

RUSSIAN DESK

Dear readers,

Amendments to the procedural codes (Civil Procedural Code, Code of Commercial Procedure, Code of Administrative Court Proceedings) entered into force on 25 October 2019, extending the list of conciliation procedures for dispute resolution.¹ These include negotiations, mediation, judicial conciliation and also other conciliation procedures.

On the basis of these legislative amendments, the Supreme Court has adopted a Regulation of the Plenum which approved the rules governing the conduct of judicial conciliation², which constitutes an additional procedure for the resolution of disputes. It is carried out by agreement of the parties with the cooperation of the court and a court conciliator as a special participant.

This newsletter will be of interest to CEOs and the specialists of legal departments.

Sincerely,



Alexander Bezborodov
Attorney-at-law | LL.M. | Partner

The Supreme Court has approved Judicial Conciliation Rules

APPLICATION FOR THE JUDICIAL CONCILIATION PROCEDURE

Judicial conciliation proceedings may be conducted further to a petition of the parties (party) or a proposal of the court (oral or written) with the consent of the parties. Judicial conciliation proceedings may be conducted at any stage of legal proceedings and also during the execution of the court order. The parties do not have to bear any costs for the judicial conciliation. The court

order to carry out a judicial conciliation serves as the basis for conducting such procedure. A retired judge will act as a judicial conciliator, the amount of his remuneration will be determined by the Government of the Russian Federation. The person of the court conciliator is determined by the parties by mutual consent and confirmed by the court. The conciliator is independent and carries out his activities independently and without the participation of the judge conducting the proceedings. The court may confirm the same conciliator for several related proceedings involving the same parties, provided that the parties agree.

TIMEFRAME AND PROCEDURES OF JUDICIAL CONCILIATION

Judicial conciliation proceedings shall take place within the time limit specified by the court in the order. The court may suspend or adjourn the court hearing in the order. The judicial conciliator shall be entitled, with the consent of the court, to inspect the records of the proceedings concerned. Judicial conciliation shall take the form of negotiations which are conducted at the courthouse. All information obtained in the course of judicial conciliation is confidential and may not be disclosed without the written consent of the parties. The parties are free to agree on the most appropriate procedure and results of the conciliation.

RESULTS OF JUDICIAL CONCILIATION

Each party shall be entitled to terminate the judicial conciliation at any stage by written notice. The result of the conciliation may be an amicable settlement agreement, a waiver of all or part of a claim, the recognition of a claim in part or in full; an agreement based on the facts of the case; a waiver of an appeal, review or supervisory complaint, or an agreement by the parties on the legal classification of the disputed transaction. The court adopts the acknowledgement of the circumstances or the action or the waiver of the action as a result of the judicial conciliation.

¹ Federal Law No. 197-FZ dated 26 July 2019 "On the Introduction of Amendments to Individual Legislative Acts of the Russian Federation".

² Judgment No. 41 of the Supreme Court of the Russian Federation dated 31 October 2019 "On the Approval of Court Mediation Rules".

The court conciliator shall submit the relevant documents to the court so that the court can continue the procedure for confirming the results of the conciliation. The circumstances may be acknowledged in the form of a unilateral declaration of consent to the position of the other party or in the form of an agreement based on the facts of the case. The judicial conciliator shall be entitled, before expiry of the period for the performance of the judicial conciliation, to terminate the procedure on the basis of a justified written waiver if the conciliator considers the further performance of judicial conciliation to be inappropriate. This shall be the case, for example, if the parties fail to comply with the procedure and principles of judicial conciliation, if they repeatedly fail to appear at meetings with the court conciliator, if they delay the judicial conciliation or otherwise abuse their rights.



Falk Tischendorf

Attorney-at-law | Partner
Head of Moscow office
BEITEN BURKHARDT Moscow
E-mail: Falk.Tischendorf@bblaw.com



Alexander Bezborodov

Attorney-at-law | LL.M. | Partner
BEITEN BURKHARDT Moscow
E-mail: Alexander.Bezborodov@bblaw.com



Natalia Bogdanova

Lawyer | LL.M. | Associate
BEITEN BURKHARDT Moscow
E-mail: Natalia.Bogdanova@bblaw.com

Imprint

This publication is issued by

BEITEN BURKHARDT

Rechtsanwaltsgesellschaft mbH
Ganghoferstrasse 33 | D-80339 Munich
Registered under HR B 155350 at the Regional Court Munich/
VAT Reg. No.: DE811218811

For more information see:

<https://www.beiten-burkhardt.com/en/imprint>

EDITOR IN CHARGE

Alexander Bezborodov
Natalia Bogdanova

© BEITEN BURKHARDT Rechtsanwaltsgesellschaft mbH.
All rights reserved 2019.

PLEASE NOTE

This publication cannot replace consultation with a trained legal professional. If you no longer wish to receive this newsletter, you can unsubscribe at any time by e-mail (please send an e-mail with the heading "Unsubscribe" to newsletter@bblaw.com) or any other declaration made to BEITEN BURKHARDT.

YOUR CONTACTS

MOSCOW

Turchaninov Per. 6/2 | 119034 Moscow
Falk Tischendorf
Tel.: +7 495 2329635 | Fax: +7 495 2329633
Falk.Tischendorf@bblaw.com

ST. PETERSBURG

Marata Str. 47-49 | Lit. A | Office 402 | 191002 St. Petersburg
Natalia Wilke
Tel.: +7 812 4496000 | Fax: +7 812 4496001
Natalia.Wilke@bblaw.com