



Compensation for procrastination of court proceedings or implementation of a court act

June 21, 2010

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A set of laws pertaining to compensation for procrastination of court proceedings or implementation of a court act came into effect on May 04, 2010, including:

- Federal Law of the Russian Federation No.68-FZ “On compensation for infringement of the right to a court proceeding or to enforcement of a court act within a reasonable timeframe” dated April 30, 2010 (hereinafter the “**Law**”); [published in Rossiyskaya Gazeta dated June 04](#));
- Federal Law No.69-FZ of the Russian Federation “On introducing amendments to certain legislative acts of the Russian Federation in connection with adoption of the Federal Law ‘On compensation for infringement of the right to a court proceeding or to enforcement of a court act within a reasonable timeframe’” dated April 30, 2010 (hereinafter the “**Law on Amendments**”); [published in Rossiyskaya Gazeta dated June 04, 2010](#));
- Federal Law No.3-FKZ of the Russian Federation “On introducing amendments to Articles 24 and 26 of the Federal Constitutional Law ‘On arbitration commercial courts of the Russian Federation’ and Federal Constitutional Law ‘On military courts of the Russian Federation’” dated April 30, 2010 (hereinafter the “**Constitutional Law**”); [published in Rossiyskaya Gazeta dated June 04, 2010](#)).

The Law establishes general rules for awarding compensation for infringements of rights to a court proceeding or to enforcement of a court act within reasonable timeframes. Such compensation was enacted upon request of the European Court of Human Rights for purposes of elaborating the Russian compensation mechanism targeted at protecting the right to a court proceeding within a reasonable timeframe as an alternative to addressing the European Court of Human Rights. The need for creating such a mechanism was established back in 2008 in the Resolution No.734-O-P of the Constitutional Court of the Russian Federation. Further on, this issue was likewise addressed in a Decree of the European Court of Human Rights dated January 15, 2009 on the case of Burdov vs. Russia (No.2).

Pursuant to the Law, in the event the rights to a court proceeding within a reasonable timeframe or to the enforcement of a court act that provides for a disbursement from the state budget within a reasonable timeframe are violated, Russian and foreign citizens and Russian and foreign organizations who are parties or third parties with independent claims in a court case, collectors, debtors, as well as suspects, accused, defendants, condemned, acquitted, victims, civil plaintiffs, and defendants in criminal proceedings can apply to the court or to a commercial arbitration court for a compensation award.

A violation of the right to court proceedings within a reasonable timeframe, in particular, is deemed to be a court trial term exceeding three years for courts of general jurisdiction or commercial arbitration court and four years for criminal cases (in the event of establishing a suspect or accused).

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The Law sets out in detail the procedure and timeframes for applying for compensation. Compensation is to be awarded in monetary form in the amount determined based on the claims of the applicant, circumstances of the case, duration and significance of consequences of the violation for the applicant, as well as with consideration of the reasonableness, justice and practice of the European Court of Human Rights.

The Law on Amendments introduces changes into several legal acts. Changes have been introduced into the Administrative Procedural Code, Criminal Procedural Code and Civil Procedural Code of the Russian Federation, establishing the criteria for a reasonable term of court proceedings and the term for enforcement of a court act. When determining a reasonable term for a commercial arbitration proceeding, some of the circumstances to be considered are the legal and factual complexity of the case, conduct of the participants, sufficiency and effectiveness of the court's actions for timely examination of the case and the general duration of the court process. A detailed procedure for examining cases on awarding compensation has been established in the Administrative Procedural Code and Civil Procedural Code.

Under the amendments, an interested party has the right to address a commercial arbitration court or a court of general jurisdiction with an application for acceleration of the case. The application is to be reviewed by the chairman of the commercial arbitration court within five days from the time the court receives it. Upon results of the examination a motivated resolution is to be issued, which may establish timeframes for holding a court hearing on the case or other actions for expediting the case examination.

At the same time the Law on Amendments increases from two to three months the timeframes for commercial arbitration courts to examine cases on contesting normative and non-normative legal acts, cases on collecting mandatory payments and sanctions; from fifteen days to two months for cases on administrative violations; and from ten days to two months for cases on contesting decisions of administrative bodies.

It should be noted that on June 25, 2010 the Presidium of the Supreme Commercial Arbitration Court of the Russian Federation will examine a draft [Information Letter](#) containing clarifications on complex and ambiguous situations connected with the Law and the Law on Amendments entering into effect.

Additional information

Should you need more detailed information on issues covered in this publication or on our services, please contact our Moscow office, Andrey Savin at asavin@cls.ru or by phone at +7 (495) 970-1090; or Irina Onikienko in our St. Petersburg office at ionikienko@cls.ru or by phone at +7 (812) 346-7990.

This review covers only a portion of issues related to the topic. The purpose of this review is to provide our clients and other interested parties with information on changes in the legislation which may, to a certain extent, affect their business or interests. This review is not a legal opinion and does not substitute required legal consultations or opinions on certain issues.

Capital Legal Services
Chaplygina House
20/7 Chaplygina Street
Moscow, 105062, Russia
Phone: + 7 (495) 970-1090
Fax: + 7 (495) 970-1091

www.cls.ru

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