



# **RULING OF THE PLENARY SESSION OF THE SUPREME COURT OF THE RUSSIAN FEDERATION**

No. 1

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## **On Certain Issues of Application of Legislation on Reimbursement of Costs Pertaining to Consideration of Cases**

In order to ensure the unity of court application of the laws regulating the reimbursement of court costs in civil and administrative cases, economic disputes, the Plenary Session of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, by Articles 2 and 5 of Federal Constitutional Law of 5 February, 2014 No. 3 “On the Supreme Court of the Russian Federation”, hereby **rules** to provide the following explanations:

1. Court costs that consist of a state fee, as well of costs pertaining to the consideration of a case (hereinafter referred to as “court costs”) are money costs (losses) distributed in the manner stipulated in Chapter 7 of the Civil Procedure Code of the Russian Federation (hereinafter referred to as “the CPC RF”), Chapter 10 of the Court of Administrative Judicial Procedure of the Russian Federation (hereinafter referred to as “the CAJP RF”), Chapter 9 of the Commercial Procedure Code of the Russian Federation (hereinafter referred to as “the ComPC RF”).

By implication of the specified legal provisions, the principle of distribution of court costs lies in the reimbursement of court costs to the person that incurred them, at the expense of the person, not in whose favor the final judicial act in the case is adopted (for instance, a decision of the court of first instance, decree on termination of proceedings or on leaving the statement of claim without action, a judicial act of a court of appeal, cassation, supervision that finalizes proceedings at the corresponding stage of the process).

2. Court costs include costs that were incurred by persons participating in the case, including third parties, interested persons in the administrative case (Article 94 of the CPC RF, Article 106 of the ComPC RF, Article 106 of the CAJP RF).

The list of court costs specified in the above-mentioned codes is not exhaustive. For instance, costs incurred by the plaintiff, administrative plaintiff, applicant (hereinafter also referred to as “plaintiffs”) related to the collection of evidence prior to submission of a statement of claim, administrative statement of claim, application (hereinafter also referred to as “claims”) to court, may be regarded as court costs, if it was necessary to incur them to implement the right to apply to court, and the evidence collected prior to submitting the claim meets the requirements of relevance and admissibility. For instance, the plaintiff may be reimbursed for costs related to the legalization of foreign official documents, to the provision of court evidence performed by a notary prior to the initiation of the case (in particular, evidence confirming that certain information was published on the Internet), costs on pre-trial investigation of the condition of property, which later serves as the basis for the amount of the claim and its jurisdiction.

Costs of execution of a representative’s power of attorney may also be recognized as court costs, if such a power of attorney is issued for the participation of the representative in a specific case or in a specific court session in the case.

3. Costs incurred as a result of an extrajudicial consideration, adjudication and settlement of the dispute (appeal before a higher body, mediation procedure) are not court costs and are not reimbursed in accordance with the provisions of Chapter 7 of the CPC RF, Chapter 10 of the CAJP RF, Chapter 9 of the ComPC RF.

4. Where a law or agreement provides for a prejudicial or another extrajudicial manner of settling the dispute, costs incurred as a result of complying with this manner (for instance, costs of sending the pretence to a contracting party, of preparing a real estate appraisal report when challenging the results of cadastre value assessment by a legal person, appealing against the acts of non-normative nature of tax authorities, the actions or failure to act of their officials before a higher tax authority), including the costs of attorneys' fees, are deemed to be court costs and subject to reimbursement since the plaintiff had no opportunity to implement the right to apply to court without incurring such costs (Articles 94, 135 of the CPC RF, Articles 106, 129 of the CAJP RF, Articles 106, 148 of the ComPC RF).

5. When a claim is submitted jointly by several plaintiffs or against several defendants (joinder of parties), the distribution of court costs is carried out with due regard for the features of the financial legal relationship that gave rise to the dispute, and to the actual procedural behavior of each of them (Article 40 of the CPC RF, Article 41 of the APCP RF, Article 46 of the ComPC).

If persons, not in whose favor the judicial act is adopted, are joint debtors or creditors, court costs are jointly reimbursed by the specified persons (Part 4 of

Article 1 of the CPC RF, Part 4 of Article 2 of the CAJP RF, Part 5 of Article 3 of the ComPC RF, Articles 323, 1080 of the Civil Code of the Russian Federation (hereinafter referred to as “the CC RF”)

6. Court costs incurred by third parties (Articles 42, 43 of the CPC RF, Articles 50, 51 of the ComPC RF), interested persons (Article 47 of the CAJP RF) who participated in the case on the side of the party in whose favor the final judicial act in the case is adopted, may be reimbursed to such persons, since their actual procedural behavior contributed to the adoption of this judicial act.

Herewith, the possibility to recover court costs in favor of the specified persons does not depend on whether they joined the process upon their initiative or were drawn to participation in the case upon a motion of a party or upon the court’s initiative.

7. Persons who did not participate in the case, but regarding whose rights and obligations the court adopts the judicial act, persons whose rights, freedoms and lawful interests are violated by the judicial act, if they appeal against the specified judicial acts, enjoy the rights and perform the duties of persons participating in the case, including those related to court costs reimbursement (Part 3 of Article 320, Part 1 of Article 376, Part 1 of Article 391.1 of the CPC RF, Part 2 of Article 295, Part 1 of Article 319, Part 1 of Article 332, Part 1 of Article 346 of the CAJP RF, Article 42 of the ComPC RF).

8. Persons who apply to court with an administrative statement or claim or an application for the protection of rights and lawful interests of a group of persons, enjoy the plaintiff’s procedural rights. Such persons, provided that they actually participate in the consideration of the case, as a result of which a decision to satisfy the claim is adopted, have the right to be reimbursed for court costs they incurred. Herewith, if the relevant claim is not satisfied, court costs are recovered from the specified persons (Part 3 of Article 42 of the CAJP RF, Part 1 of Article 225.10, Article 225.12 of the ComPC RF).

9. The transfer of the right defended in court, by way of universal or singular succession (inheritance, reorganization of a legal entity, transfer of the right of ownership of an item, assignment of the right of claim, etc.), implies the transfer of the right to court costs reimbursement, since the right to such reimbursement is not inextricably linked to the personality of the participant of proceedings (Articles 58, 382, 383, 1112 of the CC RF). In such a case the court replaces the person participating in the case with its successor (Article 44 of the CPC RF, Article 44 of the CAJP RF, Article 48 of the ComPC RF).

The assignment of the right to court costs reimbursement as such is permitted not only after such costs were awarded to the person participating in the case, but during the judicial consideration of the case as well (Articles 382, 383, 388.1 of the

CC RF). The entry into the specified agreement prior to the award of court costs does not entail any replacement of the person participating in the case, who assigned the right to court costs reimbursement, with its successor, since such a right arises and is transferred to the successor only at the time when court costs are awarded in favor of the predecessor (Item 2 of Article 388.1 of the CC RF).

The right to court costs reimbursement, by way of universal or singular succession, may be transferred both to the persons participating in the case and other persons.

10. A person applying for recovery of court costs shall prove that they were incurred, as well as the connection between the costs incurred and the case considered in court with its participation. Failure to prove such circumstances constitutes grounds for refusal to reimburse court costs.

11. When deciding upon the amounts recovered as court costs reimbursement, the court may not decrease them arbitrarily, unless the other party objects to it or provides evidence that the amounts it should pay are excessive (Part 3 of Article 111 of the ComPC RF, Part 4 of Article 1 of CPC RF, Part 4 of Article 2 of the CAJP RF).

However, for the purpose of implementing the task of fair and public proceedings, of ensuring the necessary balance of procedural rights and obligations of the parties (Articles 2, 35 of the CPC RF, Articles 3, 45 of the CAJP RF, Articles 2, 41 of the ComPC RF), the court may decrease the amount of court costs, including the costs for the payment of a representative's services, if the amount of costs presented for recovery, based upon the evidence in the case, is evidently unreasonable (excessive).

12. Costs for the payment of a representative's services, incurred by the person in whose favor the judicial act is adopted, are recovered by the court from the other person participating in the case within reasonable limits (Part 1 of Article 100 of the CPC RF, Article 112 of the CAJP RF, Part 2 of Article 110 of the ComPC RF).

If the claim is not fully (i.e. partially) satisfied, the costs for the payment of a representative's services are awarded to each of the parties within reasonable limits and are distributed in accordance with the rule on proportionate distribution of court costs (Articles 98, 100 of the CPC RF, Articles 111, 112 of the CAJP RF, Article 110 ComPC RF).

13. Reasonable costs are such costs for the payment of a representative's services which are usually charged for similar services in comparable circumstances. When establishing their reasonableness, the following may be taken into account: the volume of claims, the amount in dispute, the complexity of the case, the volume of services provided by the representative, the amount of time required from the

representative to prepare procedural documents, duration of consideration of the case and other circumstances.

The reasonableness of court costs for the payment of a representative's services may not be justified by the prominence of the representative of the party in the case.

14. Transport and accommodation costs of a party's representative are reimbursed by the other party of the dispute within reasonable limits, based upon the prices that are usually established for transport services, accommodation services in the place (region), where they were actually provided (Articles 94, 100 of the CPC RF, Articles 106, 112 of the CAJP RF, Article 106, Part 2 of Article 110 of the ComPC RF).

15. Costs incurred by the representative, which were necessary for the discharge of the representative's obligation to provide legal services, for instance, costs pertaining to the inspection of case materials, using the Internet, mobile phone communications, to sending documents, are not subject to additional reimbursement by the other party to the dispute, since, by virtue of Article 309<sup>2</sup> of the CC RF, such costs are usually included into the price of provided services, unless otherwise specified in the contract (Part 1 of Article 100 of the CPC RF, Article 112 of the CAJP RF, Part 2 of Article 110 of the ComPC RF).

16. Costs for the payment of a representative's services incurred by bodies and organizations (including consumer rights protection societies), empowered by law to apply to court for the protection of rights, freedoms and lawful interests of other persons (Articles 45, 46 of the CPC RF, Articles 39, 40 of the CAJP, Articles 52, 53, 53<sup>1</sup> of the ComPC RF), are not subject to reimbursement, since the specified power implies that they participate in court proceedings on their own, without involving representatives for a consideration.

17. If several persons participating in the case on the side of the same party conducted the case through one representative, the costs for the payment of his services are subject to reimbursement in accordance with the rules of Part 1 of Article 100 of the CPC RF, Article 112 of the CAJP RF, Part 2 of Article 110 of the ComPC RF in accordance with the costs actually incurred by each of those persons.

18. By implication of Articles 98, 100 of the CPC RF, Articles 111, 112 of the CAJP RF, Article 110 of the ComPC RF, court costs are reimbursed when courts resolve disputes of substantive law. Since the consideration of cases specified in Chapters 28–30, 32–34, 36, 38 of the CPC RF, Chapter 27 of the ComPC RF is aimed at establishing legal facts, establishing the legal status of persons drawn to participation in the case or of the legal regime of objects of a title, and not at settling substantive law disputes, costs incurred due to the consideration of the

specified category of cases fall on those persons participating in the case that incurred them, and are not subject to reimbursement in accordance with the rules of Chapter 7 of the CPC RF, Chapter 10 of the CAJP RF, Chapter 9 of the ComPC RF.

19. Costs incurred as a result of consideration of claims, whose satisfaction does not depend on the establishment of facts of violation or contestation of the plaintiff's rights by the defendant, administrative defendant, for instance, divorce claims when there is mutual consent of the spouses having common minor children (Item 1 of Article 23 of the Family Code of the Russian Federation) are not subject to distribution among the persons participating in the case.

20. If property claims, which are subject to assessment, are not fully satisfied (are partially satisfied), court costs are awarded to the plaintiff in proportion to the amount of property claims satisfied by the court, and to the plaintiff in proportion to the amount of claims that were dismissed (Articles 98, 100 of the CPC RF, Articles 111, 112 of the CAJP RF, Article 110 of the ComPC RF).

21. The provisions of procedural legislation on proportional reimbursement (distribution) of court costs (Articles 98, 102, 103 of the CPC RF, Article 11 of the CAJP RF, Article 110 of the ComPC RF) do not apply during the consideration of:

- claims of non-property nature, including those that have a monetary evaluation of claims aimed at the protection of personal non-property rights (for instance, compensation for moral harm);
- property claims, not subject to evaluation (for instance, for the prevention of actions that violate a right or pose a threat of its violation);
- claims to recover a forfeit that is decreased by the court due to the disparity between the consequences of breach of an obligation and the fact that the creditor obtained unjustified benefit (Article 333 of the CC RF);
- claims that are subject to consideration in the manner stipulated by the CAJP RF, except for claims for recovery of compulsory payments and penalties (Part 1 of Article 111 of the specified code).

Herewith, the rule of proportional reimbursement (distribution) of court costs is applied to economic disputes arising from public legal relations related to challenging of non-normative legal acts of tax, customs and other bodies, if the adoption of such acts imposes property liability upon the applicant (Part 1 of Article 110 of the ComPC RF).

22. If the amount of stated claims is changed after the proceedings in the case are initiated, and the court costs are to be distributed proportionately, the court should do so based on the amount of claims supported by the plaintiff at the time of adoption of a decision in the case.

However, if the plaintiff decreases the amount of stated claims after evidence appears during the consideration of the case that this amount is clearly unreasonable, the court may deem this to be an abuse of procedural rights, and it may lead to a refusal to recognize (in full or in part) the court costs incurred by the plaintiff as necessary (Part 1 of Article 35 of the CPC RF, Part 6, 7 of Article 45 of the CAJP RF) or to the imposition of costs incurred by the defendant upon the plaintiff (Article 111 of the ComPC RF).

23. The court may offset the court costs recovered in favor of each party and other awarded monetary sums against each other (Part 4 of Article 1, Article 138 of the PC RF, Part 4 of Article 2, Part 1 of Article 131 of the CAJP RF, Part 5 of Article 3, Part 3 of Article 132 of the ComPC RF).

The offset of costs is performed upon a motion of the persons reimbursing such costs or upon the initiative of the court which, being governed by the provisions of Article 56 of the CPC RF, Article 62 of the CAJP RF, Article 65 of the ComPC, submits this matter for discussion of the parties.

24. If both the initial property claim and the counterclaim (to which the proportional distribution of court costs applies) are partially satisfied, court costs of the plaintiff in the initial claim are reimbursed in proportion to the amount of satisfied claims. Court costs of the plaintiff in the counterclaim are reimbursed in proportion to the amount of satisfied counterclaims.

25. If the proceedings in the case are terminated or the statement of claim is left without consideration, court costs are recovered from the plaintiff.

However, if the proceedings in the case are terminated because of the death of a citizen or dissolution of a legal person that is a party in the case, or if the statement of claim is left without consideration because it was submitted by a legally incapable person, or if the parties (that did not motion the court to consider the case in their absence) fail to appear in court upon repeated summoning (Paragraph 7 of Article 222 of the CPC RF), court costs incurred by the persons participating in the case are not subject to distribution in accordance with the rules of Chapter 7 of the CPC RF, Chapter 10 of the CAJP RF, Chapter 9 of the ComPC RF.

If the statement of claim is left without consideration since it was signed and submitted by a person that did not have powers to sign and (or) submit it, or was signed by a person whose official position was not specified, court costs incurred by the participants of proceedings as a result of submission of such a statement are recovered from this person.

26. If the proceedings in the case are terminated since the plaintiff renounced the claim because the defendant voluntarily satisfied the plaintiff's stated claims after the plaintiff applied to court, court costs are recovered from the defendant (Part 1

of Article 101 of the CPC RF, Part 1 of Article 113 of the CAJP RF, Article 110 of the ComPC RF).

However, it is necessary to take into account the fact that the renunciation of claim is a right, but not an obligation of the plaintiff. Therefore the reimbursement of court costs in favor of the plaintiff in the specified circumstances may not depend on whether or not the plaintiff renounced the claim. In view of this, if the defendant voluntarily satisfies the plaintiff's stated claims after the plaintiff applies to court, and a court decision is adopted, court costs are also recovered from the defendant.

27. When a conciliation agreement, settlement agreement is concluded, court costs are distributed in accordance with its terms. If the conciliation agreement, settlement agreement has no terms regarding the distribution of court costs, the court resolves this matter with due regard for the following.

The conclusion of a conciliation agreement, settlement agreement is based on mutual concessions of the parties, and therefore the termination of proceedings in the case does not per se indicate that a judicial act was adopted in favor of either party in the case. Therefore, court costs incurred by the parties in the course of judicial proceedings before the conclusion of a conciliation agreement, settlement agreement fall on them and are not subject to distribution.

However, court costs incurred by the court due to the consideration of the case at the expense of the relevant budget of the budgetary system of the Russian Federation (Article 103 of the CPC RF, Article 114 of the CAJP RF), monetary sums payable to witnesses, experts, specialists are distributed by the court, in particular upon its initiative, between the parties in equal shares by adoption of a decree (Part 2 of Article 101 of the CPC RF, Part 2 of Article 113 of the CAJP RF).

28. After the final judicial act in the case is adopted, a person participating in the case may apply to court with an application regarding the court costs that it incurred due to the consideration of the case and recovery of which was not claimed during the consideration.

The court resolves this issue in a court session in accordance with the rules stipulated in Article 166 of the CPC RF, Article 154 of the CAJP RF, Article 159 of the ComPC RF. A decree is adopted after the consideration of that issue.

When considering the court costs application, the court also resolves the issues of distribution of court costs related to the consideration of this application. With this in view, an application for the reimbursement of court costs incurred as a result of consideration of a court costs application, submitted after a ruling regarding the

court costs is adopted, is not subject to acceptance for proceedings and to consideration by the court.

29. If court costs related to the consideration of a dispute on its merits are actually incurred after the final judicial act in the case is adopted (for instance, payment for accommodation and the representative's services was made after the case was adjudicated on its merits), a person participating in the case may apply to court with an application regarding such costs.

The court refuses to accept a court costs application for proceedings or terminates proceedings regarding that application, if the issue of their reimbursement or denial of reimbursement was resolved in an earlier adopted judicial act, with regard to Item 2 of Part 1 of Article 134 of the CPC RF, Item 4 of Part 1 of Article 128, Item 2 of Part 1 of Article 194 of the CAJP RF, Item 2 of Part 1 of Article 150 of the ComPC RF.

30. A person that submitted an appeal, cassation or supervisory appeal, as well as other persons who actually participated in the consideration of the case at the corresponding stage of the process, but did not submit an appeal, have the right to be reimbursed for court costs incurred due to the consideration of the appeal, if, following the consideration of the case, the final judicial act is adopted in their favor.

However, the person that submitted the appeal, cassation or supervisory appeal, which was not satisfied, may be obliged to pay the costs incurred by the other participants of proceedings due to the consideration of the appeal.

Costs incurred due to the review of an effective judicial act due to new or newly discovered facts are reimbursed in favor of the participants of proceedings depending on in whose favor the final judicial act in the corresponding case is adopted.

Costs incurred by the participants of proceedings are subject to reimbursement provided that they were incurred due to their actual procedural behavior at the stage of consideration of the case by the court of appeal, cassation or supervision, at the stage of review of an effective judicial act due to new or newly discovered facts.

31. Court costs incurred by the recoverer at the stage of execution of the court decision, related to participation in court sessions regarding the consideration of the debtor's applications for postponement or execution of the court decision in installments, for the change of means and manner of its execution, are reimbursed by the debtor (Articles 98, 100 of the CPC RF, Articles 111, 112 of the CAJP RF, Article 110 of the ComPC RF).

32. Persons participating in the case should use all their procedural rights in good faith, therefore the court may impose the costs upon the person that abused its procedural rights and failed to discharge its procedural obligations, or may not recognize the costs incurred by it as necessary, if that behavior led to the disruption of a court session, protraction of court proceedings, obstruction to the consideration of the case and adoption of the final judicial act.

33. In view of passing of this ruling, the following are not subject to application:

- Item 33 of Ruling of the Plenary Session of the Supreme Commercial Court of the Russian Federation of 17 February, 2011 No. 12 “On Certain Issues of Application of the Commercial Procedure Code of the Russian Federation as amended by Federal Law of 27 July, 2010 No. 228 “On Amendments to the Commercial Procedure Code of the Russian Federation”;
- Paragraph 3 of Item 6 of Ruling of the Plenary Session of the Supreme Commercial Court of the Russian Federation of 18 July, 2014 No. 51 “On Certain Issues Arising in the Course of Consideration of Disputes with the Participation of Organizations Exercising Collective Administration of Copyright and Associated Rights”.

Chief Justice of the Supreme Court of  
the Russian Federation

V.M. Lebedev

Secretary of the Plenary Session, Judge of  
the Supreme Court of the Russian Federation

V.V. Momotov