



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

No. 10

Moscow

18 April 2017

## **On Certain Issues of Court Application of Provisions of the Civil Procedure Code of the Russian Federation and of the Commercial Procedure Code of the Russian Federation regarding Simplified Proceedings**

In order to ensure the correct and uniform application of provisions regarding simplified proceedings, contained in the Civil Procedure Code of the Russian Federation (hereinafter referred to as the CPC RF) and the Commercial Procedure Code of the Russian Federation (hereinafter – ComPC RF) by courts of general jurisdiction and commercial courts, 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 No. 3 of 5 February 2014 “On the Supreme Court of the Russian Federation”, hereby rules to provide the following explanations:

### ***General Provisions. Cases Considered in Simplified Proceedings***

1. Simplified proceedings are a special manner of consideration of cases, stipulated in Chapter 21<sup>1</sup> of the CPC RF and Chapter 29 of the ComPC RF, in accordance with which courts of general jurisdiction consider cases in action proceedings, and commercial courts consider cases in action proceedings and cases arising from administrative and other public legal relations. Unlike court order proceedings, the

consideration of cases in simplified proceedings does not exclude the existence of a dispute at law.

Cases referred to in Part 1 of Article 232<sup>2</sup> of the CPC RF, Parts 1 and 2 of Article 227 of the ComPC RF, and, with the parties' consent, other cases as well are considered by justices of the peace, by other courts of general jurisdiction and commercial courts in simplified proceedings.

2. A statement of claim (application) regarding the claims considered in simplified proceedings may be submitted by citizens – natural persons and individual entrepreneurs, by organizations, state bodies, local self-government bodies, other bodies. A prosecutor may apply to a court of general jurisdiction, a commercial court with a statement of claim (application) regarding the claims considered in the aforementioned manner within the scope of her/his powers.

3. With regard to the provisions of Item 5 of Part 1 of Article 23 of the CPC RF, justices of the peace consider in simplified proceedings the cases based on statements of claim for the recovery of monetary funds or reclamation of property, cases based on statements of claim for the declaration of property rights, where the amount of claim does not exceed fifty thousand rubles, except for cases regarding the inheritance of property and cases arising from relations regarding the creation and use of results of intellectual activity (Part 1 of Article 232<sup>2</sup> of the CPC RF).

Other cases stipulated in Article 232<sup>2</sup> of the CPC RF are considered in simplified proceedings by district courts.

4. In accordance with Item 1 of Part 1 of Article 232<sup>2</sup> of the CPC RF, Item 1 of Part 1 of Article 227 of the ComPC RF, courts of general jurisdiction and commercial courts consider cases based on statements of claim regarding the recovery of monetary funds in simplified proceedings, if the amount of claim considered by a court of general jurisdiction does not exceed a hundred thousand rubles, and the amount of claim considered by a commercial court does not exceed five hundred thousand rubles (where the defendant is a legal person) or two hundred fifty thousand rubles (where the defendant is an individual entrepreneur). Herewith, the stated claims are subject to consideration in simplified proceedings only if:

- the aforementioned claim is not subject to consideration in court order proceedings;

- a court order may be issued in regard of the aforementioned claims, but a justice of the peace or a commercial court refused to accept an application for the adoption (issue) of a court order in regard of those claims, or the court order was cancelled (Part 3 of Article 125, Articles 128 and 129 of the CPC RF, Part 3 of Article 229<sup>4</sup>, Part 4 of Article 229<sup>5</sup> of the ComPC RF).

5. In accordance with Item 1 of Part 1 of Article 232<sup>2</sup> of the CPC RF, Item 1 of Part 1 of Article 227 of the ComPC RF, the monetary funds subject to recovery in simplified proceedings are the principal debt, as well as interest and forfeits (fines, fees) accrued by virtue of federal law or a contract; their overall sum must not exceed the limits stipulated in the aforementioned norms.

If a claim considered by a court of general jurisdiction, commercial court consists of several independent claims, the amount of claim is determined by the sum of all claims.

6. If there are claims arising from civil legal relations, one of which is of property nature and listed in Part 1 of Article 232<sup>2</sup> of the CPC RF, Parts 1 and 2 of Article 227 of the ComPC RF, and the other is of non-property nature, such claims are considered in simplified proceedings, unless the court severs the non-property claim into separate proceedings (Part 6 of Article 232<sup>2</sup> of the CPC RF, Part 7 of Article 227 of the ComPC RF). For example, cases in which a consumer states claims for the recovery of monetary funds (subject to consideration in simplified proceedings) and also states a claim for compensation for moral harm, are considered in simplified proceedings.

7. By implication of Item 1 of Part 1 of Article 232<sup>2</sup> of the CPC RF, courts of general jurisdiction consider cases for reclamation of both movable and real property in simplified proceedings. Herewith, the price of real property is established based on its cadastre value, and the price of movable property and of real property, where there is no information about its cadastre value, is established based on their market value.

8. In accordance with Item 2 of Part 1 of Article 232<sup>2</sup> of the CPC RF, cases based on statements of claim for declaration of property rights are considered in simplified proceedings, if the amount of claim does not exceed one hundred thousand rubles. For example, such cases include cases regarding the declaration of title to real property.

9. By virtue of Item 3 of Part 1 of Article 232<sup>2</sup> of the CPC RF, Item 1 of Part 2 of Article 227 of the ComPC RF, courts of general jurisdiction and commercial courts consider cases regarding claims based on documents presented by the plaintiff and stipulating monetary obligations of the defendant, which the defendant acknowledges but does not fulfil, and (or) based on documents confirming indebtedness in accordance with a contract, independent of the amount of stated claims, except for cases considered in court order proceedings.

Documents stipulating the defendant's monetary obligations include, for example, a loan contract, a credit contract, a power supply contract, a communication services contract, a lease contract, a communal services contract.

Documents confirming indebtedness under a contract include documents that contain a written confirmation made by the defendant that it is indebted to the plaintiff (e.g. an acknowledgment signed by the defendant, an answer to a letter before action, an accounts reconciliation statement signed by both parties).

By implication of Item 1 of Part 2 of Article 227 of the ComPC RF, documents referred to in this Item may also include a tax declaration submitted by a tax payer to a tax body, if the calculated tax amount indicated in the declaration is not paid within the stipulated time.

If the presented documents only confirm a part of the indebtedness, and the claims in part not confirmed by such documents do not exceed the limits stipulated in Item 1 of Part 1 of Article 232<sup>2</sup> of the CPC RF, Item 1 of Part 1 of Article 227 of the ComPC RF, the case is subject to consideration in simplified proceedings.

The courts should take into account that if it is necessary to clarify additional facts or examine additional evidence, the court may issue a decree regarding the further consideration of the case under the general rules of action proceedings or under the rules of consideration of cases arising from administrative and other public legal relations (Part 4 of Article 232<sup>2</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF).

10. Claims stipulated in Item 3 of Part 1 of Article 232<sup>2</sup> of the CPC RF and Item 1 of Part 2 of Article 227 of the ComPC RF are subject to consideration in simplified proceedings in one of the following situations:

- the amount of claim exceeds the limits stipulated in Part 1 of Article 121 of the CPC RF and in Article 229<sup>2</sup> of the ComPC RF;

- the amount of claim does not exceed such limits, but a justice of the peace or a commercial court refused to accept an application for adoption (issue) of a court order in regard of these claims, or the court order was cancelled (Part 3 of Article 125, Articles 128 and 129 of the CPC RF, Part 3 of Article 229<sup>4</sup>, Part 4 of Article 229<sup>5</sup> of the ComPC RF);
- the amount of claim does not exceed the stipulated limits, but the claim is not subject to consideration in court order proceedings (e.g. a claim for the recovery of salary not accrued to an employee).

The amount of the monetary sum recovered by virtue of Item 3 of Part 1 of Article 232<sup>2</sup> of the CPC RF and Item 1 of Part 2 of Article 227 of the ComPC RF may be recalculated for the date of adoption of the court decision, as well as for the date of actual performance of the monetary obligation.

11. In accordance with Item 2 of Part 1 of Article 227 of the ComPC RF, commercial courts consider in simplified proceedings the cases on challenge of non-normative legal acts, decisions of bodies performing public powers, of officials, if the corresponding non-normative legal act, decision contains a request for payment of monetary funds or stipulates recovery of monetary funds or recovery from other property of the applicant, on condition that the aforementioned acts, decisions are challenged by the applicant in the part of the request for payment of monetary funds or the part of recovery of monetary funds or recovery from other property of the applicant, and that the sum disputed by the applicant does not exceed one hundred thousand rubles.

If the applicant challenges actions (failure to act) of bodies performing public powers, officials (Part 1 of Article 198 of the ComPC RF), not pertaining to the issuance of acts, decisions containing requests for payment of monetary funds or stipulating recovery of monetary funds or recovery from other property of the applicant, such cases are not subject to consideration in simplified proceedings.

Herewith, taking into account the provisions of the second paragraph of Part 1 of Article 200 of the ComPC RF, cases on challenge of decisions and actions (failure to act) of officials of the bailiff service are also not subject to consideration in simplified proceedings.

12. If, taking into account the provisions of Part 1 of Article 130 of the ComPC RF, an application combines claims regarding the challenge of different non-normative legal acts (decisions) of bodies performing public powers, officials

or a claim regarding the challenge of a non-normative legal act (decision) with a claim regarding the challenge of a decision of an administrative body to hold a person administratively liable, and the coherence of the stated claims is based on establishment of the same facts in the challenged non-normative legal acts (decisions), in particular if one of the challenged non-normative legal acts (decisions) is adopted based on the other non-normative legal act (decision), which allows to consider such claims within the framework of one court case, while one of the claims is listed in Items 2 or 4 of Part 1 of Article 227 of the ComPC RF, and the other is not, the commercial court considers such a case under the general rules of proceedings in cases arising from administrative and other public legal relations.

13. By implication of provisions of Items 3 and 4 of Part 1 of Article 227 of the ComPC RF, Part 5 of Article 28.1, Article 29.9 of the Code of the Russian Federation on Administrative Offences (hereinafter – CAO RF), a case on challenge of a decree of an administrative body regarding the refusal to initiate an administrative offence case or the termination of proceedings in an administrative offence case is considered in simplified proceedings, if the law stipulates an administrative punishment for the aforementioned administrative offence in the form of an administrative fine under one hundred thousand rubles.

14. When applying Item 5 of Part 1 of Article 227 of the ComPC RF, it must be taken into account that commercial courts consider cases on recovery of obligatory payments and penalties in simplified proceedings if the overall amount of the recoverable monetary sum indicated in the application does not exceed one hundred thousand rubles, if a commercial court refused to accept an application for the issue of a court order in regard of those claims, or if the court order was cancelled (Part 3 of Article 229<sup>4</sup>, Part 4 of Article 229<sup>5</sup> of the ComPC RF).

15. Courts of general jurisdiction and commercial courts may consider in simplified proceedings other cases, not listed in Part 1 of Article 232<sup>2</sup> of the CPC RF, Parts 1 and 2 of Article 227 of the ComPC RF, if the parties consent to the consideration of such a case in simplified proceedings, and there are no circumstances referred to in Parts 3 and 4 of Article 232<sup>2</sup> of the CPC RF, Parts 4 and 5 of Article 227 of the ComPC RF.

The consent to the consideration of the case in simplified proceedings is reached during the preparation of the case for trial either if one party files a corresponding motion and the other party submits its consent, or if the court suggests to consider

the case in simplified proceedings on its own initiative and the parties present their consent (Item 5<sup>1</sup> of Part 1 of Article 150, Article 152, Part 2 of Article 232<sup>2</sup> of the CPC RF, Part 3 of Article 135, Part 3 of Article 227 of the ComPC RF).

The consent of the parties to the consideration of the case in simplified proceedings must be evident, e.g. must proceed from a written statement of the parties or their statement recorded in the minutes of the court session.

The absence of objections of the parties against the suggestion of the court to consider the case in simplified proceedings does not by itself constitute consent to the consideration of the case in this manner.

16. Cases pertaining to the state secret, cases on disputes involving the rights of the children, cases on restitution of harm to life or health, special proceedings cases (Part 3 of Article 232<sup>2</sup> of the CPC RF), corporate dispute cases, cases on protection of rights and lawful interests of a group of persons (Part 4 of Article 227 of the ComPC RF) are not subject to consideration in simplified proceedings, even if the parties reach consent on consideration of such a case in simplified proceedings.

Bankruptcy cases are also not subject to consideration in simplified proceedings based on the features stipulated in federal laws regulating the issues of insolvency (bankruptcy) (Part 1 of Article 223 of the ComPC RF).

Moreover, cases within the court competence of the Intellectual Property Rights Court, acting as a court of first instance, are also not subject to consideration in simplified proceedings.

### ***Features of Consideration of Cases in Simplified Proceedings***

17. Cases are considered in the manner of simplified proceedings under the rules of action proceedings, with due regard to the features stipulated in Chapter 21<sup>1</sup> of the CPC RF, Chapter 29 of the ComPC RF. In particular, court sessions are not appointed in the aforementioned cases, therefore the persons participating in the case are not notified of the time and place of the court session, the minutes are not conducted in written form or with the use of audio recording devices, the rules regarding the postponement of consideration of the case (postponement of trial), regarding a break in the court session, the announcement of the court decision do not apply (Article 232<sup>1</sup> of the CPC RF, Article 226 of the ComPC RF).

18. When accepting a statement of claim (application) for proceedings, the court resolves whether the case pertains to the categories of cases indicated in Part 1 of Article 232<sup>2</sup> of the CPC RF, Parts 1 and 2 of Article 227 of the ComPC RF.

If the case formally pertains to the categories of cases indicated in Part 1 of Article 232<sup>2</sup> of the CPC RF, Parts 1 and 2 of Article 227 of the ComPC RF, it must be considered in simplified proceedings. This is indicated in the decree on acceptance of the statement of claim (application) for proceedings (Part 2 of Article 232<sup>3</sup> of the CPC RF, Part 2 of Article 228 of the ComPC RF). The consent of the parties to consideration of that case in such a manner is not required.

If third persons are referred to in the statement of claim, this by itself does not preclude the consideration of the case in simplified proceedings (Part 4 of Article 232<sup>2</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF).

19. If the case does not pertain to the categories of cases subject to consideration in simplified proceedings, the court, after accepting the statement of claim (application) for proceedings under the general rules of action proceedings or the rules of proceedings in cases arising from administrative or other public legal relations, begins the preparation of the case for trial (Articles 133 and 147 of the CPC RF, Articles 127 and 134 of the ComPC RF).

In the decree on acceptance of the statement of claim (application) for proceedings, on preparation of the case for trial the court may suggest it to the parties to consider the case in simplified proceedings (Part 2 of Article 232<sup>2</sup> of the CPC RF, Part 3 of Article 227 of the ComPC RF).

20. When applying to court with a statement of claim (application) regarding a claim subject to consideration or considered in court order proceedings, the plaintiff or applicant must indicate it in the statement of claim (application), that a court refused to accept the application for adoption (issue) of a court order, or that a court order was cancelled, and attach the copies of the corresponding decrees.

If a copy of the corresponding decree is absent, but the applicant applied to court with an application for the issue of a court order, such a statement of claim (application) is to be left without action (Article 136 of the CPC RF, Article 128 of the ComPC RF).



If the aforementioned claims were not considered in court order proceedings, such a statement of claim (application) is subject to return (Item 1<sup>1</sup> of Part 1 of Article 135 of the CPC RF, Item 2<sup>1</sup> of Part 1 of Article 129 of the ComPC RF).

21. Cases are considered in simplified proceedings by courts of general jurisdiction, commercial courts within a term not exceeding two months from the day of receipt of the statement of claim (application) by the court (Part 1 of Article 154 of the CPC RF, Part 2 of Article 226 of the ComPC RF).

22. In the decree to accept the statement of claim (application) for proceedings, the court indicates that the case shall be considered in simplified proceedings and stipulates the following terms for presentation of evidence and documents (to the court and to each other) by the persons participating in the case (Parts 2 and 3 of Article 232<sup>3</sup> of the CPC RF, Parts 2 and 3 of Article 228 of the ComPC RF):

- 1) fifteen days or more – both for presentation of statement of defence (objections) to the statement of claim by the defendant and for the presentation of evidence by any person participating in the case, if that person refers to that piece of evidence as the basis of its claims and objections;
- 2) thirty days or more – only for presentation of additional documents, containing explanations on the merits of the stated claims and objections on which one's position is based; those documents should not refer to any evidence that was not disclosed within the time stipulated by the court.

The court of general jurisdiction, commercial court may set a term for the performance of said actions by indicating a certain calendar date or a term calculated from the day on which the decree on acceptance of the statement of claim (application) for proceedings or on consideration of the case in simplified proceedings was issued.

When establishing this term, the time for the delivery of postal correspondence should be taken into account, as well as the overall term for the consideration of the case in simplified proceedings. The period between the moments of expiration of the former and the latter terms should be at least fifteen days.

When terms for presentation (to the court and to each other) of evidence and documents by persons participating in the case are calculated, it should be taken into account that in courts of general jurisdiction such terms are calculated in calendar days (Articles 107 and 108, Parts 2 and 3 of Article 232<sup>3</sup> of the CPC RF)

and in commercial courts – in business days (Part 3 of Article 113, Parts 2 and 3 of Article 228 of the ComPC RF).

23. When applying the provisions of Part 1 of Article 228 of the ComPC RF, commercial courts should proceed from the premise that in order to realize the right of persons participating in the case to inspect the materials of the case, both the statement of claim (application) and all the documents attached to it are to be placed in digital form on the official website of the commercial court in restricted access mode (Part 2 of Article 228 of the ComPC RF) within no more than five days from the day on which the decree to accept the statement of claim (application) for proceedings is adopted.

24. Persons participating in the case considered in simplified proceedings are regarded as having received copies of the decree to accept the statement of claim (application) for proceedings and to consider the case in simplified proceedings, if by the day of adoption of decision the court has written evidence of service upon them of the corresponding copies, forwarded by registered mail with acknowledgment of receipt (Part 1 of Article 113 of the CPC RF, Part 1 of Article 122 of the ComPC RF), as well as where Parts 2 – 4 of Article 116 of the CPC RF, Parts 2 – 5 of Article 123 of the ComPC RF apply, or where there is other evidence that the persons participating in the case received information about the initiated court proceedings.

Citizens, individual entrepreneurs, legal persons bear the risk of consequences of failure to receive the copies of the aforementioned decree for reasons within their control.

If by the day of adoption of a decision in a case considered in simplified proceedings the corresponding information has not reached the court or has reached the court, but it is evident that the person had no opportunity to inspect the materials of the case and present its objections and evidence in substantiation of its position in the manner stipulated in Part 4 of Article 232<sup>3</sup> of the CPC RF, Part 3 of Article 228 of the ComPC RF, the court issues a decree on consideration of the case under the general rules of action proceedings or under the rules of consideration of cases arising from administrative and other public legal relations, as it is necessary to clarify additional facts or examine additional evidence (Part 4 of Article 232<sup>2</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF).

25. When applying Part 4 of Article 232<sup>3</sup> of the CPC RF, Part 4 of Article 228 of the ComPC RF, it is necessary to proceed from the premise that every person participating in the case and presenting evidence and documents must take all measures within its control, so that by the end of the term stipulated in the court decree the court receives the statement of defence, evidence and other documents submitted by it (in particular, in electronic form) or information that such documents were sent (e.g., a telegram, a telephone message, etc.). If documents are mailed to the court and to persons participating in the case without taking into account the time for delivery of correspondence, this cannot be regarded as substantiation of lack of opportunity to timely present the documents to the court, as the corresponding actions pertain to circumstances within control of the person participating in the case.

Based on the features of consideration of cases in simplified proceedings, the principles of adversary nature of proceedings, equality and good faith of the parties, when presenting the aforementioned evidence, documents and objections to a court of general jurisdiction, the persons participating in the case are obliged also to forward them to each other and to submit to court the documents confirming that such evidence, documents and objections were forwarded to the other persons participating in the case (Part 4 of Article 1, Article 12, Part 1 of Article 35, Parts 2 and 3 of Article 232<sup>3</sup> of the CPC RF).

If evidence, documents and objections presented to a court of general jurisdiction are not accompanied by documents confirming that they were also forwarded to the other persons participating in the case, such evidence, documents and objections are not accepted by the court of general jurisdiction and are subject to return, in which regard a decree is issued.

26. When a case is considered in simplified proceedings, written evidence is presented with due regard to the provisions of Articles 71, 72 of the CPC RF, Article 75 of the ComPC RF.

If necessary, the court may, within the two-month term for the consideration of the case, establish additional terms for presentation of original documents at the request of the court, and for executing the order to present evidence in accordance with the rules of Parts 2–4 of Article 57 of the CPC RF, Parts 5 and 6 of Article 66 of the ComPC RF.

27. If evidence and documents are received by the court after the expiration of the term stipulated by the court, such evidence and documents are not accepted and not considered by the court and are returned to the persons that submitted them, unless the terms for presentation of such evidence and other documents were missed for good reasons (Part 4 of Article 232<sup>3</sup> of the CPC RF), or these persons substantiated that it was impossible to present the aforementioned documents within the term stipulated by the court for reasons beyond their control (Part 4 of Article 228 of the ComPC RF).

A court of general jurisdiction, a commercial court issues a decree regarding the return of such documents (Part 4 of Article 1 of the CPC RF, Part 4 of Article 228 of the ComPC RF).

28. If the lack of opportunity to present a piece of evidence (a document), which the court finds significant for the correct adjudication of the dispute, is recognized by the court as substantiated for reasons beyond control of a person participating in the case (e.g. it became necessary to present that piece of evidence after inspection of another piece of evidence, submitted by a different person participating in the case near the end of the term for presentation of evidence), such a piece of evidence (document) is taken into account by the court, if it is received by the court no later than on the date of adoption of the decision in the case, and if the persons participating in the case have the opportunity to inspect it and state their positions in its regard.

Herewith, the court stipulates a reasonable term for inspection of the presented evidence (documents) by persons participating in the case, within the two-month term for the consideration of the case.

If it is impossible for the court to establish a term necessary for the persons participating in the case to inspect the presented evidence (documents), the court may issue a decree on consideration of the case under the general rules of action proceedings or under the rules of proceedings in cases arising from administrative and other public legal relations, as it is necessary to clarify additional facts or inspect additional evidence (Part 4 of Article 232<sup>3</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF).

29. Applications and motions are considered by courts of general jurisdiction, commercial courts in the manner stipulated in Article 166 of the CPC RF,

Article 159 of the ComPC RF without holding a court session and with due regard to other features of consideration of cases in simplified proceedings.

A court of general jurisdiction, a commercial court considers the applications and motions within a reasonable time, providing the persons participating in the case with an opportunity to state their objections; the court issues a decree after considering those objections.

Based on the features of consideration of cases in simplified proceedings, the principles of adversary nature of proceedings, equality and good faith of the parties, when forwarding applications and motions to a court of general jurisdiction, persons participating in the case are obliged also to forward them to each other and to submit to court the documents confirming that such applications and motions were forwarded to the other persons participating in the case (Part 4 of Article 1, Article 12, Part 1 of Article 35, Parts 2 and 3 of Article 232<sup>3</sup> of the CPC RF).

Applications and motions submitted to a commercial court are placed on the official website of the commercial court in restricted access mode no later than within three days from the day of their receipt by the commercial court, with regard to the second paragraph of Part 4 of Article 228 of the ComPC RF. Persons participating in the case may express their opinions about those applications and motions in written form, by forwarding the corresponding documents to the commercial court, in particular in electronic form, using “My Arbiter” system.

A commercial court decree, issued after the consideration of an application or motion, is placed on the official website of the court no later than on the day following the issuance of that decree, with regard to Part 2 of Article 228 of the ComPC RF. By virtue of Part 4 of Article 1 of the CPC RF, a decree of a court of general jurisdiction is also subject to placement on the official website of the court within the stipulated term.

30. During the consideration of a case in simplified proceedings the parties may enter a conciliation agreement.

Before the term for the consideration of a case in simplified proceedings expires, a party or parties may forward to court a signed draft of the conciliation agreement, in particular in electronic form. In such a situation the court does not begin to consider the case under the general rules of action proceedings or the rules of

proceedings in cases arising from administrative and other public legal relations, but appoints a court session to consider the issue of approving the conciliation agreement, with summoning of the persons participating in the case and with conducting of minutes in written form or with the use of audio recording devices (Part 2 of Article 39, Article 173 of the CPC RF, Part 2 of Article 141 of the ComPC RF).

If the conciliation agreement is not approved in this court session, the court issues a decree on the consideration of the case under the general rules of action proceedings or the rules of proceedings in cases arising from administrative and other public legal relations, by virtue of Item 2 of Part 4 of Article 232<sup>2</sup> of the CPC RF, Item 3 of Part 5 of Article 227 of the ComPC RF.

***Transfer to Case Consideration under the General Rules of Action Proceedings  
or under the Rules of Proceedings in Cases Arising from Administrative and  
Other Public Legal Relations***

31. The transfer to consideration of the case under the general rules of action proceedings or under the rules of proceedings in cases arising from administrative and other public legal relations is performed by the court at its own initiative or upon the motion of a person participating in the case, where there are grounds stipulated in Part 4 of Article 232<sup>2</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF.

The decree on case consideration under the general rules of action proceedings or under the rules of proceedings in cases arising from administrative and other public legal relations must contain the substantiation of the court's conclusion regarding the impossibility to consider the case in simplified proceedings.

32. If during the consideration of a case in simplified proceedings the plaintiff files a motion for the increase of the amount of stated claims, as a result of which the amount of claim exceeds the limits stipulated in Item 1 of Part 1 of Article 232<sup>2</sup> of the CPC RF, Item 1 of Part 1 of Article 227 of the ComPC RF, the court transfers to the consideration of the case under the general rules of action proceedings.

If as a result of increase of the amount of stated claims the amount of claim does not exceed the stipulated limits, the court resolves whether it is necessary to transfer to the consideration of the case under the general rules of action

proceedings, taking into account whether it is actually possible to secure the right of the defendant to present objections and evidence in substantiation of its position in the manner stipulated in Part 2 of Article 232<sup>3</sup> of the CPC RF and Part 3 of Article 228 of the ComPC RF.

33. Circumstances precluding the consideration of the case in simplified proceedings, indicated in Part 4 of Article 232<sup>2</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF (e.g. the need to clarify additional facts or inspect additional evidence) may be discovered both during the acceptance of the statement of claim (application) for proceedings and during the consideration of the case.

Where such circumstances are discovered, the court issues a decree on consideration of the case under the general rules of action proceedings or under the rules of proceedings in cases arising from administrative and other public legal relations, indicating therein the actions that the persons participating in the case are to perform, as well as the time for the performance of those actions (Part 5 of Article 232<sup>2</sup> of the CPC RF, Part 6 of Article 227 of the ComPC RF). Such a decree is not subject to appeal.

In particular, the aforementioned decree may be issued after the court considers a motion of a person participating in the case, which refers to the existence of one of the circumstances stipulated in Items 1 and 2 of Part 4 of Article 232<sup>2</sup> of the CPC RF, Items 1–3 of Part 5 of Article 227 of the ComPC RF. Such a motion may be submitted until the end of consideration of the case on its merits.

34. If during the consideration of a case in simplified proceedings a motion is satisfied regarding the entry of a third person into the case (independent of whether this person is stating independent claims in regard of the subject matter of the dispute), the court issues a decree for the consideration of the case under the general rules of action proceedings or under the rules of proceedings in cases arising from administrative and other public legal relations (Part 4 of Article 232<sup>2</sup> of the CPC RF, Part 5 of Article 227 of the ComPC RF).

If a motion of a party to draw a third person to participation in the case is satisfied, or if such a person is drawn to participation at the initiative of the court (Part 1 of Article 43 of the CPC RF, Parts 1 and 3 of Article 51 of the ComPC RF), this does not by itself constitute grounds for transfer to case consideration under the general

rules of action proceedings or under the rules of proceedings in cases arising from administrative and other public legal relations.

When a case is considered in simplified proceedings, third persons enjoy the procedural rights and bear the procedural duties of a party (Part 1 of Article 42, Part 1 of Article 43 of the CPC RF, Part 2 of Article 50, Part 2 of Article 51 of the ComPC RF). In this regard, a decree to draw a third person to participation in the case is forwarded to such a person, participating in the consideration of the case in simplified proceedings.

With regard to Part 2 of Article 228 of the ComPC RF, the data necessary to identify such a person, allowing it to access the case materials in electronic form, are forwarded to the aforementioned person together with such a decree.

### ***Judicial Acts Adopted in Cases Considered in Simplified Proceedings***

35. A decision in a case considered in simplified proceedings is adopted by a court of general jurisdiction, a commercial court no earlier than the terms stipulated for the presentation of evidence and other documents expire, but prior to the expiration of the two-month term stipulated for the consideration of the case (Part 5 of Article 232<sup>3</sup> of the CPC RF, Part 5 of Article 228 of the ComPC RF).

The date of issuance and signing of the operative part of the decision by the court is regarded as the date of adoption of the decision (Part 1 of Article 232<sup>4</sup> of the CPC RF, Part 1 of Article 229 of the ComPC RF).

36. A decision adopted by issuing (signing) the operative part in a case considered in simplified proceedings must in particular indicate the reasons that caused the obligation to arise (e.g. a contract with indication of its details), the composition of the recoverable indebtedness (the principal debt, interest and forfeits), the period, for which the recovery is performed (Article 198 of the CPC RF, Article 170 of the ComPC RF).

37. In cases arising from administrative and other public legal relations and considered by commercial courts in simplified proceedings, decisions are adopted by signing of the operative part.



The drawing of a reasoned decision and the appeal against such a decision are performed in accordance with the rules of Article 229 of the ComPC RF.

Decisions adopted by signing of the operative part and reasoned decisions in such cases are adopted by commercial courts with due regard to the features that stipulate requirements to the operative part of decisions in such cases (Parts 4, 6 of Article 201, Part 3 of Article 206, Part 4 of Article 211, Part 2 of Article 216 of the ComPC RF), to the manner of execution of those decisions (Parts 8 and 9 of Article 201, Part 4<sup>2</sup> of Article 206, Part 5<sup>2</sup> of Article 211 of the ComPC RF), the forwarding of copies of such decisions (Part 5 of Article 206, Part 6 of Article 211 of the ComPC RF).

Herewith, it should be taken into account that the three-day term for forwarding a copy of a decision by the commercial court, stipulated in Part 5 of Article 206 of the ComPC RF, is applied to cases regarding administrative liability, considered by commercial courts in simplified proceedings, in which punishment is appointed in the form of a warning.

Decisions in cases regarding administrative liability, considered by commercial courts in simplified proceedings, where punishment is appointed in the form of an administrative fine, may be forwarded for execution after the expiration of the 60-day term from the day on which the corresponding judicial act becomes effective (Parts 1 and 5 of Article 32.2 of the CAO RF).

38. In cases considered in simplified proceedings, regarding administrative liability or the challenge of a decision of an administrative body to hold a person administratively liable, enforcement is performed by virtue of a decision adopted by signing the operative part, as writs of execution based on judicial acts are not issued in such cases (Part 4<sup>2</sup> of Article 206, Part 5<sup>2</sup> of Article 211 of the ComPC RF).

39. By virtue of Part 2 of Article 232<sup>4</sup> of the CPC RF, the court of general jurisdiction that adopted the decision in a case considered in simplified proceedings draws a reasoned decision both upon application of persons participating in the case, of their representatives, as well as if an appeal, prosecutor's appeal is filed.

Since, proceeding from Part 2 of Article 229 of the ComPC RF, a commercial court draws a reasoned decision only upon the request of a person participating in a

case considered in simplified proceedings, in the absence of the corresponding application of a person participating in the case, the subject matter of appeal will be the decision adopted by signing the operative part.

A court of general jurisdiction, a commercial court may draw a reasoned decision upon its own initiative. In this situation, the decision becomes effective, and the term for appealing against it is calculated from the day of adoption of the decision by issuing (signing) the operative part.

If the term for submitting an appeal, prosecutor's appeal is missed, a reasoned decision is drawn only if that term is restored.

40. If the term for application for drawing of a reasoned decision is missed for a good reason (e.g. if a person participating in the case had no information about the judicial act adopted in simplified proceedings), this term may be restored by the court upon the motion of a person participating in the case, in the manner stipulated in Article 112 of the CPC RF, Article 177 of the ComPC RF. Taking into account the features of simplified proceedings, such a motion is considered without holding a court session.

If there is no motion for the restoration of the missed term, and also if the court refuses to restore that term, it issues a decree to return the application for drawing of a reasoned decision. This decree may be appealed against (Part 5 of Article 112, Item 2 of Part 1 of Article 331 of the CPC RF, Part 6 of Article 117, Part 1 of Article 188 of the ComPC RF).

41. An application for drawing of a reasoned decision, submitted prior to the issuance of the operative part of the decision (e.g. contained in the text of the statement of claim, statement of defence), does not oblige the court to draw a reasoned decision (Part 3 of Article 232<sup>4</sup> of the CPC RF, Part 2 of Article 229 of the ComPC RF).

42. A reasoned decision may only be drawn by the judge that signed the operative part of the decision (Article 157 of the CPC RF, Article 10, Part 2 of Article 18 of the ComPC RF).

If an appeal, prosecutor's appeal is filed in a case considered in simplified proceedings, a court of general jurisdiction is obliged to draw a reasoned decision. In this regard, if it is impossible for the court of first instance to draw a reasoned

decision (e.g. the powers of the judge were terminated), the appellate instance of the court of general jurisdiction reverses such a decision and remands the case to the court of first instance for consideration under the general rules of action proceedings (Part 3 of Article 335<sup>1</sup> of the CPC RF).

43. A decision adopted by issuing (signing) the operative part, a reasoned decision (if it was drawn) in a case considered in simplified proceedings by a court of general jurisdiction, a commercial court are placed on the Internet no later than on the day following their adoption or drawing (Part 4 of Article 1 of the CPC RF, Part 1 of Article 229 of the ComPC RF).

44. In cases considered in simplified proceedings, the judge issues a decree (e.g. to terminate proceedings in the case, to leave an application without action, regarding the issue of court costs) by signing its operative part. Herewith, a reasoned decree is drawn in accordance with the rules of Article 232<sup>4</sup> of the CPC RF, Article 229 of the ComPC RF (Part 4 of Article 1 of the CPC RF, Part 5 of Article 3 of the ComPC RF).

45. An application regarding the issue of court costs incurred due to the consideration of the case in simplified proceedings, submitted during the period of proceedings in the case, is subject to consideration along with the main claim, independent of the amount of stated court costs. An indication is made in this regard in the decision adopted by issuing (signing) the operative part.

If the issue of court costs is not resolved, but a claim to recover the court costs was stated, and evidence substantiating it was submitted to court, the court may adopt an additional decision in the manner stipulated in Article 201 of the CPC RF, Article 178 of the ComPC RF, without holding a court session and without notifying the persons participating in the case.

Persons participating in the case may apply to the commercial court with an application regarding the court costs after a decision is adopted, in the manner stipulated in Article 112 of the ComPC RF. By virtue of Part 4 of Article 1 of the CPC RF, this rule is also to be applied in courts of general jurisdiction. The aforementioned application is considered with due regard to the features stipulated in Article 232<sup>3</sup> of the CPC RF, Article 228 of the ComPC RF.

The additional decision, decree adopted after the consideration of such an application may be appealed against in accordance with the rules stipulated in

Part 8 of Article 232<sup>4</sup> of the CPC RF, Part 4 of Article 229 of the ComPC RF for appeals against court decisions in cases considered in simplified proceedings.

46. A decision of a court of general jurisdiction in a case considered in simplified proceedings is executed after it becomes effective (Article 209, Article 210, Part 1 of Article 232<sup>1</sup> of the CPC RF) or, if the court orders immediate execution – after it is adopted (Articles 211, 212 of the CPC RF).

A decision of a commercial court in a case considered in simplified proceedings is subject to immediate execution (Part 3 of Article 229 of the ComPC RF). The commercial court issues a writ of execution for the recoveror upon its motion, independent of whether an application for drawing of a reasoned decision or an appeal was filed.

### ***Appeals against Judicial Acts Adopted in Simplified Proceedings***

47. An appeal, prosecutor's appeal filed against a judicial act in a case considered in simplified proceedings is considered by a court of appeal under the rules for consideration of cases by a court of first instance in simplified proceedings, with due regard to the features stipulated in Article 335<sup>1</sup> of the CPC RF, Article 272<sup>1</sup> of the ComPC RF.

In particular, such an appeal, prosecutor's appeal is considered by a single judge without holding a court session, without notifying the persons participating in the case about the time and place of the court session, without conducting the minutes in written form or with the use of audio recording devices. At the same time, the rules of Parts 1 and 2 of Article 232<sup>4</sup> of the CPC RF, of the first paragraph of Part 1, Part 2 of Article 229 of the ComPC RF do not apply.

If, taking into account the nature and complexity of the issue under consideration, as well as the arguments stated in the appeal, prosecutor's appeal and the objections thereto, the court summons the persons participating in the case to the court session, the court session is held with the conduction of minutes in written form and with recording of the minutes with the use of audio recording devices (Part 1 of Article 335<sup>1</sup> of the CPC RF, Part 1 of Article 272<sup>1</sup> of the ComPC RF).

Taking into account that in consideration of a case by a commercial court of first instance in simplified proceedings the right of persons participating in the case to

inspect the materials of the case in limited access mode is guaranteed, an appellate commercial court considering an appeal should place the appeal, statement of defence and the documents attached thereto on the Internet in the same mode.

48. By virtue of Articles 325 and 335<sup>1</sup> of the CPC RF, after a court of general jurisdiction that considered the case in first instance receives an appeal, prosecutor's appeal against a court decision in a case considered in simplified proceedings, it forwards copies of the appeal, prosecutor's appeal and of documents attached thereto to the persons participating in the case and stipulates a reasonable time for such persons to present written objections in regard of the appeal, prosecutor's appeal to the court of first instance.

Based on the features of consideration of cases in simplified proceedings, the principles of adversary nature of proceedings, equality and good faith of the parties, when presenting the aforementioned objections to the first instance of the court of general jurisdiction, the persons participating in the case are obliged to also forward them to each other and to submit to the court the documents confirming that such objections were forwarded to the other persons participating in the case (Part 4 of Article 1, Article 12, Part 1 of Article 35, Parts 2 and 3 of Article 232<sup>3</sup> of the CPC RF).

If the objections presented to the first instance of the court of general jurisdiction are not accompanied by documents confirming that they were forwarded to the other persons participating in the case, the court does not accept such objections. A decree is issued in this regard.

The court of first instance forwards the case to the court of appeal together with the appeal, prosecutor's appeal and objections received in their regard after the expiration of the term for appeal and of the term stipulated by the court for presentation of objections (Part 3 of Article 325 of the CPC RF). The court informs the persons participating in the case about this.

The appellate instance of the court of general jurisdiction considers the case based on the appeal, prosecutor's appeal, within a term not exceeding two months from the day it is received by the court of appeal (Part 1 of Article 327<sup>2</sup> of the CPC RF).

With regard to the nature and complexity of the issue under consideration, the arguments stated in the appeal, prosecutor's appeal and objections thereto, persons

participating in the case may be summoned to the court session of the court of appeal (Part 1 of Article 335<sup>1</sup> of the CPC RF).

49. After accepting an appeal against a court decision in a case considered in simplified proceedings, an appellate commercial court stipulates a reasonable time for presentation of the statement of defence regarding the appeal. It adopts a ruling resulting from the consideration of the appeal only after the expiration of that term, but no later than two months since the day on which the appeal was received together with the case by the appellate commercial court (Articles 261, 262, 267, 271 of the ComPC RF).

With regard to the nature and complexity of the issue under consideration, to the arguments stated in the appeal and objections thereto, persons participating in the case may be summoned to the court session of the appellate commercial court (Part 1 of Article 272<sup>1</sup> of the ComPC RF).

50. When considering an appeal, prosecutor's appeal, a court of general jurisdiction may accept new evidence, only if such evidence was received by the court of first instance during the consideration of the case, and the court of first instance refused to accept such evidence without proper substantiation, in particular because the term for presentation of evidence was missed without a good reason or because the issue of accepting such evidence was not considered by the court (Article 335<sup>1</sup> of the CPC RF).

When considering an appeal, a commercial court may only accept additional evidence if the court of appeal transferred to the consideration of the case under the rules stipulated for consideration of a case in a commercial court of first instance, on the grounds stipulated in Items 1, 3–5 of Part 4 of Article 270 of the ComPC RF (Part 2 of Article 272<sup>1</sup> of the ComPC RF).

51. If during the consideration of an appeal, prosecutor's appeal the court finds reasons for reversal of the decision of the court of first instance, stipulated in Items 1, 3–5 of Part 4 of Article 330 of the CPC RF, Items 1, 3–5 of Part 4 of Article 270 of the ComPC RF, the court of general jurisdiction reverses the decision and remands the case to the court of first instance for consideration under the general rules of action proceedings, with due regard to the features of consideration of cases in simplified proceedings, stipulated in Chapter 21<sup>1</sup> of the CPC RF (Part 3 of Article 335<sup>1</sup> of the CPC RF), and the appellate commercial court considers the case under the rules of action proceedings and the rules of

proceedings for cases arising from administrative and other public legal relations, established for consideration of cases in commercial courts of first instance, with due regard to the features of consideration of cases in simplified proceedings, stipulated in Chapter 29 of the ComPC RF (Part 6<sup>1</sup> of Article 268 of the ComPC RF).

If during the consideration of an appeal, prosecutor's appeal by a court of general jurisdiction, a commercial court, the court finds the arguments stated therein that the case considered in simplified proceedings was subject to consideration under the general rules of action proceedings or under the rules of proceedings for cases arising from administrative and other public legal relations, the court of general jurisdiction reverses the decision and remands the case to the court of first instance for consideration under the general rules of action proceedings (Part 3 of Article 335<sup>1</sup> of the CPC RF), and the appellate commercial court considers the case under the general rules of action proceedings or under the rules of proceedings for cases arising from administrative and other public legal relations, stipulated for consideration of cases in commercial courts of first instance (Part 6<sup>1</sup> of Article 268 of the ComPC RF).

52. If during the consideration of an appeal against a decision in a case considered in simplified proceedings a commercial court transfers to the consideration of the case under the rules stipulated for consideration of a case in a court of first instance (Part 6<sup>1</sup> of Article 268 of the ComPC RF), the proceedings in the case are carried out under the rules of Section II of the ComPC RF. Such a case is considered by a single judge by virtue of Part 1 of Article 272<sup>1</sup> of the ComPC RF.

The appellate commercial court indicates whether the case is to be considered under the general rules of action proceedings or under the rules of proceedings for cases arising from administrative and other public legal relations in the corresponding decree.

Additional evidence presented to court is placed by the appellate commercial court on the Internet in restricted access mode.

53. Based on the purpose of simplified proceedings, the decrees of a court of first instance, which may be subject matter of a separate appeal, are subject to review under the rules stipulated in the CPC RF, ComPC RF for appeals against court decisions in cases considered in simplified proceedings (Part 1 of Article 331, Part 8 of Article 232<sup>4</sup> of the CPC RF, Part 1 of Article 188, Part 4 of Article 229 of the

ComPC RF). For example, such decrees include a decree to leave a statement of claim (application) without consideration, a decree to terminate proceedings in the case.

54. A court of general jurisdiction considers cassation appeals, prosecutor's cassation appeals in cases considered in simplified proceedings in a court session, without the summoning of persons participating in the case, without conducting the minutes (Article 386<sup>1</sup> of the CPC RF).

With regard to the nature and complexity of the issue under consideration, as well as to the arguments stated in the cassation appeal, prosecutor's cassation appeal and objections thereto, the court, by virtue of Part 5 of Article 386<sup>1</sup> of the CPC RF, may summon the persons participating in the case to a court session; the minutes are conducted during that session.

55. A commercial court considers cassation appeals against judicial acts in cases considered in simplified proceedings without holding a court session, without summoning of persons participating in the case and without conducting the minutes (Part 2 of Article 284, Part 2 of Article 288<sup>2</sup> of the ComPC RF).

Taking into account the nature and complexity of the issue under consideration, of the arguments stated in the cassation appeal and objections thereto, the commercial court may, by virtue of Part 2 of Article 288<sup>2</sup> of the ComPC RF, summon the persons participating in the case to a court session.

Taking into account that in consideration of a case by a commercial court of first instance in simplified proceedings the right of persons participating in the case to inspect the materials of the case in restricted access mode is guaranteed, a commercial court of cassation considering a cassation appeal should place the appeal, the statement of defence regarding it and the documents attached thereto on the Internet in the same mode.

56. Taking into account the provisions of Part 4 of Article 229 of the ComPC RF, a decision in a case regarding administrative liability, a case on challenge of a decision of an administrative body to hold a person administratively liable (if the amount of the administrative fine for an administrative offence committed by an individual entrepreneur is between five thousand and one hundred thousand rubles, and if such decisions were subject matter of consideration in an appellate commercial court, or if an appellate commercial court refused to restore the missed



term for filing an appeal) and a ruling of an appellate commercial court adopted in such a case may be appealed against before a commercial court of cassation only on the grounds stipulated in Part 4 of Article 288 of the ComPC RF.

Herewith, the provisions of Part 4<sup>1</sup> of Article 206, of Part 5<sup>1</sup> of Article 211 of the ComPC RF do not apply.

57. Effective judicial acts of commercial courts in cases considered in simplified proceedings, which were not subject matter of consideration in a commercial court of cassation due to lack of grounds stipulated in Part 4 of Article 288 of the ComPC RF, may be appealed against before the Judicial Chamber for Economic Disputes of the Supreme Court of the Russian Federation in the manner stipulated in Part 1 of Article 291<sup>1</sup> of the ComPC RF.

### *Closing Provisions*

58. Due to the adoption of this Ruling, the Ruling of the Plenary Session of the Supreme Commercial Court of the Russian Federation No. 62 of 8 October 2012 “On Certain Issues of Consideration of Cases by Commercial Courts in Simplified Proceedings” is not 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