

# RUSSIAN DESK

## Dear readers,

New courts of appeal and courts of cassation of general jurisdiction will soon start their work (no later than 1 October 2019). In addition, Federal Law No. 451-FZ of 28 November 2018, which introduces serious reforms of the Russian legislation on civil, commercial and administrative proceedings, will enter into force. In connection with these developments, the Plenum of the Supreme Court adopted two judgments on 9 July 2019 in which the Court clarifies various issues with respect to the entry into force of the new procedural rules.<sup>1</sup> In this newsletter we will provide you with a brief overview of the key clarifications.

We hope that you will find this informative. Please note that we would be delighted to answer any questions that you may have.

Best regards,



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## The Plenum of the Supreme Court provides clarifications on the procedural reforms

### APPEALS AGAINST THE ORDERS OF COURTS OF GENERAL JURISDICTION AND JUDGMENTS ON CASES ON ADMINISTRATIVE OFFENCES

Where appeals on certain categories of orders and judgments, such as

- appeals against court orders of courts of general jurisdiction in civil and administrative cases, which were adopted by a court of first instance of a constituent entity of the Russian Federation,

- cassation appeals against court orders of courts of general jurisdiction in civil and administrative cases, or
- appeals against judgments on administrative offences,

are filed before the new courts take up their work, but those appeals are yet to be considered, such appeals should, in the opinion of the Plenum, be considered as filed with the “old” (pre-reform) courts and the “old” procedural rules should apply. Appeals filed after the new courts start functioning should be considered by the new courts in line with the new procedural rules.

Where, before the entry into force of the new rules, appeals are filed against orders made by courts of general jurisdiction in civil and administrative cases and adopted in the first instance by magistrates or district courts, these appeals should, as of the entry into force of the new rules, be considered by the previous courts (accordingly by district courts or the courts of constituent entities of the Russian Federation) pursuant to the appellate procedure established under the new rules.

Cassation appeals against court orders, which entered into force before the start of the work of the new courts of cassation, must be filed from the start date of their work with the new courts of cassation within a period of six months, as stipulated by the “old” rules (the new rules establish a three-month period for the filing of cassation appeals).

In addition, as soon as the new courts of cassation commence their work, appellants may file a cassation appeal directly with the Judicial Panel of the Supreme Court, even if the appellant had previously exercised its right to file a cassation appeal with the court of the constituent entity of the Russian Federation.

<sup>1</sup> Judgments of the Plenum of the Supreme Court dated 9 July 2019, No. 25 “On Certain Issues Related to the Start of the Work of the Courts of Cassation and Courts of Appeal of General Jurisdiction” and No. 26 “On Certain Issues of the Application of the Civil Procedural Code of the Russian Federation, the Code of Commercial Procedure of the Russian Federation, and the Code of Administrative Court Procedure of the Russian Federation in Connection with the Entry into Force of Federal Law No. 451-FZ dated 28 November 2018 “On the Introduction of Amendments to Certain Legislative Acts of the Russian Federation”.

### REFERRAL OF A CASE TO A COMPETENT COURT

After the entry into force of the amendments, if a statement of claim is filed in violation of the rules of jurisdiction (i.e. to a court of general jurisdiction instead of a commercial court or vice versa), the court will return the claim to the plaintiff. If this is discovered only after a court has agreed to consider a claim for proceedings, *inter alia*, where it was filed before the entry into force of the amendments, the court itself will refer the case to the competent court.

### CHALLENGE AGAINST A JUDGE

The reform amended the rules on considering challenges. In particular, as is the case in civil proceedings, the judges of the commercial courts themselves will now consider any challenges against them. Accordingly, the Plenum of the Supreme Court stressed that the new rules on challenges will apply after their entry into force, regardless of when the proceedings on the case in question were commenced (before or after the reform).

### REQUIREMENTS ON JUDICIAL REPRESENTATIVES

The adjustments introduce new requirements for judicial representatives in commercial court proceedings and, in accordance with the general rule, civil proceedings. Representative must now have a higher legal education or a postgraduate law degree. A copy of this degree must be submitted to the court. The Plenum of the Supreme Court explained that an individual, who fails to meet these requirements and commenced acting as a legal representative in the case prior to the entry into force of these new requirements, will retain his or her powers as a representative with respect to the case until the completion of such a case.

### OTHER CLARIFICATIONS

In addition to the above, the Plenum of the Supreme Court also issued clarifications on issues regarding the application of the new or previous norms on the form and substance of statements of claim, on the timeframe for the consideration of a case and the timeframe for the filing of a motion for the reimbursement of court costs, as well as on the norms on simplified proceedings and other procedural norms.



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