty to enforce the third-party arbitration decision. The decision of the third-party arbitration

is adopted by the majority of votes. The decision shall be made in writing and signed by all arbitrators. The third-party arbitration decision may be challenged in accordance with arbitration procedure or civil procedure legislation of the Russian Federation. The decision may be enforced in accordance with procedural and law enforcement legislation.

711–718

Chapter 3. International Arbitration

711. Enforcement of foreign arbitral awards against Russian entities is no longer a difficult issue in Russia. Enforcement proceedings are generally reasonably quick (one to three months) and cost effective (the court fee of enforcement proceeding is RUB 1,000 (~30 USD) only).

712. International arbitration in Russia is governed by the Law on International Commercial Arbitration of 1993, which is based on the UNCITRAL model law.

713. Russia is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards – the 'New York' Convention. Russia has exercised a reservation and will only recognize and enforce awards from non-contracting States to the extent to which these States grant reciprocal treatment.

714. To bring the case before extrajudicial tribunal the arbitration clause is required.

715. One of the most established extrajudicial arbitration institutions is the International Commercial Arbitration Court of the Chamber of Commerce and Industry of the Russian Federation (ICAC, in Russian, *MKAS*), based in Moscow. The Maritime Arbitration Commission of the Chamber of Commerce and Industry covers international maritime arbitration. The Chamber of Commerce and Industry also creates the Court of Arbitration for Sport, the Court of Arbitration for Resolution of Economic Disputes and the Panel of Mediators.[39]

716. The ICAC rules require arbitrators and ICAC employees to keep the information relating to arbitration confidential; this requirement does not extend to the parties.

717. Extrajudicial arbitration procedure is not highly regulated and the proceeding is largely subject to the tribunal's discretion. The tribunals are not bound to follow the Civil Procedural Code or the Arbitration Procedural Code rules. For example, the entire arbitration may be on a document-only basis or on a part-oral and part-written basis. The parties are free to agree on the number of arbitrators and the procedure for appointment (Article 11 of the Law on International Commercial Arbitration).

718. According to the Law on International Commercial Arbitration, a party can apply to the arbitration tribunal to remove arbitration on any of the following grounds:

(1) Justifiable doubt as to the arbitrator's impartiality.
(2) The arbitrator does not possess the qualifications required by the arbitration agreement.
(3) The arbitrator's physical or mental incapacity.

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39. Additional information about these extrajudicial tribunals may be found on the Chamber of Commerce and Industry official website at <www.tpprf.ru/>.

719. A party loses the right to seek removal of the arbitrator if it continues to take part in the arbitration and does not take action within fifteen days of becoming aware of the grounds for removal (Article 13).

720. The arbitral award cannot be appealed on its merits, it may be appealed in the arbitration court only on procedural grounds, on grounds of public policy or on the basis of whether it was a proper subject for arbitration.

721. Article 233 of the APC allows for appeals in the following circumstances:

(1) The arbitration agreement is invalid under federal law.
(2) The party was not duly notified about the appointment of the arbitrator or the arbitral proceeding.
(3) The award deals with a dispute not contemplated by the arbitration agreement or not falling within its term, or contains decisions on matters beyond the scope of the submission to arbitration.
(4) The composition of the tribunal or the procedure for the arbitration does not correspond to the parties' agreement, or to federal law.
(5) The dispute considered by the arbitration tribunal cannot be subject to arbitral proceedings under the federal law.
(6) The arbitral award violates the fundamental principles of Russian law.

722. Article 35 of the Law on International Commercial Arbitration provides that the permission of the arbitration court is required for recognition and enforcement of foreign arbitral awards, irrespective of the country in which the award was made. The court may only refuse permission if one of the grounds set out in Article 36 of this law applies (these grounds are similar to the grounds set out in Article 5 of the New York Convention).

723. To obtain permission, the party must provide the arbitral award or its duly certified copy, the document confirming that the award entered into force, and a document confirming that the defendant was duly notified of the arbitral proceedings. Each document must be accompanied with a duly certified Russian translation. The party seeking to resist enforcement carries the burden of proving the grounds for refusal in accordance with Article 35 of the Law on International Commercial Arbitration.

Part XI. Mediation

Chapter 1. The Legislation

724. Mediation, one of the forms of Alternative Dispute Resolution (ADR), is a procedure in which a neutral outsider (a mediator) assists the parties to a dispute in reaching a settlement. Mediation differs from extrajudicial arbitration (Part X) in that the purpose of mediation is to facilitate an agreement rather than to impose the decision on the parties.

725. The first law on mediation in Russia was adopted in July 2010 and entered into force on 1 January 2011.[40] As Article 1 states this federal law is designed to create a legal environment for use in the Russian Federation of ADR procedures involving mediation as an independent person – the mediator (mediation), promote business partnership and ethical business practice, and harmonize of social relations. Such unusually broad statement clearly indicates very high expectations of legislator. However, one year later, mediation remains an exotic means of dispute resolution in Russia.

726. The Federal Law on Mediation regulates mediation in civil, business, employment and family disputes. Mediation procedure can be applied after beginning of civil or arbitration proceedings. Mediation does not apply to collective labour disputes and third parties or the public interest may be affected.

727. The provisions of this Federal Law shall not apply to reconciliation process facilitated by a judge as part of civil or arbitration proceedings.

728. According to the law, mediation procedure is based on the principles of voluntariness, confidentiality, cooperation and equality of the parties, impartiality and independence of the mediator.

729. The parties of a dispute in general or arbitration courts may apply the procedure of mediation at any time before the court decision has been made.

730. All information related to mediation procedure, except in cases stipulated by federal laws and cases, unless the parties otherwise agree, shall remains confidential.

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40. Federal Law No. 193-FZ of 27 Jul. 2010, On Alternative Dispute Resolution Procedure with the Mediator (Mediation) – further Federal Law On Mediation.

The mediator may not disclose information relating to the mediation procedure that has become known to him in pursuing it, without the consent of the parties. If the mediator has received from one of the parties information relating to the mediation procedure, he may disclose such information to another party only with the consent of the provider of the information.

Chapter 2. Agreement on Mediation Procedure (Mediation Clause)

731. Mediation is carried out based on the written agreement of the parties, including mediation clause in the contract. Having an agreement on mediation procedure or mediation clause does not preclude from filing a claim in court, unless otherwise provided by federal law.

732. Agreement on the mediation procedure shall be in writing and shall contain the following information: subject of the dispute; mediator(s) or mediation organization; procedure for mediation; allocation of costs; and timing of mediation procedure.

Chapter 3. Mediation Procedure

733. Upon mutual agreement of the parties, the mediation may be conducted by one or more mediators. Mediation organization may recommend a mediator or appoint him if he has parties' consent to do so.

734. The mediator immediately informs the parties and mediation organization (if appointed by such organization) on circumstances that may affect his independence and impartiality.

735. Mediation conducted by individual mediator may be conducted for a fee or free of charge; mediation conducted by organization is conducted for a fee. Unless the parties agree otherwise, the cost is allocated in equal shares.

736. The mediation procedure shall be established by the mediation agreement. The mediation agreement may include reference to the rules of the mediation procedure, approved by the mediation organization.

The rules of the mediation procedure, approved by the organization shall include:

(1) The types of disputes.
(2) The order of selection or appointment of mediators.
(3) The order of costs allocation.
(4) Information about the standards and rules of professional mediators.
(5) The procedure for mediation, including the rights and obligations of the parties during the mediation procedure.

737. The mediator may have the right to establish the procedure if such provision is included in the mediation agreement. The mediator may not make, unless the parties agree otherwise, the proposals for a settlement of the dispute. Throughout the mediation, the mediator may meet and liaise with all parties as together, and each of them separately. During the mediation, the mediator shall not be entitled to put any of the parties in a privileged position, as well as diminish the rights and lawful interests of the parties.

Chapter 4. Mediation Agreement

738. A mediation agreement shall be in writing and must contain information about the parties, the subject of disputes, mediation procedure, mediators and the parties' agreed obligations, terms and conditions of their implementation. The mediation agreement to be executed based on the principles of voluntariness and fairness of the parties.

739. The mediation agreement reached by the parties as a result of mediation procedure during civil, arbitration or extrajudicial arbitration proceedings may be approved by the court or extrajudicial arbitration tribunal as a 'peace settlement' in accordance with the civil or arbitration procedural legislation, rules of extrajudicial arbitration or the law on international commercial arbitration.

740. The mediation agreement reached outside the court proceeding is a civil legal transaction aimed at the establishment, modification or termination of rights and obligations of the parties. Such transaction is regulated by civil law and may be protected by the civil law means.

741. Time for mediation procedure is defined by an agreement on mediation procedure but shall not exceed 180 days. Time for mediation as part of civil or arbitration proceeding shall not exceed sixty days.

742. The mediation procedure is terminated if:

(1) The mediation agreement is reached and signed.
(2) The parties signed an agreement to terminate mediation without reaching a mediation agreement.
(3) The mediator issued a statement about the termination due to unresolvable differences.
(4) One, several or all parties refused to continue the mediation.
(5) The above-mentioned time limitation for mediation is expired.

Chapter 5. Mediators and Mediation Organizations

743. Mediation may be provided by professional or lay mediator. To act as a lay mediator a person must be over the age of 18 years, having full legal capacity and without criminal record.

744. To act as a professional mediator a person must be over the age of 25, with higher professional education and completed mediation training approved by the Government of the Russian Federation. Mediation within the court proceedings may be conducted by professional mediator only.

745. Mediation is not a business activity and in not considered as an exclusive type of activity. Public (federal, regional and municipal) services employees cannot act as mediators, unless otherwise provided by federal law.

The mediator shall not:

(1) Be representative of any party.
(2) Provide any party with legal, consulting or other assistance.
(3) Act as a mediator, if he has an interest (either directly or indirectly) in the result, or a relative to a party.
(4) Make public statements on the case without the consent of parties.

746. Mediators and mediation organizations may be liable for harm caused by mediation in accordance with civil law.

747. According to the Federal Law on Mediation, in order to develop and establish standards and rules of professional mediators and to monitor compliance with these standards, self-regulatory organizations of mediators may be established in the form of associations or non-profit partnerships. To be included in the State record of self-regulatory organizations of mediators such organizations shall have not less than one hundred individual members and (or) twenty mediation organizations. An individual mediator may be member of only one self-regulatory organization of mediators.

748. The self-regulatory organization of mediators are responsible for the development of standards and rules of professional mediation, including the code of ethic; development of rules of mediation procedure; disciplinary measures against its members; development of standards for training of mediators; and exercise other functions.

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