

Adopted by Ruling of the Plenary Session of the
Supreme Court
of the Russian Federation
No. 41 of 31 October 2019

RULES OF COURT CONCILIATION

These Rules have been elaborated in accordance with provisions of the Civil Procedure Code of the Russian Federation, Commercial Procedure Code of the Russian Federation and the Code of Administrative Judicial Procedure of the Russian Federation (hereinafter, correspondingly – the CPC RF, the ComPC RF, the CAJP RF); they determine the manner in which court conciliation is conducted.

Court conciliation is a conciliatory procedure with participation of a court conciliator.

Court conciliation is used to implement such tasks of judicial procedure as peaceful settlement of disputes, assistance in establishment and development of business relations, formation of customs of trade and business ethics (Article 2 of the CPC RF, Item 6 of Article 2 of the ComPC RF, Item 5 of Article 3 of the CAJP RF).

Court conciliation may take place at any stage of court proceedings and during the enforcement of a judicial act, unless otherwise stipulated in provisions of the CPC RF, ComPC RF, CAJP RF and of other federal laws.

Court conciliation is not paid for by the parties.

The manner of court conciliation is determined by the parties upon mutual approval with the court conciliator and with due regard to the provisions of procedural legislation and of these Rules.

Section I. General Provisions

Article 1. Aims and Tasks of Court Conciliation

1. Court conciliation is conducted for the aims of reaching a mutually acceptable result by the parties and settlement of the conflict with regard to the interests of the parties.
2. The tasks of court conciliation are to compare and bring the positions of the parties in the case closer together, to discover additional possibilities for settling the dispute with regard to the interests of the parties, to render them assistance in reaching the result of conciliation.

Article 2. Principles and Legal Basis of Court Conciliation

1. Court conciliation is performed on the basis of provisions of the CPC RF, ComPC RF, CAJP RF, legislation on the status of judges in the Russian Federation, on the basis of provisions of these Rules.
2. The principles of court conciliation are voluntary nature, cooperation, equality of the parties, independence and impartiality of the court conciliator, confidentiality, goodwill.

Article 3. Principle of Voluntary Nature

1. The parties participate in the court conciliation voluntarily. The court conciliator is determined upon mutual agreement of the parties. The parties may jointly determine the manner and result of conciliation that suit them most.
2. A party (the parties) may refuse to continue court conciliation at any stage by informing the other participants of court conciliation about this in writing.

Article 4. Principle of Cooperation

The parties to court conciliation cooperate with each other, with the court conciliator and with the court.

The negotiations of the parties are of constructive and productive nature, aimed at settlement of the dispute, taking place in an atmosphere of trust and mutual respect.

Article 5. Principle of Equality of the Parties

The parties to court conciliation enjoy equal rights to determine the court conciliator, the participants of negotiations, the rules and manner in which court conciliation is conducted, to individual work with the court conciliator, access to the information discussed, to elaborate and formulate suggestions regarding the settlement of the dispute, to evaluate whether such suggestions are acceptable and capable of being performed, to realisation of their rights and lawful interests.

A court conciliator may not, by her/his actions, grant a privileged position to any of the parties, nor diminish the rights of one of the parties.

Article 6. Principle of Confidentiality

1. The parties may determine, to what extent the distribution of information pertaining to court conciliation is limited.

Unless otherwise agreed upon by the parties, information received by the participants in the course of court conciliation is confidential.

In particular, during the consideration of the case in court, the parties, the court conciliator and other persons present during court conciliation may not, without written consent of both parties, refer to the opinions or suggestions stated by one of the parties regarding the possible conciliation; to confessions made by one of the parties during the procedure; to the fact that one of the parties expressed its readiness to accept the suggestion regarding conciliation, made by the other party; to information contained in a document drawn up exclusively for the purposes of court conciliation.

2. In the course of court conciliation, the parties may disclose information to the extent that they deem necessary for the successful settlement of the dispute.

No information created or received in the course of court conciliation, independent of its medium, is subject to divulgence or distribution by participants of the court conciliation without the written consent of the parties.

3. Information about the court conciliation may be used for scientific research, educational or informational purposes, provided that the anonymity of the parties is preserved.

Article 7. Principle of Independence and Impartiality of the Court Conciliator

1. The attitude of the court conciliator towards each of the parties is impartial, respectful and well-meaning.

The court conciliator ensures equal participation of the parties in the court conciliation.

2. The court conciliator is obliged to inform the court and the parties about any circumstances that may give rise to doubts about her/his independence and impartiality.

3. The court conciliator is independent and performs her/his activities independently, without participation of the judge conducting the proceedings in the case.

Article 8. Requirements to Court Conciliators

1. A court conciliator is a retired judge included into the list of court conciliators adopted by the Plenary Session of the Supreme Court of the Russian Federation.
2. A retired judge, who is drawn to administration of justice, may not act as a court conciliator.
3. A retired judge employed by public authorities, local self-government bodies, state and municipal institutions, trade unions and other public associations, as well as employed as an assistant to a deputy of the State Duma or to a member of the Federation Council of the Federal Assembly of the Russian Federation, as an assistant to a deputy of the legislative (representative) body of a constituent entity of the Russian Federation, or appointed commissioner for financial services consumers' rights may not act as a court conciliator.

Article 9. Forming the List of Court Conciliators

1. The list of court conciliators is formed and adopted by the Plenary Session of the Supreme Court of the Russian Federation, based on proposals of Chairpersons of Judicial Chambers of the Supreme Court of the Russian Federation, of presidents of general jurisdiction courts of cassation, of the Military Court of Cassation, of commercial courts of circuits, of the Intellectual Property Rights Court, of general jurisdiction courts of appeal, of the Appellate Military Court, of appellate commercial courts, of supreme courts of republics, courts of territories, regions, federal cities, of the court of an autonomous region, of courts of autonomous circuits, commercial courts, circuit (fleet) military courts regarding the candidates for positions of court conciliators from among the retired judges expressing their wish to act as court conciliators, with due regard to their reference notes on meeting the requirements of these Rules.

The proposals of general jurisdiction courts of appeal, of the Appellate Military Court, of appellate commercial courts, of supreme courts of republics, courts of territories, regions, federal cities, of the court of an autonomous region, of courts of autonomous circuits, commercial courts, circuit (fleet) military courts regarding the candidates for positions of court conciliators from among the retired judges of those courts, as well as from among the retired judges of district courts and retired justices of the peace, are gathered by the corresponding general jurisdiction courts of cassation, the Military Court of Cassation, commercial courts of circuits and, together with proposals of these courts, are forwarded by them to the Supreme Court of the Russian Federation.

2. When the list is being formed, the following is in particular taken into account: working experience as a judge, scientific experience, specialisation, in what region the candidate resides, in what activities the judge has been engaged since retirement and whether those activities were in compliance with legislation on the status of judges and the Code of Judicial Ethics.

3. The list of court conciliators, as well as these Rules, are published on the official website of the Supreme Court of the Russian Federation.

On the official websites of courts, justices of the peace, these Rules are published along with the corresponding excerpts from the list of court conciliators referring to those conciliators, information about whom was provided by the courts.

Section II. Court Conciliation

Article 10. Grounds for Conducting Court Conciliation

1. Court conciliation may be conducted upon the motion of a party (of the parties) or upon the oral or written proposal of the court, if the parties agree thereto.

In cases considered by the Supreme Court of the Russian Federation, a motion for court conciliation is satisfied with due regard to the nature of the dispute and the facts of the case.

2. A court decree on conducting of court conciliation forms grounds for conducting the court conciliation.

Article 11. Time Term of Court Conciliation

Court conciliation is conducted within the term stipulated by the court in its court decree on conducting of court conciliation. Upon the motion of the parties, said term may be prolonged by the court.

Court conciliation may be finalised early upon the motion of a party (of the parties) or of the court conciliator.

Article 12. Participants of Court Conciliation

The participants of court conciliation are the parties (representatives of the parties), the court conciliator, as well as, upon mutual approval by the parties and the court conciliator, other persons participating in the case and persons assisting in court conciliation (for example, an interpreter).

Article 13. Parties to Court Conciliation

1. The parties to court conciliation:
– choose the court conciliator;

- make suggestions regarding the manner in which court conciliation is conducted;
 - state whether it is necessary for other persons to participate in court conciliation;
 - provide information necessary to settle the dispute;
 - pose questions to the other party and the court conciliator;
 - ask to have an individual discussion with the court conciliator;
 - state suggestions on the settlement of the dispute and reaching the results of conciliation;
 - discuss the suggestions stated by the parties, as to whether they are capable of being performed and satisfy the interests of each of the parties;
 - motion for the procedure to be prolonged, if the term of court conciliation expires.
2. The parties to court conciliation must not:
- divulge information received in the course of court conciliation without the written consent of the other party;
 - protract court conciliation, obstruct the activities of the court conciliator.
3. The parties to court conciliation should:
- use their rights in good faith;
 - present their identity documents and, where necessary, documents confirming their powers to the court conciliator;
 - appear for conducting of court conciliation;
 - comply with the manner of court conciliation, mutually approved by the parties;
 - adhere to the principles of court conciliation;
 - avoid making harsh or abusive comments, incitement to actions persecuted in accordance with the law, as well as avoid inappropriate and disrespectful behaviour towards the other party, the court conciliator and other participants;
 - suggest conditions under which the results of conciliation, the list of which is stipulated in procedural legislation, can be reached;
 - voluntarily and in good faith fulfil the conditions under which the result of conciliation is reached.

Article 14. Court Conciliator

1. The court conciliator:
- engages in negotiations with the parties (in particular on an individual basis), with other persons participating in the case and in court conciliation;
 - studies the documents and other information presented by the parties;
 - suggests it to the parties to present additional documents and information;
 - upon the court's approval, inspects the materials of the case;
 - consults specialists, where necessary;
 - assists the parties in exchange of documents, information and messages regarding the issues discussed;

- provides recommendations to the parties with the aim of settling the dispute within the shortest possible time, preserving business relations between the parties (in particular, suggests it to the plaintiff to verify whether the sum that it seeks to recover is lawful, justifiable and reasonable; suggests it to the defendant to verify whether its objections against the claim are substantiated; suggests it to the parties to perform an additional reconciliation of accounts, to discuss the terms and conditions of the contract, from which the dispute arose, comparing the facts pertaining to their fulfilment or non-fulfilment by the parties with the nature of stated claims, to clarify whether the parties unequivocally understand the terms and conditions of the contract, of other legal relationships);
- clarifies legislation and the practice of its application;
- suggests it to the parties to elaborate and discuss the dispute settlement scenarios (the best possible, satisfactory, undesirable);
- finalises court conciliation in the manner stipulated in these Rules;
- refuses to conduct court conciliation, where there are circumstances precluding it (in particular, if the court conciliator is ill, out of the region in which he/she resides or in which the parties are located).

2. A court conciliator must not:

- perform actions entailing creation, amendment or termination of rights or duties of persons participating in the case and of other participants of court proceedings;
- participate in court conciliation, where there are grounds stipulated in the first part of Article 16 of the CPC RF, Part 1 of Article 21 of the ComPC RF, Part 1 of Article 31 of the CAJP RF;
- divulge information received from the parties without their written consent, nor violate other principles of court conciliation.

3. A court conciliator should:

- state the circumstances precluding court conciliation, as well as circumstances that may give rise to reasonable doubts about her/his impartiality or independence, to the parties and the court;
- conduct court conciliation in good faith;
- be impartial and independent;
- clarify the features and consequences of use of results of conciliation, as well as the legal consequences of finalising court conciliation in case of failure to reach the result of conciliation;
- provide information about the course of court conciliation at the request of the court, no later than on the following day after receipt of the corresponding request.

Article 15. Court Conciliation Procedure

1. Court conciliation may be initiated by the parties or suggested by the court.

The suggestion of the court to conduct court conciliation may be contained in the court decree on acceptance of the statement of claim (application) for proceedings, on preparation of the case for trial or in another court decree adopted in the case, and may also be made by the court in oral form.

2. If the parties agree with the suggestion of the court to conduct court conciliation, if a motion of the parties (or of one of the parties, with consent of the other) for court conciliation is satisfied, as well as where Part 2 of Article 190 of the ComPC RF, Item 8 of Part 1 of Article 191 of the CAJP RF apply, a court decree on conducting of court conciliation and, where necessary, on postponement of the trial or on stay of proceedings in an administrative case is issued in accordance with procedural legislation

3. The court conciliator is selected from the list of court conciliators upon mutual agreement of the parties, in particular with regard to specialisation and the region in which the court conciliator resides. The court conciliator is approved by virtue of a court decree.

Only retired judges of the Supreme Court of the Russian Federation, Supreme Commercial Court of the Russian Federation may act as court conciliators in cases considered by the Supreme Court of the Russian Federation.

If the parties agree to conduct court conciliation, and it is impossible for them to choose the court conciliator, the court suggests a candidate for that position, who is appointed by the court upon mutual approval of the parties.

If the parties agree, the court may approve the same court conciliator in several interrelated disputes with participation of the same parties.

4. The court decree on conducting of court conciliation contains information about the parties, the court conciliator, the subject matter of the dispute, the time term of court conciliation and, where necessary, the list of issues, for the settlement of which court conciliation may be used.

The court decree on conducting of court conciliation may also contain other instructions, necessary to ensure that it is conducted duly.

5. Court conciliation is conducted in separate premises inside the court building, where the possibility to conduct joint and individual negotiations is ensured, equal opportunities are created for settlement of the dispute with due regard to the interests of the parties and the aim of reaching a mutually acceptable result of conciliation.

Article 16. Organising the Preparation and Conducting of Court Conciliation

1. With consent of the court, the court conciliator may study the materials of the case, the parties to which are using court conciliation.

Where necessary, the court conciliator suggests it to the parties to present additional documents and information.

2. The court conciliator and the parties mutually approve the rules of court conciliation; the court conciliator resolves organisational issues (in particular, specifies the time and place of meeting with the parties).

If the parties (representatives of the parties) fail to appear for conducting of court conciliation without timely notifying the court conciliator about it, this may constitute grounds for the court conciliator to apply to court for resolving the issue of renewing the trial.

If the parties (representatives of the parties) fail to appear for court conciliation for a good reason, this may constitute grounds for postponement of the joint session with the court conciliator, within the term stipulated by the court in the court decree on conducting of court conciliation. The court conciliator informs the parties about the time and place of the next court conciliation session in the manner mutually approved by the parties and the court conciliator.

Article 17. Conducting of Court Conciliation

1. Court conciliation is conducted in the form of negotiations and may include the following stages:

- opening of court conciliation (opening speech of the court conciliator);
- statement of facts of the dispute and determining the interests of the parties;
- formulation of issues for discussion by the parties;
- individual discussions of the court conciliator with the parties and their representatives;
- elaboration of suggestions regarding the settlement of the dispute and reaching the results of conciliation by the parties;
- drawing up the results of conciliation; in particular, conclusion of a settlement agreement¹, conciliation agreement², agreement regarding the facts, drawing up the renunciation of the claim, acknowledgment of the claim;
- finalisation of court conciliation.

2. Unless the parties and the court conciliator agree otherwise, the court conciliator her-/himself determines whether any stages of court conciliation should be used and in what order they should be used, taking into account the nature, complexity, facts of the dispute and the wishes of the parties.

3. The court conciliator directs the process of negotiations, forms and maintains its constructive and productive nature; provides each of the parties with the opportunity to state its opinion

¹ Translator's note: a settlement agreement (*мировое соглашение*) is the notion used in the CPC, ComPC.

² Translator's note: a conciliation agreement (*соглашение о примирении*) is the notion used in the CAJP.

regarding the nature of the dispute, the reasons for which it arose and the aims that the parties intend to reach by conducting the court conciliation; ensures the culture of negotiations, decreases the emotional level of statements made by the parties; prevents the parties from making harsh and abusive comments, incitement to actions persecuted in accordance with the law, maintains the appropriate and respectful behaviour of the parties towards each other, the court conciliator and other participants, takes other measures in order to create an atmosphere that is favourable for negotiations.

4. During the course of court conciliation, the court conciliator establishes the actual relations between the parties, clarifies the contents of reciprocal claims, the opinions of the parties regarding the possibilities of settling the dispute, aids in ascertaining the interests of the parties, assists the parties in searching for mutually beneficial results of conciliation.

Article 18. Opening of Court Conciliation (Opening Speech of the Court Conciliator)

1. On the appointed day and time, the court conciliator opens the court conciliation, introduces her-/himself and suggests it to the persons participating in the procedure to introduce themselves, establishes their identities, checks their powers and whether there are any circumstances precluding court conciliation.

2. The court conciliator clarifies the advantages of settlement of the dispute, the special features of use of different conciliatory procedures, the aims of court conciliation, her/his role in it, the rights and duties of the parties, the legal consequences of reaching the results of conciliation.

3. The court conciliator suggests to mutually approve the manner of negotiations and their duration, the rules of conduct of the parties during negotiations, establishes whether it is necessary for other persons to participate in the court conciliation.

Article 19. Statement of Facts of the Dispute and Determining the Interests of the Parties

1. The parties state their vision of reasons for which the dispute arose, the nature of the dispute, the ways to settle it, and outline the desirable result of conciliation.

2. During the negotiations, the parties and the court conciliator determine the most significant controversies that have arisen between the parties in their relations and became the reason for applying to court.

3. While contributing to creation of an atmosphere of cooperation, the court conciliator clarifies the positions of the parties and the interests on which they are founded. The court conciliator discusses with the parties the facts of the dispute and their assessment by the parties, specifies it with the parties, whether the court conciliator and the other party correctly understand the stated

information about the core of the dispute, the aims of the parties and the desirable result of conciliation.

Article 20. Formulating the Issues for Discussion by the Parties

1. The parties, with assistance of the court conciliator, jointly clarify and formulate a list of issues that require discussion.
2. The court conciliator organises the process of negotiations, providing the parties with equal opportunities to state their opinions and positions, to obtain additional information regarding the core and the scale of the conflict, to outline the issues, resolving which is a priority for the parties.
3. Where necessary, the court conciliator may declare a break in the negotiations and hold individual discussions with the parties.

Article 21. Individual Discussions with the Court Conciliator

1. For the purpose of preparing the parties for negotiations and for effective interaction with each other, the court conciliator may, upon her/his own initiative or at the request of the parties (a party), hold individual discussions with each of the parties. The court conciliator informs the other party about the fact that he/she held an individual discussion with one of the parties.
2. In particular, in the course of an individual discussion the party and the court conciliator ascertain the interests of the party, whether there is any confidential information, discuss whether it is possible for the party to change its position with due regard to its interests, ascertain the opinion of the party regarding the possible suggestions on settlement of the dispute, check whether the suggestions are capable of being performed, discuss the limits of informing the other party about the contents of the individual discussion.

Article 22. Elaboration of Suggestions on Settling the Dispute and Reaching the Results of Conciliation

1. With assistance of the court conciliator, the parties elaborate and discuss suggestions on settling the dispute and reaching the results of conciliation, and also discuss the possible actions of the parties, aimed at its settlement.
2. The court conciliator assists the parties in reaching the result of conciliation, gathers and records the suggestions of the parties regarding the settlement of the dispute, directs the attention of the parties to the issues regarding which they have reached an agreement and issues that require additional discussion.

3. The suggested scenarios of dispute settlement, results of conciliation are discussed and evaluated by the parties as to whether they are constructive, acceptable and realistic.

4. If the parties (a party) find it difficult to formulate suggestions on settlement of the dispute, to choose the best possible result of conciliation, the court conciliator may announce a break in order to give the parties an opportunity to additionally study the suggestions on dispute settlement and the result of conciliation and (or) to hold individual negotiations with the parties (a party).

Article 23. Finalisation of Court Conciliation

Court conciliation is finalised, if:

- the result (results) of conciliation has been reached;
- the result (results) of conciliation has not been reached, and the term stipulated by the court for court conciliation has expired;
- the result (results) of conciliation has not been reached, and a party (the parties) sends a written statement prior to expiration of the term for court conciliation;
- the court conciliator terminates the court conciliation prior to expiration of the term for court conciliation.

Article 24. Results of Court Conciliation

1. In the course of court conciliation, the parties may reach the results of conciliation stipulated in Article 153.7 of the CPC RF, Article 138.6, Part 3 of Article 190 of the ComPC RF, Article 137.7 of the CAJP RF.

The result of court conciliation must contain information about the court conciliator.

2. A settlement agreement, conciliation agreement, an agreement regarding the facts are drawn up by the parties with assistance of the court conciliator.

The court conciliator should clarify whether each of the parties uniformly understands the terms and conditions of the settlement agreement, conciliation agreement, agreement regarding the facts, verify whether the drawn up agreement is legal, does not violate the rights of other persons and may be approved by the court.

3. The court conciliator submits information that the parties have reached the result of conciliation (and, where necessary, a motion for its adoption or approval) to the court in writing, no later than on the day following the day on which the result is reached, so that the court may resolve the issue of renewing proceedings in the case (where the trial was postponed or proceedings in an administrative case were stayed) and, where necessary, appoint the date and

time of the court session for resolving the issue of approving the corresponding result of conciliation.

Article 25. Finalisation of Court Conciliation without Reaching the Result (Results) of Conciliation

1. If the term stipulated by the court for court conciliation expires in the absence of a motion of the parties to prolong it, and the result (results) of conciliation has not been reached, the court conciliator informs the court (and, where necessary, the parties to court conciliation) in writing about finalisation of court conciliation, within the shortest possible time.

2. Court conciliation is finalised, if the parties fail to reach the result (results) of conciliation, and a party (the parties) forwards a written statement to the other participants of court conciliation and to the court prior to expiration of the term for court conciliation.

Article 26. Finalisation of Court Conciliation in Case of Its Termination by the Court Conciliator

The court conciliator may terminate court conciliation prior to expiration of the term for court conciliation, if during the procedure he/she deems that it is not viable to further conduct the court conciliation, in particular because the dispute cannot be settled through court conciliation; the parties do not comply with the stipulated manner and principles of court conciliation; the parties repeatedly failed to attend a meeting with the court conciliator; the parties protract the court conciliation, obstruct the activities of the court conciliator; the parties abuse their rights in any other way, and also if there are other circumstances precluding court conciliation.

In these instances, the court conciliator draws up a reasoned written refusal to conduct court conciliation, which is forwarded to the parties to court conciliation and to the court no later than on the following day.