



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

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On Certain Issues Arising during Consideration of Cases on Award of Compensation for Violation of Right to Trial within a Reasonable Time or of Right to Execution of a Judicial Act within a Reasonable Time

For the purpose of uniform court application of legislation of the Russian Federation regulating the consideration of cases on award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time, the Plenary Session of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, 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:

General Provisions

1. The right to judicial protection is acknowledged and guaranteed by the Constitution of the Russian Federation, international treaties of the Russian Federation and also includes the right to trial within a reasonable time and the right to execution of a judicial act within a reasonable time, which are implemented by the creation by the state of procedural conditions for an effective and fair consideration of cases, as well as by organizing and ensuring the timely and effective execution of judicial acts (Article 46 of the Constitution of the Russian Federation, Article 14 of the International Covenant on Civil and Political Rights of December 16, 1966, Item 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950).

To ensure that these rights are implemented effectively, Federal Law No. 68 of April 30, 2010 “On Compensation for Violation of the Right to Trial Within a Reasonable Time or of the Right to Execution of a Judicial Act Within a Reasonable Time” (hereinafter referred to as “the Law on Compensation”) provides for a special remedy in the form of award of compensation.

The compensation for violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time (hereinafter referred to as “the compensation”), as a measure of state responsibility, is aimed at compensating for non-property damage caused by violation of procedural conditions that ensure the implementation of these rights within a reasonable time regardless of whether a court, criminal prosecution authorities, authorities charged with enforcement of judicial acts, other state bodies, local self-government bodies and their officials are at fault or not.

This Compensation is not aimed at compensating for property losses of the interested person and does not replace any compensation for property damage caused to it by illegal actions (failure to act) of state bodies, including courts. However, award of compensation for violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time deprives the interested person of the right to receive compensation for non-property damage for the specified violations (Part 4 of Article 1 of the Law on Compensation, Articles 151, 1069, 1070 of the Civil Code of the Russian Federation (hereinafter referred to as “the CC RF”).

The manner of proceedings regarding the award of compensation is regulated by procedure codes (Chapter 26 of the Code of Administrative Judicial Procedure of the Russian Federation (hereinafter referred to as “the CAJP RF”), Chapter 271 of the Commercial Procedure Code of the Russian Federation (hereinafter referred to as “the ComPC RF”).

2. Pursuant to the interrelated provisions of Part 1 of Article 1 and Article 3, the Law on Compensation applies to the following events:

- a) violations of reasonable time periods, stipulated for cases considered by courts of general jurisdiction and commercial courts (hereinafter also referred to as “the courts”) in accordance with the rules of court competence and jurisdiction stipulated in procedural legislation;
- b) violations of reasonable time periods of execution of judicial acts that provide for recovery from the budgetary funds of the budgetary system of the Russian Federation in accordance with legislation in force at the moment when given legal relations arose, including:
 - claims against the Russian Federation, a constituent entity of the Russian Federation, a municipal entity (hereinafter referred to as a “public law entity”) on compensation for damage caused to a natural

- person or legal person by unlawful actions (failure to act) of state bodies, local self-government bodies and their officials;
- administrative statements of claim, applications for award of compensation for violations of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time at the expense of the federal budget, budget of a constituent entity of the Russian Federation, budget of a municipal entity;
 - claims for recovery of monetary funds at the expense of the treasury of a public law entity, including in the manner of subsidiary liability (hereinafter referred to as a “claim against a public law entity”);
 - claims on imposing an obligation on public authorities, local self-government bodies, their officials, state or municipal servants to make payments at the expense of the federal budget, budget of a constituent entity of the Russian Federation, local budget (hereinafter referred to as a “claim on imposing an obligation on public authorities, local self-government bodies, their officials”);
 - regarding monetary obligations of a public establishment, public authorities (state bodies), local self-government bodies.

Pursuant to Article 6 of the Budgetary Code of the Russian Federation (hereinafter referred to as “the BC RF”), a monetary obligation is an obligation of the recipient of budgetary funds to pay certain monetary funds to the budget, a natural person or legal person at the expense of the budget in accordance with the fulfilled terms and conditions of a civil transaction that was concluded within the recipient’s budgetary powers or in accordance with the provisions of a law, another legal act, terms and conditions of a contract or agreement.

It should be noted that the Law on Compensation does not apply to the requirements to award compensation for violation of a time period stipulated for execution of judicial acts that provide recovery from monetary funds of citizens and organizations that do not receive budgetary funds, including budgetary institutions. However, it does not exclude the possibility of recovery of damages in the general manner for culpable non-enforcement of all other judicial acts, in particular of those adopted against public law entities;

- c) violations of a reasonable time period in the course of pre-trial proceedings in criminal cases where:
- a suspect or accused person is found;
 - a decree to suspend the preliminary investigation is adopted due to the failure to establish the person subject to being drawn as the accused;
 - a measure of procedural compulsion is taken in the form of arrest of property (including exclusive rights) against a person, who is not the

suspect, accused or a person materially responsible for their actions in accordance with the law (hereinafter referred to as a “person with arrested property”).

3. Based on the interrelated provisions of Part 3 of Article 61 of the Criminal Procedure Code of the Russian Federation (hereinafter referred to as “the CrPC RF”), Part 1 of Article 1, Part 6 of Article 3 of the Law on Compensation, if there is information that the injured person or another interested person damaged by an act prohibited by criminal law (hereinafter referred to as the “person that submitted a notification about a crime”) timely submitted an application, notification about a crime, this law also applies to the duration of court proceedings, in which one of the following decisions is adopted:

- to refuse to initiate a criminal case due to the expiry of the prescription period for criminal prosecution, if the position of bodies of inquiry and investigation, of the prosecution regarding the presence or absence of grounds for initiation of a criminal case changed constantly, and (or) if it was later established that a refusal to initiate a criminal case before the expiration of the prescription period was unlawful and unfounded;
- to terminate proceedings in the criminal case due to the expiration of the prescription period.

4. By implication of Article 61 of the CrPC RF, Article 3 of the Law on Compensation, that Law, in particular, does not apply to compensation claims for violations of period of consideration of appeals in accordance with Article 125 of the CrPC RF, as well as to consideration of issues related to the execution of a sentence (for instance, parole applications).

5. Persons who are entitled to appeal to court with an application, administrative statement of claim for compensation (hereinafter referred to as a “compensation application”) are citizens of the Russian Federation, foreign citizens, stateless persons, Russian, foreign and international organizations which believe that their right was violated and which in accordance with procedural legislation are:

- in civil and administrative judicial proceedings – parties, applicants, interested persons, third parties who raise their own claims regarding the subject matter of the dispute, recoverers and debtors;
- in criminal judicial proceedings – suspects, accused persons, persons on trial, convicted and acquitted persons (hereinafter referred to as “the suspect” and “the accused”), injured persons or other interested persons damaged by an act prohibited by criminal law, civil plaintiffs, civil defendants, as well as persons with arrested property (Part 1 of Article 1 of the Law on Compensation, Article 250 of the CAJP RF, Part 1 of Article 2221 of the ComPC RF).

By implication of Part 1 of Article 1 of the Law on Compensation, in relation to a case regarding an administrative offence, the person in whose regard the

proceedings in the case were (are) conducted, as well as the injured person are entitled to apply to court with a compensation application if the right to trial within a reasonable time is violated.

Where stipulated in federal law, other persons may also apply to court with a compensation application, if their right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time is violated (Part 1 of Article 1 of the Law on Compensation).

6. Pursuant to Part 1 of Article 39 of the CAJP RF, the prosecutor is entitled to apply to court with a compensation application for violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time in defence of the interests of a citizen who belongs to the persons entitled to receive compensation and who cannot himself apply to court with such an application due to health condition, age, incapacity and other legitimate reasons.

7. The right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time are inalienable and non-transferable, including in the transfer of rights of a creditor to another person under a transaction (assignment of claims).

In view of the foregoing, only the person who participated in the court proceedings and the person in whose favor a writ of execution was issued are entitled to receive compensation.

If there is a procedural replacement of a person by his successor in the disputable substantive legal relation, the circumstances related to violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time that occurred prior to the transfer of rights to the successor do not constitute grounds for the satisfaction of the compensation application.

8. Cases on award of compensation for violation of right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time (hereinafter referred to as a “compensation cases”) fall within the court competence of the Supreme Court of the Russian Federation, of courts of general jurisdiction, if the compensation claim is caused by a lengthy period of proceedings in the case in a court of general jurisdiction or by a lengthy period of non-execution of a judicial act adopted by a court of general jurisdiction, as well as by a lengthy period of pre-trial proceedings in a criminal case (Item 1 of Part 1 and Item 1 of Part 2 of Article 3 of the Law on Compensation).

Compensations cases fall within the jurisdiction of the Supreme Court of the Russian Federation, of commercial courts, if the compensation claim is caused by a lengthy period of proceedings in the case in a commercial court or by a lengthy

period of non-execution of a judicial act adopted by a commercial court (Item 2 of Part 1 and Item 2 of Part 2 of Article 3 of the Law on Compensation).

Based on the interrelated provisions of Articles 26 and 432 of Federal Constitutional Law No. 1 of April 28, 1995 “On Commercial Courts in the Russian Federation”, the Intellectual Property Rights Court, acting as a court of first instance, considers compensation applications in cases that fall within its court competence of a court of first instance, as well as in cases on intellectual rights protection disputes considered by commercial courts.

If the dispute that constituted grounds for filing a compensation application for violation of the right to trial within a reasonable time has been under consideration of a court of general jurisdiction and of a commercial court, the compensation case falls within the court competence of the court whose judicial act was the last one or before which the case is still pending.

Filing a Compensation Application

9. Pursuant to Part 1 of Article 251 of the CAJP RF, Part 1 of Article 2222 of the ComPC RF, a compensation application is filed to the court authorized to consider this application through the court that adopted the decision.

Pursuant to the specified provisions, a compensation application is filed through the court that adopted the decision (decree, ruling) in first instance, pronounced the sentence, or through the court considering the case in first instance.

A cassation appeal against a judicial act of a commercial court filed to the Supreme Court of the Russian Federation can contain a demand for compensation for violation of the right to trial within a reasonable time (Part 4 of Article 3 of the Law on Compensation, Part 2 of Article 2911, Part 3 of Article 2913 of the ComPC RF).

A compensation application for violation of the right to execution of a judicial act within a reasonable time is filed through the court which considered the case in first instance regardless of the place where the judicial act is executed.

If the right to trial within a reasonable time is violated in the course of the pre-trial proceedings in criminal cases, a compensation application is filed directly to the supreme court of a republic, the court of a territory, region, federal city, autonomous region, autonomous circuit, circuit (fleet) military court at the place of the pre-trial investigation, where it is subject to consideration (Part 3 of Article 251 of the CAJP RF).

10. A compensation application received by a court is to be forwarded together with the case to the court authorized to consider it within three days since receipt of application.

If a compensation application for violation of the right to trial within a reasonable time is filed prior to the end of proceedings in the case, it is forwarded together with copies of judicial acts, minutes of court sessions, other documents required to adjudicate the case, to the court authorized to consider it.

If the case that constituted grounds for filing a compensation application is in a court of higher instance, the received compensation application is forwarded to the court authorized to consider it without the case. Herewith, copies of judicial acts, minutes of court sessions, decisions of officials who carried out the criminal judicial proceedings are forwarded by the court of higher instance upon request of the court authorized to consider the application.

A court is entitled upon its initiative or upon the motion of the parties to request the authorities carrying out the pre-trial investigation to provide information that is necessary for considering a compensation application regarding the violation of a reasonable time in the course of the pre-trial proceedings. The specified information is subject to the court's assessment in conjunction with other evidence in the compensation case (Part 1 of Article 63, Articles 70 and 84 of the CAJP RF).

11. A compensation application is filed to a court in writing and should be signed by the applicant or his representative, and a state fee should be paid as well (Articles 125 and 252 of the CAJP RF, Articles 125, 2223, Part 2 of Article 2224 of the ComPC RF).

The specified application can also be filed by filling out a form on the official website of the court in the manner stipulated in the procedural legislation of the Russian Federation.

An administrative statement of claim for compensation, filed by the person who filed a notification about a crime should contain, apart from information referred to in Items 1, 2, 6-11 of Part 2 of Article 252 of the CAJP RF, information on the total duration of consideration of the notification by an inquiry officer, body of inquiry, investigator, head of an investigative body, starting from the day when the notification was filed to the day when a decree to refuse to initiate a criminal case was adopted.

If a compensation application is filed by the injured person in a criminal case that was terminated due to the expiry of the prescription period for criminal prosecution, an administrative compensation application should contain information on the total duration of pre-trial proceedings in the criminal case,

starting from the day when the person was acknowledged as the injured person to the day when proceedings in the criminal case were terminated.

If the person was not acknowledged as the injured person immediately after the criminal case was initiated (in violation of Part 1 of Article 42 of the CrPC), the date when the notification about a crime was filed is also indicated in the compensation application.

12. It should be taken into account that procedural legislation does not stipulate the obligatory conduct of the case through a representative or require the applicant to have a law degree. In this regard, the fact that the applicant filing a compensation application does not have a law degree does not constitute grounds for leaving the application without action (Part 1 of Article 54, Part 1 of Article 126, Part 3 of Article 252 of the CAJP RF).

13. If a compensation application does not meet the requirements to its form and contents established by law, it should be left without action in accordance with Article 255 of the CAJP RF, Article 2225 of the ComPC RF.

14. A compensation application for violation of the right to trial within a reasonable time may be filed within six months since the last judicial act in this case entered into force (Item 1 of Part 5 of Article 3 of the Law on Compensation, Part 2 of Article 250 of the CAJP RF, Paragraph 1 of Part 2 of Article 2221 of the ComPC RF).

For the purpose of calculating the total duration of trial and based on the provisions of Article 16 of the CAJP RF, Article 13 of the Civil Procedure Code of the Russian Federation (hereinafter referred to as “the CPC RF”), Article 15 of the ComPC RF, the last judicial act is a decision, decree on termination of proceedings in a case, decree on leaving an application without action, adopted by a court of first instance, or a decree (ruling) of a court of appeal, cassation, supervision which considered the case and adjudicated it on the merits.

For the purpose of calculating the time period for filing a compensation application, the last judicial act can also be a judge’s decree to refuse to forward a cassation, supervisory appeal, prosecutor’s appeal for consideration in a court session of a court of appeal, cassation, supervision (Articles 324, 338 of the CAJP RF, Articles 383, 3917 of the CPC RF, Articles 2918, 3086 of the ComPC RF).

15. Taking into account the provisions of Item 2 of Part 5 of Article 3 of the Law on Compensation, Part 3 of Article 250 of the CAJP RF, Paragraph 2 of Part 2 of Article 2221 of the ComPC RF, if the proceedings in a civil, administrative case, a case in an economic dispute have not been terminated, a person may file a compensation application after three years since an application, statement of claim,

administrative statement of claim was filed to the court of first instance, if the applicant had previously filed an application to speed up the proceedings.

16. Regarding administrative offence cases considered by courts, the last judicial act can be a court ruling, a decision to impose an administrative punishment, to terminate the proceedings in the administrative offence case, and for commercial courts – also a decision following the consideration of an appeal against a decree of an administrative body in the administrative offence case and subsequent judicial acts of higher courts, adopted in the administrative offence case.

17. A compensation application for violation of right to trial within a reasonable time may be filed within six months after a judgment of conviction or acquittal, including an appeal sentence, ruling (decree) to take medical enforcement measures, a ruling (decree) to terminate the criminal case (hereinafter referred to as “the final court decision”), entered into force following the court proceedings in the criminal case.

Following the results of pre-trial proceedings, a compensation application may be filed within the above-mentioned period, after a ruling to terminate the criminal case or criminal prosecution, ruling to suspend the pre-trial investigation due to the failure to establish a person subject to being drawn as the accused, ruling to refuse to initiate a criminal case due to the expiry of the prescription period for criminal prosecution (hereinafter also referred to as “decision following pre-trial proceedings”) is adopted.

18. If a decision following pre-trial proceeding or the final court decision is not adopted, or the final court decision is adopted, but has not entered into force, a suspect, accused may file a compensation application after four years since the beginning of criminal prosecution (Part 7 of Article 3 of the Law on Compensation, Part 5 of Article 250 of the CAJP RF).

For the purpose of the Law on Compensation, the beginning of criminal prosecution means the moment when one of the procedural decisions specified in Part 1 of Article 46 or Part 1 of Article 47 of the CrPC RF is adopted in regard of the person, and pursuant to which that person is acknowledged as the suspect or accused. Or it is the moment from which one of the procedural or investigatory actions aimed at proving the person guilty of committing the crime, which precede acknowledgement of the person as the suspect or accused, are taken in the manner stipulated in Part 11 of Article 144 of the CrPC RF.

19. Pursuant to Part 8 of Article 3 of the Law on Compensation, Part 4 of Article 250 of the CAJP RF, Part 3 of Article 2221 of the ComPC RF, a compensation application for violation of the right to execution of a judicial act within a reasonable time is filed within six months since termination of proceedings on enforcement of the judicial act.

If the proceedings on enforcement of the judicial act have not terminated, a compensation application may be filed no earlier than after sixth months following the expiry of the time period stipulated by federal law for the execution of a judicial act.

For instance, for the execution of judicial acts on claims against a public law entity, as well as for the execution of judicial acts that stipulate recovery from budgetary funds under monetary obligations of public establishments, the BC RF establishes a three-month period, starting from receipt of the duly drawn writ of execution by the body authorized to execute such a judicial act, as well as of other documents stipulated in law (Article 2421, Item 6 of Article 2422, Item 8 of Article 2423, Item 7 of Article 2424, Item 7 of Article 2425).

If a public establishment opens its accounts in an institution of the Central Bank of Russia or in a credit organization, the execution of a judicial act stipulating recovery from budgetary funds is carried out within the time limits established by Federal Law No. 229 of October 2, 2007 “On Enforcement Procedure” (Item 13 of Article 2423, Item 12 of Article 2424, Item 12 of Article 2425 of the BC RF).

Speeding up the Consideration of the Case

20. An application for compensation for violation of the right to trial within a reasonable time in a case, proceedings in which have not yet terminated, may be accepted by the court only if the person seeking compensation or another person participating in the case earlier applied to the president of that court with an application to speed up the case, including an administrative offence case (hereinafter referred to as an “application to speed up the proceedings”) (Item 2 of Part 5 and Part 7 of Article 3 of the Law on Compensation, Part 6 of Article 10, Part 3 of Article 250 of the CAJP RF, Part 6 of Article 61, Paragraph 2 of Part 2 of Article 2221 of the ComPC RF, Part 6 of Article 61 of the CPC RF, Part 5 of Article 61 of the CrPC RF).

For the purpose of fulfilling the objectives of proceedings on administrative offence cases regarding the complete and timely establishment of facts of every case and its consideration in accordance with the law, in terms of Article 61 of the ComPC RF and Part 7 of Article 10 of the CAJP RF, the person seeking compensation is entitled to file an application to speed up the proceedings to the president of the court (Article 24.1, Article 29.6 of the Code of Administrative Offences of the Russian Federation).

If the case is considered by a justice of the peace, an application to speed up the proceedings is filed to the president of the district court (Item 6 of Article 4 of

Federal Law No. 188 of December 17, 1998 “On Justices of the Peace in the Russian Federation”).

21. It should be taken into account that an application to speed up the proceedings is considered by the president of the court individually, within five days after the receipt of application by the court, without summoning the persons participating in the case (Part 7 of Article 61 of the CPC RF, Part 7 of Article 61 of the ComPC RF, Part 6 of Article 61 of the CrPC RF).

An application to speed up the proceedings is considered in the manner stipulated in the CAJP RF by the president of the court no later than on the next working day after the receipt of application by the court (Part 7 of Article 10 of the CAJP RF).

22. When assessing the duration of case consideration, it should be ascertained whether a court took measures to timely consider the case.

Taking into account the fact that after the application to speed up the proceedings is considered, a reasoned decree (ruling) to satisfy or dismiss the application is adopted, the president of the court is entitled to request and obtain from the judge considering the case, regarding which the application to speed up the proceedings is filed, information on the case progress and actions taken towards its consideration (Part 6 of Article 10 of the CAJP RF, Part 7 of Article 61 of the ComPC RF, Part 7 of Article 61 of the CPC RF, Part 6 of Article 61 of the CrPC RF).

23. If grounds for speeding up the proceedings are established, the decree (ruling) of the court president may stipulate the time period within which a court session must be held, as well as other actions required to speed up the proceedings (Part 7 of Article 61 of the CPC RF, Part 7, 8 of Article 10 of the CAJP RF, Part 7 of Article 61 of the ComPC RF, Part 6 of Article 61 of the CrPC RF).

In particular, the president of the court may draw the judge’s attention to the need to take actions to promptly notify the persons participating in the case, to obtain evidence ordered for presentation by the court, to control the time of the expert examination, to resume the proceedings in the case, provided that the circumstances that led to their suspension are eliminated.

When the president of the court chooses specific actions required to speed up the proceedings, it is necessary to take into account the inadmissibility of violation of the principles of independence and impartiality of judges. For instance, the president of the court may not appoint an expert examination, predetermine the issues of reliability or unreliability of a piece of evidence, of priority of one piece of evidence over another, or what decision a court is obliged to adopt after considering the case, and may not perform other actions aimed at interfering with the activities of the judge in the administration of justice in a specific case.

Measures taken to speed up the proceedings cannot be directed at persons participating in the case, as well as at persons assisting in the administration of justice.

24. If after considering the application to speed up the proceedings the president of the court fails to find any grounds to do so, he adopts a reasoned decree (ruling) to refuse to satisfy the application to speed up the proceedings.

An application to speed up the proceedings, as well as the court president's decree (ruling) adopted after its consideration, are attached to the materials of the case, in regard of which the application was filed.

A copy of the decree (ruling) is sent to the person who filed the application to speed up the proceedings and to other persons participating in the case.

A refusal to satisfy an application to speed up the proceedings does not deprive the interested person of the right to apply for compensation. Therefore the court president's decree (ruling), adopted after consideration of the application to speed up the proceedings, is not subject to appeal.

25. If the reasonable time stipulated for pre-trial proceedings in a criminal case is violated, the right to file a compensation application may be exercised after a complaint is filed to a prosecutor or the head of an investigative body in the manner stipulated in Part 2 of Article 123 of the CrPC RF.

A refusal to satisfy this complaint, as well as failure of the specified persons to consider it, does not preclude one from filing a compensation application.

If a complaint regarding the length of pre-trial proceedings in a criminal case was not filed, though there is information that a decree was adopted to prolong the period of pre-trial investigation (in relation to the case), which was appealed against by the applicant in the manner stipulated in Part 1 of Article 123 and (or) Article 125 of the CrPC RF, this fact is to be regarded as compliance with the requirement to file an application to speed up the proceedings (Part 7 of Article 3 of the Law on Compensation).

Returning a Compensation Application

26. A compensation application is subject to return if it is filed by an inappropriate person (Items 1 and 4 of Part 1 of Article 254 of the CAJP RF, Item 1 of Part 1 of Article 2226 of the ComPC RF).

The following persons have no right to file a compensation application:

- persons who demand compensation to be paid for violation of the right to execution of judicial acts, that do not stipulate recovery from federal budgetary funds, budget of a constituent entity of the Russian Federation, local budget (Part 1 of Article 1 of the Law on Compensation);
- representatives whose powers to sign and file a compensation application on behalf of persons entitled to receive compensation are not confirmed in the manner stipulated in law. It should be taken into account that the representative's right to file a compensation application in accordance with Part 2 of Article 2911 of the ComPC RF should be specified in his power of attorney;
- persons in whose regard the European Court of Human Rights adopted a decision on the admissibility of their applications regarding an alleged violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time or adopted a decision on the merits of the case (Part 2 of Article 6 of the Law on Compensation);
- injured or other interested persons, damaged by an act prohibited by criminal law, who filed a compensation application prior to the termination of proceedings in a criminal case, provided that a ruling to suspend the pre-trial investigation due to the failure to establish the person subject to being drawn as the accused was adopted before June 25, 2013 (Part 71 of Article 3 of the Law on Compensation, Part 2 of Article 5 of Federal Law No. 273 of July 21, 2014 “On Amendments to Article 3 of the Federal Law “On Compensation for Violation of the Right to Trial Within a Reasonable Time or the Right to have a Judicial Act Enforced Within a Reasonable Time” and to Certain Legal Acts of the Russian Federation”);
- persons that do not fall within the scope of Part 1 of Article 1 of the Law on Compensation.

27. A compensation application is deemed as filed in violation of the stipulated manner and of the time period and is subject to return, if it is filed:

- not through the court that adopted the decision;
- without the interested person first filing an application to speed up the proceedings or a complaint in the manner stipulated in Part 2 of Article 123 of the CrPC RF during pre-trial proceedings in a criminal case;
- upon the expiry of six months since the last judicial act entered into force;
- prior to the expiry of three years since the statement of claim, administrative statement of claim, application in relation to the pending case was filed to the court of first instance;
- upon the expiry of six months since the final court decision entered into force or since the day when the decision following pre-trial proceedings was adopted;
- prior to the expiry of four years since criminal prosecution was initiated or since the time when the person was acknowledged as an injured person, civil

- plaintiff, civil defendant in the pending criminal case, provided that the suspect or accused is established;
- prior to the expiry of four years since the injured or another interested person filed a notification about a crime, if neither the suspect nor the accused is established;
 - prior to the expiry of four years since the person's property was arrested (including exclusive rights), if the case is still pending;
 - upon the expiry of six months since the proceedings on the enforcement of the judicial act terminated;
 - earlier than six months since the time period for execution of a judicial act stipulated in federal law expired (Article 3 of the Law on Compensation, Article 250 of the CAJP RF, Article 2221 of the ComPC RF).

28. The court returns an application submitted in violation of the submission period, provided that no motion to restore the expired period is received (Item 2 of Part 1 of Article 254 of the CAJP RF, Item 2 of Part 1 of Article 2226 of the ComPC RF).

29. The six-month term for applying to court for compensation, stipulated in Item 1 of Part 5, Parts 6, 71, 72 and 8 of Article 3 of the Law on Compensation, Parts 2, 4, 5, 6 of Article 250 of the CAJP RF, Paragraph 1 of Part 2, Part 3 Article 2221 of the ComPC RF, can be restored provided that there is the corresponding motion filed by the person that submitted the compensation application.

In a commercial court authorized to consider a compensation application, the motion to restore the expired period is considered by a single judge of that court, according to the rules stipulated in Article 117 of the ComPC RF.

According to Item 2 of Part 1 of Article 2226 of the ComPC RF, a refusal to satisfy the aforementioned motion constitutes grounds for returning the compensation application.

According to Part 2 of Article 257 the CAJP RF, a motion to restore the expired period is considered in a preliminary court session. If it is established that the period for filing an administrative statement of claim for award of compensation was missed without a good reason, the court decides to refuse to satisfy it without examining other facts of the administrative case.

30. Pursuant to Part 1 of Article 95 of the CAJP RF, it is necessary to take into account when resolving the issue of restoring the expired period, that this period can be restored only if there were good reasons for missing it, established by the court. Such reasons may be circumstances that objectively exclude the possibility to timely apply to the court for compensation and that do not depend on the person submitting a motion for restoration of the period (e.g., illness preventing the person

from applying to court, helpless state, failure to timely forward a copy of a document to a person and other circumstances deemed as good by the court).

Such circumstances cannot include references of an organization-applicant that it was necessary to coordinate the filing of a compensation application with any person, that the applicant's representative was on a business trip (vacation), references to staff changes, absence of an attorney in the organization, change of the head of organization (or his absence on a business trip or vacation), as well as to other organizational circumstances of the legal person applying for compensation (Part 2 of Article 117 of the ComPC RF).

31. A compensation application may be rejected by a court on the basis of Item 3 of Part 1 of Article 254 of the CAJP RF, Item 5 of Part 1 of Article 2226 of the ComPC RF, given the fact that the term of court proceedings or term of execution of a judicial act signifies that there was no violation of the right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time if, in particular, the total duration of proceedings does not exceed the sum of terms of its consideration stipulated by law for each court instance, of the periods stipulated in law for execution of a judicial act and performance of pre-trial proceedings in a criminal case are observed.

It is not allowed to return a compensation application, if the presence or absence of violation of the right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time can be ascertained only during the consideration of materials of the case.

32. By virtue of Part 4 of Article 254 of the CAJP RF, Part 5 of Article 2226 of the ComPC RF, the return of a compensation application does not preclude repeated application to court after the elimination of circumstances that served as grounds for the return, except when such circumstances are irremediable (e.g. a person is not entitled to apply for compensation).

Preparation of a Case to Court Proceedings and Consideration of a Compensation Application

33. After accepting a compensation application, a judge prepares the case for court proceedings in the manner stipulated in procedural legislation, in compliance with the rules of Article 257 of the CAJP RF, Part 3 Article 2228 of the ComPC RF.

The matter of time and place of holding a preliminary court session is resolved during the acceptance of the compensation application for proceedings, and a corresponding decree is adopted in this regard. Herewith, in the aforementioned decree (hereafter referred to as “acceptance decree”), the court may simultaneously indicate the actions that the parties and other interested persons must perform

within the procedure of preparing the case for the court session (Part 4 Article 253 of the CAJP RF, Part 3 Article 2224 of the ComPC RF).

34. When preparing a compensation case for court proceedings in accordance with Part 1 of Article 257 of the CAJP RF, Part 3 of Article 2228 of the ComPC RF, the court defines the persons participating in the case, including the body, organization or official obliged to execute a judicial act.

By implication of the above-mentioned provisions, the body, organization or official obliged to execute a judicial act shall mean the persons that are obliged to execute a judicial act, for which the reasonable term of execution was violated, and also the corresponding financial body, body of the Federal Treasury or a body that opens and operates the personal account of a public establishment of a constituent entity of the Russian Federation or a personal account of a municipal public establishment, as bodies that organize the execution of the judicial act according to the budgetary laws of the Russian Federation, or the Federal Bailiff Service as the authority that performs enforcement of judicial acts on the territory of the Russian Federation.

In the acceptance decree, the court sets a term for the aforementioned persons to present explanations, objections and (or) arguments regarding the compensation application, and also other evidence necessary for the consideration of the case or resolves the issue of drawing those persons to participation in the case as interested persons, third persons (Parts 2, 3 and 4 Article 63, Item 5 Part 3 Article 135 of the CAJP RF, Article 66, Item 1 Part 1 Article 135 of the ComPC RF).

With these objectives in view, copies of the acceptance decree are sent to the person who filed the compensation application, to the body, organization or official that failed to execute a judicial act within a reasonable time, to other interested persons and also to persons, listed in Part 9 of Article 3 of the Law on Compensation, that represent the interests of a public law entity, in particular to the corresponding financial bodies (Part 5 Article 253 of the CAJP RF, Part 4 of Article 2224 of the ComPC RF).

This decree may also be sent to the prosecutor who exercised (is exercising) supervision over the procedural activities of inquiry and pre-trial investigation bodies in regard of the case in which the reasonable time periods were violated (Part 1 of Article 37 of the CrPC RF).

35. According to Article 6 of the BC RF, financial bodies are the Ministry of Finance of the Russian Federation (hereafter referred to as “the Ministry of Finance of Russia”), executive bodies of constituent entities of the Russian Federation that prepare and organize the realization of budgets of the constituent entities of the Russian Federation (financial bodies of the constituent entities of the Russian Federation), bodies (officials) of local administrations of municipal

entities that prepare and organize the realization of local budgets (financial bodies of municipal entities).

It is necessary to take into account that the interests of the Ministry of Finance of Russia are represented within the territory of the Russian Federation by departments of the Federal Treasury in the constituent entities of the Russian Federation.

In this regard, in order to timely consider cases on award of compensation, copies of acceptance decrees and copies of compensation application are forwarded not only to the Ministry of Finance of Russia, but also to the corresponding department of the Federal Treasury.

In cases on award of compensation, it is obligatory to draw to participation in the case the representatives of financial bodies representing the interests of public law entities, and where stipulated in Items 2 and 4 of Article 3 of the Law on Compensation – also to draw the principal managers of budgetary funds.

By implication of the above-mentioned provisions of the Law on Compensation, the principal managers of budgetary funds of the corresponding budgets are the principal managers of budgetary funds of the federal budget, of the budget of a constituent entity of the Russian Federation, of a budget of a municipal entity depending on to which system the body, organization, official whose actions (failure to act) caused the violation of right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time, belongs.

For instance, if protracted non-execution of a judicial act on recovery of monetary funds from the federal budget under monetary obligations of a federal public establishment within the jurisdiction of a federal executive body constituted grounds for application to court for compensation, the interests of the Russian Federation in the case of award of compensation for violation of right execution of a judicial act within a reasonable time are represented by the Ministry of Finance of Russia and the principal manager of funds of the federal budget – the corresponding federal executive body.

If the grounds for application to court for award of compensation for the violation of right to a criminal trial within a reasonable time appeared due to the breach of reasonable time limits in pre-trial proceedings in a criminal case, the interests of the Russian Federation are represented by the Ministry of Finance of Russia and the principal manager of funds of the federal budget, depending on the body performing pre-trial investigation or inquiry.

36. For the purpose of implementation of Part 5 Article 253 of the CAJP RF, Part 4 Article 2224 of the ComPC RF, the bodies, organizations or officials obliged to

execute a judicial act, regarding execution of which the reasonable time period was violated, are as follows:

- a) on claims to a public law entity on recovery of monetary funds at the expense of the budget of the corresponding public law entity (except for judicial acts for recovery of monetary funds in the manner of subsidiary liability of managers of funds of the corresponding budget of the budgetary system of the Russian Federation), for award of compensation for violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time at the expense of the corresponding budget of the budgetary system of the Russian Federation – the Ministry of Finance of Russia, financial bodies of constituent entities of the Russian Federation, financial bodies of municipal entities (Parts 1, 3 and 4 Article 2422 of the BC RF, Item 3, Item 3 of Part 9 Article 3 of the Law on Compensation),
- b) on claims that provide for recovery from federal budgetary funds under monetary obligations of federal public establishments, federal public authorities (federal state bodies) – the federal public establishment, federal public authority (federal state body) (as the debtor) and the body of the Federal Treasury at the place of opening of personal accounts for the debtor as receiver of funds of the federal budget for operations on execution of expenses of the federal budget, as an authority that organizes the execution of judicial acts according to the budgetary legislation of the Russian Federation (Part 1 Article 2423 of the BC RF), and if the debtor's accounts were opened in an establishment of the Central Bank or in a credit organization – the debtor and the relevant establishment of the Central Bank of the Russian Federation or the credit organization;
- c) on claims that provide for recovery in the manner of subsidiary liability under obligations of a federal public establishment, in case of their insufficiency – the principal manager of funds of the federal budget and the body of the Federal Treasury at the place of opening of a personal account for the principal manager of funds of the federal budget as receiver of funds of the federal budget, as a body that organizes the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation (Part 10 of Article 2423 of the BC RF),
- d) on claims that provide for recovery from budgetary funds of a constituent entity of the Russian Federation under monetary obligations of public establishments of a constituent entity of the Russian Federation, of a public authority of a constituent entity of the Russian Federation (state body of a constituent entity of the Russian Federation) – the public establishment of a constituent entity of the Russian Federation, public authority of a constituent entity of the Russian Federation (state body of a constituent entity of the Russian Federation) (as the debtor) and the body that opens and operates the personal account of the public establishment of a constituent entity of the Russian Federation, at the place of opening of personal accounts for the debtor as receiver of funds of the budget of the constituent entity of the

Russian Federation for audit of operations on execution of expenses of a local budget, as an authority that organizes the execution of a judicial act according to the budgetary legislation of the Russian Federation (Part 1 Article 2424 of the BC RF), and if the debtor's accounts were opened in an establishment of the Central Bank or in a credit organization – the debtor and the relevant establishment of the Central Bank of the Russian Federation or the credit organization;

e) on claims that provide for recovery in the manner of subsidiary liability under obligations of a public establishment of a constituent entity of the Russian Federation in case of their insufficiency – the principal manager of budgetary funds of a constituent entity of the Russian Federation and the body at the place of opening of a personal account for the principal manager of budgetary funds of the constituent entity of the Russian Federation as to the receiver of funds of the budget of the constituent entity of the Russian Federation, as the body that organizes the execution of a judicial act according to the budgetary legislation of the Russian Federation (Part 9 of Article 2424 of the BC RF),

f) on claims that provide for recovery from the local budgetary funds under monetary obligations of municipal public establishments, of local self-government bodies – the municipal public establishment, local self-government body (as the debtor) and the body that opens and operates personal account of the municipal public establishment at the place of opening of personal accounts for the debtor as receiver of funds of the local budget for audit of operations on execution of expenses of the local budget, as the body that organizes the execution of a judicial act according to the budgetary legislation of the Russian Federation (Part 1 of Article 2425 of the BC RF), and if the debtor's accounts were opened in an establishment of the Central Bank or in a credit organization – the debtor and the relevant establishment of the Central Bank of the Russian Federation or the credit organization;

g) on claims that provide for recovery in the manner of subsidiary liability under obligations of a municipal public establishment in case of their insufficiency – the municipal manager of budgetary funds and the body at the place of opening of a personal account for the municipal manager of budgetary funds as receiver of funds of the local budget, as the body that organizes the execution of a judicial act according to the budgetary legislation of the Russian Federation (Part 9 of Article 2425 of the BC RF),

h) on claims regarding the imposition of obligations upon public authorities, local self-government bodies, their officials – the public authority, local self-government body, their officials, state or municipal servants, obliged in accordance with a court decision to perform payments at the expense of the corresponding budget of the budgetary system of the Russian Federation; the body of the Federal Treasury at the place of opening of a personal account for audit of operations on execution of the respective budget to the debtor as receiver of funds of the respective budget or the body at the place of opening

of account for the debtor as receiver of funds of the respective budget, as bodies that organize the execution of the judicial act according to the budgetary legislation of the Russian Federation; or the Federal Bailiff Service as the body that performs enforcement of judicial acts on the territory of the Russian Federation.

The court or the judge that considered (is considering) a case, in relation to which grounds for submission of a compensation application appeared, and also persons who participated (are participating) in this case cannot drawn to participation in the case regarding compensation as interested persons. At the same time, the aforementioned court or judge is entitled to submit a relevant statement on the case.

37. For the purposes of Part 5 of Article 253 of the CAJP RF, Part 4 of Article 2224 of the ComPC RF, other interested persons shall be persons whose actions (failure to act) caused the increase of time of proceedings or of execution of a judicial act (e.g. inquiry and investigation authorities, territorial bodies of the Federal Bailiff Service, their officials).

In particular, a copy of the acceptance decree may be forwarded to a body of the Federal Treasury, the Federal Bailiff Service, the Investigative Committee of the Russian Federation, to their officials.

38. A compensation application is considered by a court of general jurisdiction in accordance with the general rules of the CAJP RF, with due regard to the features stipulated in Chapter 26 of the CAJP RF and by a commercial court – in accordance with the general rules of claim procedure with due regard to the features stipulated in Chapter 271 of the ComPC RF.

Proceedings in a compensation case are subject to termination if, in particular:

- the court accepted the compensation application from a person not entitled to submit it (Item 1 of Part 1 of Article 128, Item 1 of Part 1 of Article 194 of the CAJP RF, Item 1 of Part 1 of Article 150 of the ComPC RF);
- there is already an effective court decision on award of compensation in regard of the person who submitted the compensation application (Item 2 of Part 1 of Article 194 of the CAJP RF, Item 2 of Part 1 of Article 150 of the ComPC RF).

39. Adoption of a decision in a compensation case does not preclude repeated application to court with another compensation application, if the grounds for its submission will be other facts related to a different period of protracted proceedings, execution of a judicial act, criminal prosecution. Herewith, the facts previously examined by the court upon the initial request for compensation, are not subject to proof and may not be contested in another similar case involving the same applicant, administrative plaintiff.

Under these circumstances, a repeated application to speed up the proceedings is not required.

Herewith, the total accumulated duration of court proceedings or of execution of a judicial act may be assessed by the court from the standpoint of duration of proceedings or execution of the judicial act and of its significance for the applicant.

***Facts That Have Significance for the Correct Adjudication
of a Compensation Case***

40. When considering a compensation case, the court is not bound by the arguments contained in it and determines the fact of violation of the right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time on the basis of the contents of judicial acts and of other materials of the case, taking into account the legal and factual complexity of the case, the applicant's behavior, the effectiveness and sufficiency of actions of the court or judge, taken to timely consider the case, the effectiveness and sufficiency of actions of the head of the inquiry body, head of the inquiry department, of the inquiry body, inquiry officer, head of an investigative body, of the investigator, prosecutor, taken for the purpose of criminal prosecution, as well as of actions of bodies, organizations or officials obliged with execution of judicial acts, taken for the timely execution of a judicial act, the overall duration of court proceedings and non-execution of a judicial act.

Since the fact of violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time is in itself proof of caused non-property damage (violation of the right to judicial protection), and its compensation does not depend on the guilt of a body or official, the person applying for compensation should not prove the existence of such damage. At the same time, according to Item 7 of Part 2 of Article 252 of the CAJP RF, Item 6 of Article 2223 of the ComPC RF, the applicant should substantiate the amount of requested compensation.

The establishment of the fact of violation of the right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time constitutes grounds for the award of compensation (Parts 3 and 4 of Article 258 of the CAJP RF, Part 2 of Article 2228 of the ComPC RF).

41. It should be taken into account that when resolving the issue of violation of right to trial within a reasonable time, the assessment of sufficiency and effectiveness the court' actions is performed by the court considering the compensation case on the basis of materials of the case, in which the violation of the time periods occurred, as well as on the basis of other evidence.

42. When assessing the legal and factual complexity of a case, it is necessary to take into consideration the circumstances that impede the consideration of the case, the number of co-plaintiffs, co-defendants and other persons participating in the case, the need to appoint expert examinations, their complexity, the need for interrogation of a significant number of witnesses, the participation of foreign persons in the case, the need to apply foreign law norms, the scope of indictment, the number of suspects, accused, defendants, injured persons, as well as the need to seek legal assistance from a foreign state.

At the same time, such circumstances as consideration of the case by various court instances, the participation of public authorities in the case cannot by itself serve as evidence of complexity of the case.

43. When assessing the plaintiff's behavior, courts should take into consideration the fact that it cannot be held liable for the protracted consideration of the case due to the use of procedural means provided in legislation for the protection of his violated or disputed rights, freedoms and lawful interests, in particular for the change of claims stated in court, for the inspection of case materials, filing of motions, appeal against adopted judicial acts.

At the same time, by implication of Part 2 of Article 1 of the Law on Compensation, the court may decide to refuse to satisfy a compensation application, if non-performance of procedural obligations (e.g. violation of the established order in the court session resulting in the postponement of consideration of the case), or abuse of procedural rights (in particular, evasion from service of court notifications) by the plaintiff resulted in violation of the reasonable time of court proceedings (Parts 6, 7, 9 of Article 45 of the CAJP RF, Part 2, 3 of Article 41 of the ComPC RF, Article 35 of the CPC RF).

44. Actions of the court are considered sufficient and effective, if they are performed in order to ensure a timely consideration of the case, in particular, if the court effectively prepared the case for court proceedings, administered the court session so as to create conditions for a comprehensive and detailed examination of evidence, as well as for the clarification of the facts, and if matters which had no bearing in the case were removed from the proceedings (Article 143 of the CAJP RF, Article 153 of the ComPC RF, Article 156 of the CPC RF, Article 243 of the CrPC RF).

In view of the above, matters subject to examination include those pertaining to the timely nature of appointment of the case for hearing, conduct of court sessions at the appointed time, reasonableness of postponement of the case, fulfillment of time requirements for drafting a reasoned decision and sending it to the parties by the judge, the full nature of the judge's control over the actions of court staff performing their duties (in particular, notification of persons participating in the

case about the time and place of the court session, timely preparation of minutes of court sessions and familiarization of the parties with them), the complete and timely nature of measures taken by the judge regarding the participants of proceedings, such as measures of procedural compulsion aimed at preventing bad faith or protraction in the proceedings, whether the judge exercised control over the period of expert examination and imposition of fines, took measures in regard of other persons obstructing the administration of justice, etc.

It should be noted that the law provides for postponement of proceedings, appointment and performance of expert examinations, for sending the criminal case back to the prosecutor in order to eliminate violations of criminal procedure, committed during inquiry and preliminary investigation. However, if the aforementioned actions were performed by the court without substantiation and led to delays of proceedings, they can be regarded as violation of the right to trial within a reasonable time.

45. Actions of the head of the inquiry body, head of the inquiry department, of the inquiry body, inquiry officer, head of the investigative body, investigator, prosecutor may be considered sufficient and effective, if they take necessary measures aimed at the timely protection of rights and lawful interests of persons and organizations injured by crimes, as well as at the protection against unlawful and unsubstantiated accusation, conviction, limitation of rights and freedoms.

46. Actions performed by bodies, organizations or officials obliged to execute a judicial act are considered sufficient and effective, when performed in order to ensure the timely execution of that act.

Herewith, one should take into account, in particular, the timely issue and forwarding of a duly drawn enforcement document, as well as of other documents referred to in Article 2421 of the BC RF and the Law on Enforcement Procedure, by the court or recoveror to the body, organization or official obliged with execution of the judicial act; it should be established whether a delay in the issue or forwarding of the enforcement document was caused by the applicant's actions, for instance, its failure to provide bank account details (Part 5 of Article 253 of the CAJP RF, Part 4 of Article 2224 of the ComPC RF, Item 13 of Article 2423, Item 12 of Article 2424, Item 12 of Article 2425 of the BC RF).

47. In the assessment of timely nature of measures taken by the court, prosecutor, head of investigative body, investigator, head of the inquiry body, head of the inquiry department, by the inquiry body, inquiry officer, as well as by bodies, organizations and officials obliged with execution of the judicial act, the exceptional circumstances, which determined the need of immediate administration of justice and (or) execution of judicial act, failure to note which led to deprivation of a person of judicial protection, should be taken into account.

48. Circumstances pertaining to the organization of work of the court, inquiry bodies, investigation bodies and prosecution bodies, as well as of bodies and officials executing judicial acts cannot be regarded as grounds justifying the violation of reasonable time for trial or execution of a judicial act (for instance, substitution of a judge due to illness, vacation, termination or suspension of judicial powers, absence of necessary staff, absence of funding necessary for execution) (Part 4 of Article 10 of the CAJP RF, Part 4 of Article 61 of the ComPC RF, Part 4 of Article 61 of the CrPC RF, Part 4 of Article 61 of the CPC RF).

49. The total duration of proceedings shall include only the time when the case was processed by the court, inquiry bodies, investigative bodies, prosecution bodies.

50. The total duration of civil, administrative and commercial proceedings includes the period starting from the date when the statement of claim, administrative statement of claim or application is filed to the court of first instance, up to the date when the last judicial act in the considered case enters into force, and, as regards pending cases – to the date when a compensation application is filed to the court authorized to consider it (Part 5 of Article 3 of the Law on Compensation, Item 4 of Part 2 of Article 252 of the CAJP RF, Item 4 of Article 2223, 278 of the ComPC RF).

The period from adoption of a decree to transfer a cassation or supervisory appeal to a court of cassation or supervision and to the day on which the last judicial act finalizing the consideration of the case or adjudicating on its merits enters into force, shall be included into the total duration of proceedings (Articles 330, 342 of the CAJP RF, Articles 29114, 30812 of the ComPC RF, Articles 390, 39112 of the CPC RF).

The period from the day on which the last challenged judicial act enters into force to the day on which a judge of a court of cassation or supervision issues a decree refusing to transfer the cassation or supervisory appeal to the court of cassation or supervision, shall not be included into the total duration of proceedings.

The period of proceedings for the review of effective judicial acts due to new or newly discovered facts is included into the total duration of proceedings, if the results of review lead to adoption of a judicial act satisfying the application and reversing the earlier adopted judicial act (Item 2 of Part 1 of Article 351 of the CAJP RF, Part 1 and 2 of Article 317 of the ComPC RF, Parts 1 and 3 of Article 397 of the CPC RF).

51. The total duration of criminal proceeding is calculated from the start of criminal prosecution to the adoption of a decision following pre-trial proceedings or entry of the final court decision into force.

The total duration of criminal proceedings in a pending criminal case is calculated from the start of criminal prosecution until the day a compensation application is filed to the court authorized to consider the application.

If the injured person, the civil plaintiff or civil defendant files the compensation application, the total duration of proceedings is calculated from the moment when such persons were acknowledged, respectively, as the injured person, civil plaintiff or civil defendant.

If (in violation of Part 1 of Article 42 of the CrPC RF) the person affected by the crime was not immediately acknowledged as an injured person, the total duration of the criminal proceedings is calculated including the time that passed from the day when such a person filed a notification about a crime.

52. If a compensation application is submitted by the person who filed a notification about a crime regarding the case in which no accused person has been established, and the pre-trial investigation was suspended for that reason, the total duration of proceedings is calculated from the day when the notification about a crime was filed to the day when the corresponding decree was adopted (Part 71 of Article 3 of the Law on Compensation, Part 6 of Article 250 of the CAJP RF).

If initiation of criminal proceedings is denied or the proceedings are terminated due to the expiry of the prescription period of criminal prosecution, the total duration of proceedings is calculated from the day when the notification about a crime was filed to the day when the corresponding decrees were adopted.

53. If a person whose property, including the exclusive rights, was arrested, files a compensation application, the total duration of criminal proceedings regarding such a measure of a procedural compulsion is calculated from the day when the decision on the arrest was adopted to the day on which a decision following pre-trial proceedings was issued or on which the final court decision entered into force.

If proceedings in a criminal case are not terminated, the total duration of proceedings is calculated from the day when the decision on arrest of property was adopted to day on which the compensation application is filed to the court authorized to consider the application (Part 72 of Article 3 of the Law on Compensation, Part 7 of Article 250 of the CAJP RF).

54. It should be noted that if the application is filed by the injured person or the civil plaintiff, the total duration of proceedings includes the period from termination of proceedings in the criminal case to the cancellation of the ruling (decree) on termination of proceedings.

However, if the suspect or accused files a compensation application, the aforementioned period is not included, as during this period said person was not

subject to prosecution, except when the ruling (decree) on termination of proceedings in the case or of criminal prosecution is revoked following a complaint filed by the suspect or accused (Part 7 of Article 3 of the Law on Compensation, Part 5 of Article 250 of the CAJP RF, Articles 24 and 25, Part 2 of Article 27 of the CrPC RF).

55. The total duration of execution of a judicial act should include the period from the day on which the applicant or the person, in whose favor the judicial act was adopted, files the motion (request), on which the recoveror requests the writ of execution and the attached documents referred to in Item 2 of Article 2411 of the BC RF or in the Law on Enforcement Procedure to be forwarded to the body, organization, official obliged with execution of the judicial act, or from the day on which a writ of execution and the indicated documents are received from such a person by the body, organization, official obliged with execution of judicial acts, to the moment on which execution is completed (Part 5 of Article 353 of the CAJP RF, Part 31 of Article 319 of the ComPC RF, Parts 1 and 3 of Article 428 of the CPC RF, Item 6 of Article 2422, Item 8 of Article 2423, Item 7 of Article 2424, Item 7 of Article 2425 of the BC RF).

If the court allows to postpone execution or allows execution in installments, this period is included into the overall duration of execution of a judicial act (Articles 320, 324 of the ComPC RF, 358 of the CAJP RF, Article 434 of the CPC RF).

56. The total duration of court proceedings or of execution of a judicial act includes the period of suspension of proceedings or execution.

57. Courts should take into account the fact that if the total 3-year period of civil, administrative or commercial proceedings or the 4-year period of criminal proceedings is exceeded, this does not by itself constitute a violation of the right to trial within a reasonable time.

However, even if the 3-year period of court proceedings or the 4-year period of criminal proceedings is not exceeded, certain facts of the case may evidence that a violation of right to trial within a reasonable time did occur (Item 2 of Part 5, Part 7, 71, 72 of Article 3 of the Law on Compensation).

58. When considering cases on award of compensation, courts have no right to evaluate the lawfulness and substantiation of judicial acts in the case regarding which the compensation application is presented.

Adopting a Decision on Award of Compensation

59. By implication of Part 2 of Article 1 of the Law on Compensation, compensation is not awarded, if the protracted nature of court proceedings or of

execution was caused only by the actions of the administrative plaintiff, applicant or by extreme and unpreventable circumstances (force majeure).

60. In each case the court should ensure an individual approach to the assessment of amount of compensation for violation of right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time.

The amount of compensation is determined by the court with due regard to the claims of the applicant, facts of the case or the execution procedure in which there were violations, the duration of violations, as well as their consequences and their significance for the person that filed the compensation application.

When determining the compensation amount, the court should take into account the practice of the European Court of Human Rights, as well as the amounts of compensation awarded by this Court for similar violations (Part 2 of Article 2 of the Law on Compensation).

61. If during consideration of compensation cases certain facts are established that contributed to violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time, the courts should draw the attention of corresponding bodies, organizations or officials to such facts and to the need to take corrective measures.

For instance, pursuant to Article 200 of the CAJP RF, if the court finds violations of lawfulness, it issues a special decree addressed to the corresponding bodies, organizations or officials, which are obliged to inform the court about the corrective measures taken in order to remedy the violations.

62. The indexation of amounts awarded, performed in accordance with Article 208 of the CPC RF, Article 183 of the ComPC RF due to the non-execution of the judicial act, shall not deprive of the right to receive compensation in accordance with the Law on Compensation.

Execution of a Court Decision to Award Compensation

63. To ensure timely execution of the court decision to satisfy a compensation application, its operative part should indicate the compensation amount, the body obliged to execute the judicial act in the compensation case, as well as bank account details of the person that filed the compensation application, to which the awarded monetary sums must be transferred as compensation (Part 2 of Article 5 of the Law on Compensation, Sub-Item “b” of Item 2 of Part 1 of Article 259 of the CAJP RF).

The operative part of the decision on award of compensation for violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time should indicate that the monetary funds are recovered from the corresponding public law entity, represented by the corresponding financial body at the expense of the corresponding budget of the budgetary system of the Russian Federation.

For instance: “To recover from the Russian Federation, represented by the Ministry of Finance of the Russian Federation, in favor of the applicant (surname, name, patronymic or name of a legal person) compensation for violation of right to trial within a reasonable time in the amount of..., at the expense of the federal budget”. The amount awarded as compensation for violation of right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time shall be transferred using the bank account details of the person in whose favor the compensation is recovered.

It is prohibited to transfer the awarded compensation to the account of the representative of the person that filed the corresponding compensation application.

However, if there are circumstances making it objectively impossible for the person in whose favor compensation is awarded to present his bank account details, the court, upon the applicant’s personal motion, may stipulate a different way of execution of the compensation decision.

64. Pursuant to Part 5 of Article 353 of the CAJP RF, Paragraph 2 of Part 3 of Article 319 of the ComPC RF in conjunction with Paragraph 4 of Item 2 of Article 2421 of the BC RF, a writ of execution issued by virtue of the court decision on award of compensation for violation of right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time (hereinafter referred to as a “writ of execution”), is forwarded by the court for execution independent of the recoverer’s motions.

A writ of execution and a copy of decision on award of compensation, adopted by a court of general jurisdiction, is forwarded for execution by the court no later than on the day following the day of adoption of the court decision in its final form, and forwarded by a commercial court within five days from the day on which the decision on award of compensation is adopted (Part 3 of Article 259, Part 3 of Article 2229, Paragraph 2 of Part 3 of Article 319 of the ComPC RF).

65. A court decision on award of compensation for violation of right to trial within a reasonable time or of right to execution of a judicial act within a reasonable time is executed in the manner and within the period stipulated in Chapter 241 of the BC RF.

66. In view of adoption of this ruling, Ruling No. 30/64 of the Plenary Session of the Supreme Court of the Russian Federation and of the Plenary Session of the Supreme Commercial Court of the Russian Federation of 23 December, 2010 “On Certain Issues Arising during Consideration of Cases on Award of Compensation for Violation of Right to Trial Within a Reasonable Time or of Right to Execution of a Judicial Act within a Reasonable Time” is no more subject to application.

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