

Commercial Procedure Code of the Russian Federation

Translated by George Borisov, consultant of the International Law and Cooperation Department
of the Supreme Commercial Court of the Russian Federation

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Commercial Procedure Code of the Russian Federation

Adopted by the State Duma on June 14th, 2002

Approved by the Federation Council on July 10th, 2002

List of Amendments

Federal law No. 80, July 28th, 2004
Federal law No. 127, November 2nd, 2004
Federal law No. 25, March 31st, 2005
Federal law No. 197, December 27th, 2005
Federal law No. 225, October 2nd, 2007
Federal law No. 58, April 29th, 2008
Federal law No. 85, June 11th, 2008
Federal law No. 138, July 22nd, 2008
Federal law No. 229, December 3rd, 2008
Federal law No. 124, June 28th, 2009
Federal law No. 205, July 19th, 2009
Federal law No. 20, March 9th, 2010
Federal law No. 69, April 30th, 2010
Federal law No. 194, July 27th, 2010
Federal law No. 228, July 27th, 2010
Federal law No. 379, December 23rd, 2010
Federal law No. 65, April 6th, 2011
Federal law No. 200, July 7th, 2011
Federal law No. 210, July 12th, 2011
Federal law No. 389, December 3rd, 2011
Federal law No. 422, December 8th, 2011
Federal law No. 86, June 25th, 2012
Federal law No. 317, December 30th, 2012
Federal law No. 61, April 22nd, 2013
Federal law No. 126, June 7th, 2013
Federal law No. 166, July 2nd, 2013
Federal law No. 186, July 2nd, 2013
Federal law No. 187, July 2nd, 2013
Federal law No. 294, November 11th, 2013

Clarifications on application

Judgement of the Constitutional Court of the Russian Federation No. 11, November 17th, 2005

Judgement of the Constitutional Court of the Russian Federation No. 6, March 25th, 2008

Section I. General Provisions

Chapter 1. Basic Provisions

Article 1. Administration of Justice by Commercial Courts

Justice in the sphere of entrepreneurial and other economic activities is administered in the Russian Federation by commercial courts, formed in compliance with the Constitution of the Russian Federation and federal constitutional laws (hereinafter referred to as "commercial courts") through the settlement of economic disputes and consideration of other cases falling under their competence in

accordance with the Commercial Procedure Code of the Russian Federation and other federal laws, by the rules set forth in the legislation regulating the proceedings in commercial courts.

Article 2. Tasks of Proceedings in Commercial Courts

The tasks of proceedings in commercial courts are:

- 1) to protect the violated or disputed rights and legitimate interests of persons performing entrepreneurial and other economic activities, as well as the rights and legitimate interests of the Russian Federation, of the constituent units of the Russian Federation, of municipal entities in the sphere of entrepreneurial and other economic activities, public authorities of the Russian Federation, public authorities of the constituent units of the Russian Federation, local government bodies, other bodies and state officials in that sphere;
- 2) to ensure the accessibility of justice in the sphere of entrepreneurial and other economic activities;
- 3) to provide a fair and public hearing within a reasonable time, by an independent and impartial court;
- 4) to consolidate the rule of law and prevent offences in the sphere of entrepreneurial and other economic activities;
- 5) to form respect for the law and the court;
- 6) to assist the establishment and development of business relations and the formation of customs of trade and business ethics.

Article 3. Legislation Regulating the Proceedings in Commercial Courts

1. In compliance with the Constitution of the Russian Federation, the legislation regulating the proceedings in commercial courts is under the jurisdiction of the Russian Federation.

2. The manner of proceedings in commercial courts is determined by the Constitution of the Russian Federation, the Federal Constitutional Law “On the Judicial System of the Russian Federation” and the Federal Constitutional Law “On Commercial Courts in the Russian Federation”, the Commercial Procedure Code of the Russian Federation (hereinafter referred to as “the Code”) and other federal laws adopted in compliance with them.

3. Should an international treaty, to which the Russian Federation is a party, establish other rules of proceedings than those provided by the legislation of the Russian Federation regulating the proceedings in commercial courts, the rules of the international treaty are to be applied.

4. Proceedings in commercial courts are carried out in compliance with federal laws, effective at the time of settlement of the dispute and the consideration of the case (hereinafter - “the consideration of the case”), of performance of an individual procedural action or execution of a judicial act.

Article 4. The Right to Apply to the Commercial Court

1. A person concerned may apply to the commercial court for the protection of its violated or disputed rights or legitimate interests, including compensation claims for the violation of right to a fair trial within a reasonable time, or of right to enforcement of a judicial act within a reasonable time in the manner established by this Code.

2. Other persons are also entitled to apply to the commercial court in cases provided by this Code.

3. Waiver of right to apply to court is null and void.

4. A person may apply to the commercial court in the form of:
a statement of claim - with regard to economic disputes and other cases arising from civil relations;
an application - with regard to cases arising from administrative and other public relations, to

cases on insolvency (bankruptcy), to cases of special proceedings, in the case of appeal for the supervisory review of judicial acts and in any other cases provided by this Code;

an appeal - in the event of application to an appellate or cassational commercial court, as well as in other cases provided by this Code and other federal laws;

an address - should the Prosecutor General of the Russian Federation or the deputies thereof request the supervisory review of judicial acts.

5. Where federal laws establish a claim procedure or any other alternative dispute resolution procedure for a certain category of disputes, or such is provided by an agreement, the dispute is referred for resolution to the commercial court after such a procedure has been carried out.

6. By agreement of the parties, a dispute within the scope of competence of a commercial court, which arises from civil relations, may be referred by the parties to an arbitration tribunal prior to the delivery of a judicial act finalising the consideration of the case on its merits by a commercial court of the first instance, unless otherwise established by federal law.

Article 5. Independence of Judges of Commercial Courts

1. When administering justice, judges of commercial courts are independent and solely subordinate to the Constitution of the Russian Federation and federal laws.

2. Any external influence on judges of commercial courts, interference with their activities by public authorities, local government bodies, other bodies, organisations, state officials or individuals is forbidden and entails liability envisaged by law.

2.1. Information regarding non-procedural addresses of state bodies, local government bodies, other bodies, organisations, officials or citizens that the judges of commercial courts received in connection with cases before them or that the president or vice-president of a commercial court, a head of a panel of judges received in connection with cases before the court, are to be made public and brought to the knowledge of participants of the judicial proceedings through the placement of said information on the official website of the commercial court. Such information does not constitute grounds for the performance of procedural actions or the adoption of procedural decisions.

3. Independence of judges of commercial courts is guaranteed by the Constitution of the Russian Federation and by federal law.

Article 6. The Rule of Law in the Consideration of Cases by Commercial Courts

The rule of law in the consideration of cases by commercial courts is ensured by the correct application of laws and other normative legal acts, as well as by the abidance of all judges of commercial courts by the rules, established in the legislation regulating the proceedings in commercial courts.

Article 6¹. Reasonable Time for Proceedings in Commercial Courts and for the Enforcement of a Judicial Act

1. Proceedings in commercial courts and the enforcement of judicial acts are carried out within a reasonable time.

2. Cases are considered by commercial courts within the terms established by this Code. It is allowed to extend these terms in the cases and in the **manner** established by this Code. In any case, proceedings in commercial courts are to be carried out within a reasonable time.

3. When a reasonable time for proceedings in commercial courts, including the time from the day on which the commercial court of the first instance receives a statement of claim or an application to the date of delivery of the final judicial act in the case is estimated, such circumstances as the legal and factual complexity of the case, the behaviour of the participants of proceedings, the sufficiency and efficiency of the court's actions, directed at the consideration of the case in due time, as well as the total duration of judicial proceedings are taken into account.

4. Circumstances related to the organisation of a court's functioning, including those provided by **Item 2, Part 3 of Article 18** of this Code and requiring the replacement of a judge, as well as the consideration of the case by various instances can not be regarded as grounds for the exceeding of reasonable time terms for proceedings in a case.

5. The rules for the estimation of a reasonable time for proceedings, provided by Parts 3 and 4 of this Article are also applied when a reasonable time for the enforcement of judicial acts is estimated.

6. If after the commercial court accepts a statement of claim or an application, a case is not considered for a long time and proceedings are protracted, the persons concerned are entitled to file an application to the president of the commercial court to speed up the consideration of the case.

7. An application to speed up the consideration of the case is considered by the president of the commercial court within five days since its receipt by the commercial court. After the consideration of the application, the president of the commercial court issues a reasoned ruling which may fix the time for holding a court session on the case and (or) may indicate actions which are to be performed to speed up the consideration of the case.

Article 7. Equality of All before the Law and the Court

1. Justice is administered in commercial courts on the basis of equality of all before the law and the court, regardless of sex, race, nationality, language, origin, property status or official capacity, place of residence, attitude to religion, convictions, affiliation to public associations or other circumstances; equality of all organisations before the law and the court, regardless of their organisational and legal form, form of property, subordination, location or other circumstances.

2. The commercial court ensures equal judicial protection of rights and legitimate interests of all persons participating in the case.

Article 8. Equality of the Parties

1. Proceedings in commercial courts are carried out on the basis of equality of the parties.

2. The parties enjoy equal rights regarding recusals and motions, introduction of evidence, participation in the examination of evidence and in pleadings, presentation of their arguments and explanations to the commercial court, as well as exercise of other procedural rights and duties provided by this Code.

3. The commercial court is not entitled to give privileges to any of the parties or to derogate the rights of one of the parties with its actions.

Article 9. Adversarial Proceedings

1. The proceedings in commercial courts are adversarial in nature.

2. Persons participating in the case are entitled to know each other's arguments prior to the institution of judicial proceedings. Each person participating in the case is guaranteed the right to present evidence to the commercial court and to the other party in the case; the rights to file motions, to express arguments and considerations, to give explanations in respect of all matters arising in the course of the consideration of the case which are related to the presentation of evidence are ensured. Persons participating in the case bear the risk of the onset of consequences caused by their performance of procedural actions or failure to do so.

3. The commercial court, while staying independent, unbiased and impartial, manages the proceedings, explains to persons participating in the case their rights and duties, warns of the effects of their performance of procedural actions or failure to do so, assists in the exercise of their rights, creates conditions for a comprehensive and full examination of evidence, the establishment of facts and the correct application of laws and other normative legal acts during the consideration of the case.

Article 10. Direct Examination of Evidence

1. When considering the case, the commercial court is obliged to examine all evidence, relevant to the case, directly.

2. Pieces of evidence, which have not been subject to examination in court session, may not be used by the commercial court as a basis for a judicial act.

Article 11. Public Nature of Judicial Proceedings

1. Proceedings in commercial courts are open.

2. Cases may be considered in camera if their consideration in open session may lead to the divulgence of a state secret, in other instances provided by federal laws, as well as in the event of satisfaction of a motion of a person participating in the case, which refers to the necessity of keeping commercial, official or other secrets protected by law.

3. Divulgence of information constituting a state, commercial, official or another secret, protected by law, is punishable in accordance with the federal law.

4. A ruling is issued if the case is to be considered in camera. The ruling is issued in respect of proceedings as a whole or in respect of a part of the proceedings.

5. Present during in camera proceedings are parties to the case, their representatives, and, if necessary, and in the manner established by this Code, experts, specialists, witnesses and interpreters.

6. In camera sessions are conducted in observance of the rules of procedure for commercial courts. The use of videoconferencing systems in camera is not permitted.

7. Persons present in open session enjoy the right to make notes in the course of the session and to make sound records of it by means of sound-recording equipment. Filming, photography and videotape recording, as well as radio and television broadcasting of a commercial court session is allowed by permission of the judge presiding over the court session.

8. Judicial acts are publicly pronounced by commercial courts.

Article 12. Language of Proceedings

1. Proceedings in commercial courts are carried out in Russian - the official language of the Russian Federation.

2. To persons participating in the case, who do not have command of the Russian language, the commercial court explains and ensures the right to access the case materials, to participate in judicial actions, and to speak in court in their native language or in the language of their choice and to use the services of an interpreter.

Article 13. Normative Legal Acts Applied during the Consideration of Cases

1. Commercial courts consider cases on the basis of the Constitution of the Russian Federation, international treaties of the Russian Federation, federal constitutional laws, federal laws, normative legal acts of the President of the Russian Federation and normative legal acts of the Government of the Russian Federation, normative legal acts of federal executive bodies, constitutions (statutes), laws and other normative legal acts of constituent units of the Russian Federation, as well as acts of local government bodies.

In cases, provided by federal law, commercial courts apply customs of trade.

2. Should the commercial court, when considering a case, establish the incompliance of a normative legal act with a normative legal act of greater legal force, including the issue thereof ultra vires, it delivers a judicial act in compliance with the normative legal act of greater legal force.

3. Should the commercial court when considering a specific case come to the conclusion that the law applied or to be applied in the case under consideration does not comply with the Constitution of the Russian Federation, it requests the Constitutional Court of the Russian Federation to verify the constitutionality of the said law.

4. If an international treaty of the Russian Federation establishes rules other than those provided by law, the commercial court applies the rules of the international treaty.

5. The commercial court applies norms of foreign law in compliance with an international treaty of the Russian Federation, the federal law, an agreement of the parties concluded in conformity with them. This rule does not concern the peremptory norms in the legislation of the Russian Federation, the application of which is regulated by Section VI of the Civil Code of the Russian Federation.

6. If disputable relations are not directly regulated by federal laws and other normative legal acts or an agreement of the parties, and no custom of trade is applicable to them, commercial courts apply to such relations, if it does not contradict their essence, the rules of law regulating similar relations (analogy of statute *or analogia legis*), and in the absence of such norms consider cases on the basis of the general principles and meaning of federal laws and other normative legal acts (analogy of law *or analogia juris*).

Article 14. Application of Foreign Law

1. When applying foreign law, the commercial court establishes its content in compliance with its official interpretation, practice of application and the legal doctrine of the corresponding foreign state.

2. For the purpose of establishing the content of foreign law, a court may in the established manner apply for assistance and clarification to the Ministry of Justice of the Russian Federation or to other competent authorities or organisations in the Russian Federation or abroad, or draw experts.

Persons participating in the case may submit documents confirming the content of the foreign law which they refer to in substantiation of their claims and objections and may assist the court in establishing such content in any other way.

As for claims concerning the exercise of entrepreneurial and other economic activities by the parties, the burden of proving the content of foreign law may be placed by the court on the parties.

3. If the content of foreign law, despite the measures taken in compliance with this Article, is not established within a reasonable time, the commercial court applies the corresponding norms of Russian law.

Article 15. Judicial Acts of the Commercial Court

1. Commercial courts deliver judicial acts in the form of a decision, a judgement and a ruling.

2. A judicial act delivered by a commercial court of the first instance, after the consideration of a case on its merits, is called a decision.

Judicial acts, delivered by commercial courts of the appellate and cassational instances after the consideration of appeals and cassational appeals, as well as judicial acts delivered by the Presidium of the Supreme Commercial Court of the Russian Federation as a result of supervisory review of judicial acts are called judgements.

All other judicial acts of commercial courts delivered in the course of proceedings are called rulings.

3. Decisions, judgements and rulings delivered by commercial courts must be lawful, well-substantiated and reasoned.

Article 16. Mandatory Nature of Judicial Acts

1. Effective judicial acts of commercial courts are mandatory for public authorities, local government bodies, other bodies, organisations, state officials and individuals, and are subject to execution on the whole territory of the Russian Federation.

Orders of a commercial court to present evidence, information and other materials, to give explanations, clarifications and expert opinions, as well as other orders regarding the case under

consideration are likewise mandatory and subject to execution for bodies, organisations and persons, to which they are addressed.

1¹. In order to receive clarifications, consultations or to learn the professional opinions of scholars, specialists and other persons having theoretical or practical knowledge regarding the dispute before the specialised commercial court, the specialised commercial court may also send requests.

Requests to provide clarifications, consultations or to state professional opinions regarding the cases before the specialised commercial court are obligatory for all bodies, organisations and persons, to whom they are addressed.

A request must be examined and a response with the results of such an examination must be forwarded to the specialised commercial court within a month since the receipt of the request, unless a different term is specified by the specialised commercial court.

2. Failure to execute judicial acts, as well as failure to satisfy the demands of commercial courts entails liability established by this Code and other federal laws.

3. The mandatory nature of judicial acts does not deprive the persons who did not participate in the case of the opportunity to apply to the commercial court for the protection of their rights and legitimate interests, violated by these acts, by appealing against them.

4. The recognition and mandatory nature of enforcement on the territory of the Russian Federation of foreign judicial acts and foreign arbitration awards is determined by international treaties of the Russian Federation and federal laws.

Chapter 2. Composition of the Commercial Court

Article 17. Individual and Collective Consideration of Cases

1. Cases in a commercial court of the first instance are considered by a single judge, unless the consideration of the case in panel is not stipulated in this Article. If the case is to be considered in panel by a commercial court of the first instance, the consideration is carried out by a panel of three judges or by a judge and two commercial court assessors.

2. A commercial court of the first instance considers in panel:

1) cases within the jurisdiction of the Supreme Commercial Court of the Russian Federation;

2) cases of challenge of normative legal acts;

3) *abrogated*;

4) cases forwarded to the commercial court of the first instance for a new consideration with a direction to consider them in panel.

5) cases which the head of a judicial chamber decides to consider in panel, due to their particular complexity and based on a reasoned application of a judge;

6) cases within the jurisdiction of the Intellectual Property Rights Court.

3. A commercial court of the first instance composed of a judge and two commercial court assessors considers economic disputes and other cases arising from civil and other legal relations, if any of the parties files a motion to consider the case with the participation of commercial court assessors.

Cases mentioned in **Part 2** of this Article, as well as cases arising from administrative and other public relations, and cases of special proceedings are not subject to consideration with the participation of commercial court assessors.

4. Cases in commercial courts of appellate and cassational instances, as well as under supervisory review, are considered by a panel of three or of another odd number of judges, unless otherwise established by this Code.

During the consideration in panel, one of the judges is presiding over the court session.

5. If this Code empowers a judge to consider cases and settle certain procedural matters individually, the judge acts on behalf of the commercial court.

Article 18. Formation of the Court

1. The composition of the court for the consideration of a particular case, including consideration with the participation of commercial court assessors, is formed with regard to the judges' workload and specialisation, in a manner that excludes an impact on its formation by persons interested in the outcome of the judicial proceedings, including the use of an automated information system.

2. A case, the consideration of which was started by a certain judge or by a certain court composition, is to be considered by the same judge or court composition.

3. Replacement of a judge or of a commercial court assessor or of one of the judges or commercial court assessors is possible in case of:

1) a recusal or self-recusal of a judge or a commercial court assessor, declared and satisfied in the manner established by this Code;

2) a long absence of a judge or of a commercial court assessor due to illness, vacation, being on a study course or a business trip.

4. A judge or a commercial court assessor may also be replaced if their powers have been terminated or suspended on the grounds established by federal law.

5. If a judge or a commercial court assessor is replaced in the course of the case consideration, judicial proceedings are to begin de novo. The performance of procedural actions in urgent cases, including the acceptance of a claim or of an application and the institution of proceedings, the consideration of an application for provisional measures and for the postponement of judicial proceedings by a judge instead of another judge in the manner of interchangeability is not regarded as replacement of a judge.

Article 19. Drawing of Commercial Court Assessors to the Consideration of Cases

1. Commercial court assessors may be drawn to the consideration of cases in commercial courts of the first instance in conformity with this Code and with other federal laws by a party's motion in connection with the particular complexity of the case and (or) with the need to apply special knowledge in the sphere of economics, finance and management.

2. The motion for the consideration of a case with the participation of commercial court assessors must contain the substantiation of the case's particular complexity and (or) of the need to apply special knowledge, and may be submitted by a party no later than one month before the institution of judicial proceedings, including every new consideration of the case.

The court is obliged to explain to the parties their right to file such a motion in a ruling on the acceptance of the statement of claim for proceedings and during the preparation of the case for judicial proceedings.

3. The motion for the consideration of a case with the participation of commercial court assessors is resolved by the commercial court in the manner, established by **Article 159** of this Code.

If the motion for the consideration of the case with the participation of commercial court assessors is satisfied, the candidates for commercial court assessors are picked out of the list of commercial court assessors, approved in the manner laid down in federal laws, taking into account their specialisation, by way of random selection with the use of an automated information system or by a different method, used in the commercial court for the formation of the court composition.

4. Instances envisaged in parts **Part 3** and **Part 4 of Article 18** of this Code are grounds for the replacement of a commercial court assessor. In such cases another candidate for a commercial court assessor is selected in the manner, established in Part 3 of this Article.

If after one or several commercial court assessors are rejected, it is impossible to form the composition of the court for the consideration of the case with participation of commercial court assessors, the case is considered by a single judge.

If one or two commercial court assessors fail to appear in the court session, the case may be considered by a single judge, if the parties or their representatives are present in the given court session and do not object to the consideration of the case by a single judge.

If at least one party objects to the consideration of the case by a single judge, the court announces a break in the court session or postpones the judicial proceedings. If a new court session cannot be held because one or two commercial court assessors fail to attend, the court has the right, upon the motion of one of the parties, to deliver a ruling on the consideration of the case by a single judge and to open a court session in the first instance.

5. During the consideration of a case, commercial court assessors enjoy the rights and carry out the duties of judges.

6. During the consideration of the case, the resolution of all issues arising from it and the delivery of judicial acts the judge and the commercial court assessor enjoy equal procedural rights.

7. A commercial court assessor cannot be the presiding judge in a court session.

Article 20. Resolution of Issues by the Court in Panel. The Separate Opinion of a Judge

1. Matters arising during the consideration of a case in panel are resolved by judges by the majority of votes. None of the judges may abstain from voting. The judge presiding over the court session is the last to vote.

2. The judge who does not agree with the opinion of the majority of judges who vote for the delivery of a judicial act is obliged to sign the act and may express a separate (dissenting) opinion in the written form.

The judge who votes for the delivered judicial act on the merits of the issue under the court's consideration, but is left in minority after a vote on any other issue or on the motivation of the delivered judicial act, may also express a separate (concurring) opinion in the written form.

When rendering the separate opinion, the judge may not provide anyone with information regarding the contents of the discussion during the delivery of the judicial act, the position of certain judges of the court composition, or in any other way divulge the secret of the judges' conference.

The judge's separate opinion must be formulated within five days from the day of delivery of the decision on the case. The judge's separate opinion is attached to the case materials, but is not pronounced.

Chapter 3. Recusals

Article 21. Recusal of a Judge

1. A judge may not participate in the consideration of a case, if he/she:

1) took part in the previous consideration of the given case in the capacity of a judge and a repeated participation in the consideration of the case is inadmissible, according to the requirements of this Code;

2) took part in the previous consideration of the given case in the capacity of a prosecutor, assistant of a judge, court session secretary, representative, expert, specialist, interpreter or witness;

3) took part in the previous consideration of the given case in the capacity of a judge of a foreign court, an arbitration tribunal or a court of arbitration;

4) is a relative of a person participating in the case or of its representative;

5) is personally, directly or indirectly interested in the outcome of the case, or if there are other circumstances which may raise doubts as to the judge's impartiality;

6) is or previously was officially or in any other way dependent on a person participating in the case, or on its representative;

7) made public statements or stated opinions on the merits of the case under consideration.

1.1. Information regarding the receipt by the court of a non-procedural address regarding a case before the judge of a commercial court cannot by itself be regarded as a reason for the judge's recusal.

2. Persons who are relatives may not be members of a composition of a commercial court considering the case.

3. Commercial court assessors are likewise recused for reasons stated in Part 1 of this Article.

Article 22. Inadmissibility of a Judge's Repeated Participation in the Consideration of the Case

1. A judge, who participated in the consideration of the case in a commercial court of the first instance, may not participate in the consideration of this case in appellate or cassational courts or in supervisory review proceedings.

2. A judge, who participated in the consideration of the case in an appellate commercial court, may not participate in the consideration of this case in courts of the first instance or in cassational courts or in supervisory review proceedings.

3. A judge, who participated in the consideration of the case in a cassational commercial court, may not participate in the consideration of this case in courts of the first and appellate instances or in supervisory review proceedings.

4. A judge, who participated in the consideration of a case in supervisory review proceedings, may not participate in the consideration of this case in courts of the first, appellate or cassational instances.

Article 23. Recusal of an Assistant of a Judge, Court Session Secretary, Expert, Specialist or Interpreter

1. An assistant of a judge, court session secretary, expert, specialist or interpreter may not participate in the consideration of the case and are recused for reasons stated in **Article 21** of this Code.

If an expert conducted an audit or an inspection, the materials of which serve as grounds for the application to the commercial court or are used during the consideration of the case, it is also a reason for the expert's recusal.

2. Participation of an assistant of a judge, a court session secretary, an expert, a specialist or an interpreter in previous consideration of a given case by a commercial court respectively in the capacity of an assistant of a judge, a court session secretary, an expert or an interpreter is not a reason for their recusal.

Article 24. Applications for Self-recusals and Recusals

1. If there are reasons stated in **Articles 21 to 23** of this Code, a judge, a commercial court assessor, an assistant of a judge, a court session secretary, an expert, a specialist or an interpreter are obliged to declare a self-recusal. Persons participating in the case may declare recusals for the same reasons. The recusal of an assistant of a judge, court session secretary, expert, specialist or interpreter may be likewise considered by initiative of the court.

2. Self-recusal or recusal must be reasoned and declared prior to starting the consideration of a case on its merits.

It is only allowed to file an application for self-recusal or recusal during the consideration of the case, if the reason for it became known to the person filing it after the commencement of the consideration of the case on its merits.

3. A repeated application for recusal for the same reasons may not be filed by the same person.

Article 25. Consideration of a Declared Recusal

1. In the event of application for recusal, the commercial court hears the opinions of persons participating in the case, as well as of the person being recused, should this person wish to give explanations.

2. The issue of recusal of the single judge considering the case is resolved by the president of the commercial court, the deputy president of the commercial court or the head of a judicial chamber.

3. If one of the judges considering the case in panel is being recused, this issue is resolved by a

majority vote in the same court composition in the absence of the judge being recused. If there is an even number of votes cast for and against the recusal, the judge is recused.

The issue of recusal of several judges or of the whole court composition considering the case is resolved by the president of the commercial court, the deputy president of the commercial court or the head of a judicial chamber.

4. The recusal of an assistant of a judge, a court session secretary, an expert, a specialist or an interpreter is considered by the court composition considering the case.

5. A ruling is issued after the resolution of issue of a self-recusal or a recusal.

Article 26. Consequences of Satisfaction of an Application for Recusal

1. A judge, who declares a self-recusal, as well as an application for whose recusal is satisfied, is replaced by another judge.

2. In the event of satisfaction of an application for self-recusal or for the recusal of a judge, several judges, or of the whole composition of the court, the case is considered by the same commercial court, but by another composition of the court.

3. If as a result of satisfaction of self-recusals and recusals it is impossible to form a new composition of the court to consider the given case in the same commercial court, the case is referred to another commercial court of the same level in the manner established by **Article 39** of this Code.

Chapter 4. Competence and Jurisdiction of Commercial Courts

§ 1. Competence

Article 27. Cases within the Scope of Competence of Commercial Courts

1. The scope of competence of commercial courts includes economic disputes and other cases related to the exercise of entrepreneurial and other economic activities.

2. Commercial courts settle economic disputes and consider other cases with the participation of organisations which are legal entities, of individuals, engaged in entrepreneurial activities without forming a legal entity and having the status of an individual entrepreneur obtained in the manner established by laws (hereinafter referred to as "individual entrepreneurs"), and in the instances provided for by this Code and other federal laws, with the participation of the Russian Federation, the constituent units of the Russian Federation, municipal formations, state bodies, local government bodies, other bodies, state officials, formations which do not have the status of a legal entity, and individuals which do not have the status of an individual entrepreneur (hereinafter referred to as "organisations and individuals").

3. Federal law may refer other cases to the scope of competence of commercial courts.

4. If the commercial court accepts an application in compliance with the rules of competence, it must consider it on its merits, even if in the future an individual without the status of an individual entrepreneur is drawn to participation in the case as a third person, not filing individual claims in respect of the subject matter of the dispute.

5. Commercial courts consider cases within the scope of their competence with the participation of Russian organisations, citizens of the Russian Federation, as well as of foreign organisations, international organisations, foreign citizens and stateless persons engaged in entrepreneurial activities, as well as organisations with foreign investments, unless otherwise provided by an international treaty of the Russian Federation.

Article 28. Competence over Economic Disputes and Other Cases Arising from Civil Relations

Commercial courts consider in adversarial proceedings economic disputes and other cases

arising from civil relations, related to the exercise of entrepreneurial and other economic activities by legal entities and individual entrepreneurs, and in the instances provided by this Code and other federal laws, by other organisations and individuals, except for cases, considered by the Moscow City Court in compliance with Part 3 of Article 26 of the Civil Procedure Code of the Russian Federation.

Article 29. Competence over Economic Disputes and Other Cases Arising from Administrative and Other Public Relations

1. Commercial courts consider in administrative proceedings the following economic disputes, arising from administrative and other public relations, and other cases related to the exercise of entrepreneurial and other economic activities by organisations and individuals:

1) abrogated;

1.1) of challenge of normative legal acts which concern the applicant's rights and legitimate interests in the sphere of entrepreneurial and other economic activities, should federal laws refer the consideration of such cases to the competence of a commercial court;

2) of challenge of non-normative legal acts, decisions and actions (failures to act), infringing the applicant's rights and lawful interests in the sphere of entrepreneurship and other kinds of economic activities, adopted by state bodies, local government bodies, state officials and other bodies and organisations, vested by federal law with certain state powers or other public powers;

3) on administrative offences, should federal laws refer the consideration of such cases to the competence of a commercial court;

4) on recovery of compulsory payments and penalties from organisations and individuals, engaged in entrepreneurship and other economic activities, unless federal laws provide another manner of recovery;

5) other cases arising from administrative and other public relations if consideration of such cases is referred to the competence of a commercial court by federal law.

2. *Abrogated.*

Article 30. Competence over Cases on the Establishment of Legally Significant Facts

Commercial courts consider in special proceedings cases on the establishment of facts, legally significant for the emergence, change and termination of rights of organisations and individuals in the sphere of entrepreneurship and other economic activities.

Article 31. Competence over Cases on the Challenge of Arbitration Tribunals' Awards and on the Issuance of Writs of Execution for the Enforcement of Arbitration Tribunals' Awards

Commercial courts consider in compliance with **Chapter 30** of this Code:

1) cases on the challenge of awards of arbitration tribunals with regard to disputes arising in the course of entrepreneurial and other economic activities;

2) cases on the issuance of writs of execution for the enforcement of arbitration awards with regard to disputes arising in the course of entrepreneurial and other economic activities.

Article 32. Competence over Cases on the Recognition and Enforcement of Judgements of Foreign Courts and Foreign Arbitration Awards

Commercial courts consider in compliance with **Chapter 31** of this Code cases on the recognition and enforcement of judgements of foreign courts and foreign arbitration awards with regard to disputes arising in the course of entrepreneurial and other economic activities.

Article 33. Special Competence of Commercial Courts

- 1.** Commercial courts consider cases:
 - 1) on insolvency (bankruptcy);
 - 2) indicated in **Article 225.1** of this Code;
 - 3) related to the denial of state registration or evasion of state registration by legal entities and individual entrepreneurs;
 - 4) arising from the activity of depositaries, related to the registration of rights to shares and other securities and with the exercise of other rights and fulfilment of other obligations provided by federal law;
 - 4¹) arising from the activity of state corporations and related to their legal status, the manner of their management, creation, re-organisation, liquidation, organisation and authority of their bodies and responsibility of the persons comprising their bodies;
 - 4²) on the protection of intellectual property rights with the participation of organisations, conducting collective administration of copyright rights and neighbouring rights and also on disputes, referred to the jurisdiction of the Intellectual Property Rights Court;
 - 5) on the protection of business reputation in the sphere of entrepreneurial and other economic activities;
 - 6) other cases arising in the course of entrepreneurial and other economic activities, in the instances provided by federal laws.
- 2.** Cases specified in Part 1 of this Article are considered by commercial courts regardless of whether the participants of the legal relations from which a dispute or a claim arises are legal entities, individual entrepreneurs or other organisations or individuals.

§ 2. Jurisdiction

Article 34. Jurisdiction of Commercial Courts

- 1.** Cases within the scope of competence of commercial courts are considered in the first instance by commercial courts of republics, territories, regions, federal cities, autonomous regions and autonomous areas (hereinafter referred to as "commercial courts of the constituent units of the Russian Federation"), save for cases referred to the jurisdiction of the Supreme Commercial Court of the Russian Federation, of the Intellectual Property Rights Court and of the Federal Commercial Courts of Circuits.
- 2.** The Supreme Commercial Court of the Russian Federation considers as a court of the first instance:
 - 1) cases of challenge of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation and federal executive bodies, which concern the applicant's rights and legitimate interests in the sphere of entrepreneurial and other economic activities, save for cases, mentioned in Part 4 of this Article;
 - 2) cases of challenge of non-normative legal acts of the President of the Russian Federation, the Federation Council and the State Duma of the Federal Assembly of the Russian Federation, of the Government of the Russian Federation and the Governmental Commission for Control over Foreign Investments in the Russian Federation which do not comply with the law and concern the applicant's rights and legitimate interests in the sphere of entrepreneurial and other economic activities;
 - 3) economic disputes between the Russian Federation and the constituent units of the Russian Federation, and between the constituent units of the Russian Federation.
- 3.** Federal Commercial Courts of Circuits consider as courts of the first instance compensation claims for the violation of right to a fair trial within a reasonable time or the right to enforcement of a judicial act within a reasonable time.
- 4.** The Intellectual Property Rights Court considers as a court of the first instance:
 - 1) cases of challenge of normative legal acts of federal executive bodies, which concern the applicant's rights and legitimate interests in the sphere of legal protection of results of intellectual

activity and means of individualisation, and likewise in the sphere of patent rights and rights to achievements of breeding, integrated circuit layouts, rights to secrets of production (know-how), rights to the means of individualisation of legal entities, goods, works, services and enterprises, rights of use of the results of intellectual activity in the system of unified technology;

2) cases concerning the granting or termination of legal protection of results of intellectual activity and of means of individualisation of legal entities, goods, works, services and enterprises, equated to them (except for objects of copyright and neighbouring rights, integrated circuit layouts), including:

cases of challenge of non-normative legal acts, decisions and actions (failures to act) of the federal state body for intellectual property, federal state body for achievements of breeding and of their officials, as well as of organs, authorised by the President of the Russian Federation to consider applications for the issuance of patents for secret inventions;

cases of challenge of the federal antitrust organ's decisions to recognise actions, involving the obtainment of exclusive rights to means of individualisation of legal entities, goods, works, services and enterprises, as unfair competition;

cases on the establishment of a patent holder;

cases on the recognition of a patent for an invention, a utility model, an industrial design or an achievement of breeding as invalid; on the recognition of a decision to grant legal protection to a trademark, a designation of place of origin of goods and to grant the exclusive right to such a designation as invalid, unless federal law provides another manner for that;

cases on the early termination of legal protection of a trademark as the result of its non-use.

Article 35. Filing a Claim at the Location or Place of Residence of the Defendant

A claim is filed with the commercial court of a constituent unit of the Russian Federation at the location or place of residence of the defendant.

Article 36. Plaintiff's Choice of Jurisdiction

1. A claim against the defendant, whose location or place of residence is unknown, may be filed with the commercial court at the location of the defendant's property or at the defendant's last known location or place of residence in the Russian Federation.

2. A claim against defendants, located or resident in different constituent units of the Russian Federation, is filed with the commercial court at the location or place of residence of one of the defendants.

3. A claim against the defendant, located or resident on the territory of a foreign state, may be filed with the commercial court at the location of the defendant's property on the territory of the Russian Federation.

4. A claim, arising from a contract with a specified place of execution, may be filed with the commercial court at the place of execution of the contract.

5. A claim against a legal entity, arising from the activities of its representative office or branch office, situated away from the location of the legal entity, may be filed with the commercial court at the location of the legal entity or its representative or branch office.

6. Claims for damages, caused by a collision of vessels, or for the recovery of a reward for marine salvage may be filed with the commercial court at the location of the defendant's vessel or at the port of registry of the defendant's vessel, or at the place of the infliction of damage.

7. The plaintiff chooses between the commercial courts, having jurisdiction over the case according to this Article.

Article 37. Contractual Jurisdiction

Jurisdiction established by **Articles 35** and **36** of this Code may be changed by agreement of

the parties prior to the acceptance of the application by the commercial court.

Article 38. Exclusive Jurisdiction

1. Claims for rights to immovable property are filed with the commercial court at the location of the immovable property.

2. Claims for rights to sea and air vessels, inland navigation vessels and nonterrestrial objects are filed with the commercial court at the place of their state registration.

3. A claim against the carrier, arising from a contract of carriage of freight, passengers and their baggage, and likewise in the event of the carrier being one of the defendants, is filed with the commercial court at the location of the carrier.

3¹. A dispute, in which a commercial court is a person participating in the case, is brought before the Commercial court of the Moscow Region, except when the person participating in the case is a commercial court situated in the Moscow Judicial Circuit. In that instance, the dispute is brought before the Commercial court of the Tver Region.

4. An application for declaring a debtor bankrupt is filed with the commercial court at the location of the debtor.

4¹. A statement of claim or an application concerning the dispute stated in **Article 225¹** of this Code is filed with the commercial court at the location of the legal entity mentioned in Article 225¹ of this Code.

5. An application for the establishment of legally significant facts is filed with the commercial court at the location or place of residence of the applicant, save for applications for the establishment of legally significant facts for the emergence, change or termination of rights to immovable property, which are filed to a court at the location of the immovable property.

6. An application for challenge of decisions and actions (failures to act) of a bailiff is filed with the commercial court at the location of the bailiff.

7. Applications related to disputes between Russian organisations, exercising activities or having property on the territory of a foreign state, are filed with the commercial court at the place of state registration of the defendant organisation in the Russian Federation.

Applications related to disputes between Russian organisations, exercising activities or having property on the territory of a foreign state and which do not have state registration on the territory of the Russian Federation, are filed with the Commercial court of the Moscow region.

8. *Abrogated.*

9. An application for the recognition and enforcement of judgements of foreign courts and of foreign arbitration awards is filed by the party, in whose favour a judgement of a foreign court has been rendered, with the commercial court of the constituent unit of the Russian Federation at the location or place of residence of the debtor or, if the location or place of residence of the debtor is unknown, at the location of the debtor's property.

10. A counterclaim, regardless of which court has jurisdiction over it, is filed with the commercial court at the place of consideration of the original claim.

Article 39. Referral of a Case from One Commercial Court to Another

1. A case accepted by the commercial court subject to the rules of jurisdiction must be considered by this court on its merits, even though in the future another court could obtain the jurisdiction to consider it.

2. The commercial court refers the case for consideration to another commercial court of the same level, if:

1) a defendant, whose location or place of residence was not known before, files a motion for the referral of the case to the commercial court at the location or place of residence thereof;

2) both parties file a motion for the consideration of the case at the location of the greater part of the evidence;

3) it turns out in the course of consideration of the case that it was accepted in violation of the rules of jurisdiction;

4) it is established in the course of consideration of the case by the court that the same commercial court is a person participating in the case;

5) after the recusal of one or several judges or for some other reason it is impossible to form a composition of the court to consider the given case.

2¹. In the instance stated in Item 4, Part 2 of this Article, the commercial court refers the case for consideration to another commercial court, determined in accordance with **Part 3¹ of Article 38** of this Code.

3. After resolving the issue of referral of the case to another court for consideration, the commercial court issues a ruling which may be appealed against to an appellate commercial court within ten days from the day of its issuance. The appeal against such a ruling is considered without summoning the parties, within five days from the day of its receipt by the court.

The case and the ruling are forwarded to the respective commercial court upon the expiry of the term, stipulated for appealing against the ruling, and if an appeal has been filed - after the delivery of the judgement to leave the appeal without satisfaction.

4. A case referred from one commercial court to another commercial court must be accepted by the court, to which it has been referred. Disputes on jurisdiction between commercial courts in the Russian Federation are not allowed.

Chapter 5. Persons Participating in the Case and Other Participants of Commercial Proceedings

Article 40. Persons Participating in the Case

Persons participating in the case are:

the parties;

applicants and persons concerned - in cases of special proceedings, in insolvency (bankruptcy) cases, and in other instances provided by this Code;

third persons;

the prosecutor, state bodies, local government bodies, other bodies and organisations, as well as individuals, applying to the commercial court in the instances provided by this Code.

Article 41. Rights and Duties of Persons Participating in the Case

1. Persons participating in the case are entitled to access the case materials, to make extracts from them and to make copies of them; to make recusals; to present evidence and to access the evidence presented by other persons participating in the case prior to the beginning of the judicial proceedings; to participate in the examination of evidence; to pose questions to other participants of commercial proceedings, to file motions, to make statements, to give explanations to the commercial court, to state their arguments with regard to all matters arising in the course of the consideration of the case; to access motions filed by other persons, to object against motions and arguments of other persons participating in the case; to obtain information on complaints made by other persons participating in the case, on judicial acts delivered in respect of the given case and to obtain copies of judicial acts, issued in the form of separate documents; to access the judge's separate opinion on the case; to appeal against judicial acts; to enjoy other procedural rights, granted to them by this Code and other federal laws.

Persons participating in the case also have the right to submit documents to the commercial court in electronic form, to fill out the forms on the commercial court's official website in the manner, established by the Supreme Commercial Court of the Russian Federation within the scope of its powers.

2. Persons participating in the case must exercise all the procedural rights, vested in them, in

good faith.

Abuse of procedural rights by persons participating in the case entails negative consequences, stated by this Code for these persons.

3. Persons participating in the case discharge procedural duties, established by this Code and other federal laws, or placed on them by the commercial court in compliance with this Code.

Failure to discharge procedural duties by persons participating in the case entails for them the effects stipulated in this Code.

Article 42. Rights of Persons Not Participating in the Case in Respect of Whose Rights and Duties the Commercial Court Issued a Judicial Act

Persons not participating in the case, in respect of whose rights and duties the commercial court issued a judicial act, are entitled to appeal against this judicial act, as well as to dispute it in supervisory review proceedings in compliance with the rules established by this Code. Such persons enjoy the rights and discharge the duties of persons participating in the case.

Article 43. Procedural Legal Capacity and Active Procedural Legal Capacity

1. The ability to have procedural rights and to discharge procedural duties (procedural legal capacity) is equally recognised for all organisations and individuals, vested under federal laws with the right to court protection of their rights and legitimate interests in commercial courts.

2. The ability to exercise procedural rights and discharge procedural duties by their actions (active procedural legal capacity) belongs in commercial courts to organisations and individuals.

3. The rights and legitimate interests of incapable individuals are protected in commercial proceedings by their legal representatives - parents, adoptive parents, custodians or guardians.

Article 44. Parties

1. The plaintiff and the defendant are the parties to commercial proceedings.

2. Plaintiffs are organisations and individuals filing a claim for the protection of their rights and legitimate interests.

3. Defendants are organisations and individuals against whom a claim is filed.

4. Parties enjoy equal procedural rights.

Article 45. Applicants

1. Applicants are organisations and individuals, filing applications with the commercial court in the instances provided by this Code and other federal laws, and entering commercial proceedings on the basis of those applications.

2. Applicants enjoy the procedural rights and discharge the procedural duties of a party, unless otherwise stated by this Code.

Article 46. Participation of Several Plaintiffs or Defendants in the Case

1. A claim may be filed with the commercial court jointly by several plaintiffs or against several defendants (joinder of the parties).

2. The joinder of parties is allowed if:

1) the subject matter of the dispute is common rights and (or) duties of several plaintiffs or defendants;

2) the rights and (or) duties of several plaintiffs or defendants have the same ground;

3) the subject matter of the dispute is homogeneous rights and duties.

3. Each of the plaintiffs or defendants acts in proceedings independently towards the opposing

party. Participants of a joinder of parties may entrust one or several participants of the joinder with the conduct of the case.

4. Co-plaintiffs may join the proceedings prior to the delivery of the judicial act finalising the consideration of the case on its merits by a commercial court of the first instance.

5. Where it is impossible to consider a case without the participation of another person in the role of a defendant, the commercial court of the first instance draws this person to participation in the case as a co-defendant upon the motion of the parties or by consent of the plaintiff.

6. Where federal law envisages the compulsory participation of another person in the case in the capacity of a defendant, as well as in cases arising from administrative and other public relations, the commercial court of the first instance draws a person to participation in the case in the capacity of a co-defendant on its own initiative.

7. A ruling is issued on the entry of a co-plaintiff into the case or the drawing of a co-defendant to participation, or if the court doesn't allow one of the above. A ruling rejecting the motion for a co-plaintiff to enter into the case, or drawing a co-defendant to participation in the case may be appealed against in an appellate commercial court by the person that filed the corresponding motion within ten days from the date of its issuance.

8. After a co-plaintiff enters into the case or a co-defendant is drawn to participation in the case, the case is considered de novo.

Article 47. Replacement of an Improper Defendant

1. If during the preparation of the case for judicial proceedings or in the course of judicial proceedings in a court of the first instance it is established that the claim has been filed against a person which is not liable under the claim, the commercial court may allow the replacement of the improper defendant with the appropriate one upon the motion or by consent of the plaintiff.

2. If the plaintiff does not consent to the replacement of the defendant by another person, the court may, by consent of the plaintiff, draw this person as the second defendant.

3. After the replacement of an improper defendant or the entry of the second defendant into the case, the case is considered de novo.

4. The commercial court issues a ruling on the replacement of an improper defendant by the appropriate one or on drawing the appropriate defendant as the second defendant.

5. If the plaintiff does not consent to the replacement of the defendant by another person, or to drawing of this person as the second defendant, the commercial court considers the case on the basis of the stated claim.

Article 48. Procedural Legal Succession

1. In the event of withdrawal of one of the parties from a disputable legal relation or from a legal relation established by a judicial act of the commercial court (reorganisation of a legal entity, cession, assignment of debt, death of an individual and in other instances of changing of persons in an obligation), the commercial court replaces this party with its legal successor and indicates this in a judicial act. Legal succession is possible at any stage of commercial proceedings.

2. The replacement of a party by its successor or the refusal of the commercial court to effect it is indicated in the respective judicial act which may be appealed against.

3. All actions committed in the course of proceedings prior to the entry of a legal successor into the case are mandatory to the successor to the same extent, to which they were mandatory for the person whom the legal successor replaces.

Article 49. Changing the Ground or Subject Matter of the Claim, Changing the Amount of the Claim, Renunciation of the Claim, Acknowledgement of the Claim, Settlement Agreement

1. The plaintiff is entitled to change the grounds or the subject matter of the claim, to increase or decrease the amount of claims during the consideration of the case by a commercial court of the first instance and prior to the delivery of a judicial act finalising the consideration of the case on its merits.

2. The plaintiff is entitled to renounce the claim fully or in part prior to the delivery of a judicial act finalising the consideration of the case on its merits by a commercial court of the first instance or by an appellate commercial court.

3. The defendant is entitled to acknowledge the claim in whole or in part during the consideration of the case by a commercial court of any instance.

4. The parties may terminate the case by concluding a settlement agreement in the manner provided by **Chapter 15** of this Code.

5. The commercial court does not accept the plaintiff's renunciation of the claim, the decrease of the amount of the claim, the defendant's acknowledgment of the claim and does not validate a settlement agreement, should it contradict the law or violate the rights of other persons. In these instances the court considers the case on its merits.

Article 50. Third Persons, Filing Independent Claims in Respect of the Subject Matter of the Dispute

1. Third persons, filing independent claims in respect of the subject matter of the dispute, may enter the case before a decision is delivered by a commercial court of the first instance.

2. Third persons, filing independent claims in respect of the subject matter of the dispute, enjoy the rights and discharge the duties of the plaintiff, save for the obligation to follow a claim procedure or another alternative dispute resolution procedure, if such is provided by federal laws for the given category of disputes or by an agreement.

3. If a third person, filing an independent claim in respect of the subject matter of the dispute, enters the case after the beginning of judicial proceedings, the case is to be considered in a commercial court of the first instance from the very beginning.

4. A ruling is issued if a third person, filing independent claims in respect of the subject matter of the dispute, enters into the case or the court refuses to allow that. A ruling on the refusal to allow a third person, filing independent claims in respect of the subject matter of the dispute, to enter into the case may be appealed against by the person, filing the respective motion, within ten days from the date of issuance of the ruling.

Article 51. Third Persons, Not Filing Independent Claims in Respect of the Subject Matter of the Dispute

1. Third persons, not filing independent claims in respect of the subject matter of the dispute, may enter the case on the side of the plaintiff or the defendant prior to the delivery of a judicial act finalising the consideration of the case by a commercial court of the first instance, if this judicial act may influence their rights and duties towards one of the parties. They may be likewise drawn to participation in the case upon the motion of the parties or by the initiative of the court.

2. Third persons, not filing independent claims in respect of the subject matter of the dispute, enjoy the procedural rights and discharge the procedural duties of a party, save for the right to change the ground or subject matter of the claim, to increase or decrease the amount of claims, to renounce the claim, to acknowledge the claim or to conclude a settlement agreement, to file a counterclaim and to demand the enforcement of a judicial act.

3. Rulings are issued on the entry of a third person not filing independent claims in respect of the subject matter of the dispute into the case, on the drawing of a third person to participation in the case or on the refusal of the commercial court to do so.

3¹. A ruling on the refusal to allow a third person, not filing independent claims in respect of the subject matter of the dispute, to enter into the case may be appealed against in an appellate commercial court, by the person that filed the respective motion, within ten days from the date of its

issuance.

4. If a third person, not filing independent claims in respect of the subject matter of the dispute, enters the case after the beginning of judicial proceedings, the commercial court of the first instance considers the case de novo.

Article 52. Participation of the Prosecutor in the Case

1. The prosecutor may file with the commercial court:

applications challenging normative legal acts, non-normative legal acts of public authorities of the Russian Federation, public authorities of the constituent units of the Russian Federation and local government bodies, which concern the rights and legitimate interests of organisations and individuals in the sphere of entrepreneurial and other economic activities;

claims for the invalidation of transactions, made by public authorities of the Russian Federation, public authorities of the constituent units of the Russian Federation, local government bodies, state and municipal unitary enterprises, public institutions, as well as by legal entities, whose charter capital (fund) includes a share of the Russian Federation, a share of the constituent units of the Russian Federation or a share of municipal formations;

claims for the application of effects of invalidity of a void transaction, made by public authorities of the Russian Federation, public authorities of the constituent units of the Russian Federation, local government bodies, state and municipal unitary enterprises, public institutions, as well as by legal entities, whose charter capital (fund) includes a share of the Russian Federation, a share of the constituent units of the Russian Federation or a share of municipal formations;

2. An address to the Supreme Commercial Court of the Russian Federation is made by the Prosecutor General of the Russian Federation or a deputy Prosecutor General of the Russian Federation, an address to the commercial court of a constituent unit of the Russian Federation is likewise made by the prosecutor of the constituent unit of the Russian Federation or a deputy prosecutor of the constituent unit of the Russian Federation and prosecutors or deputies thereof, equated to them.

3. The prosecutor, applying to the commercial court, enjoys the procedural rights and discharges the procedural duties of a plaintiff.

4. Renunciation of the claim by the prosecutor does not deprive the plaintiff of the right to demand the consideration of the case on its merits, if the plaintiff participates in the case.

5. As regards cases, indicated in Part 1 of this Article, the prosecutor is entitled to enter the case, considered by the commercial court, at any stage of the commercial proceedings, enjoying the rights and discharging the duties of a person participating in the case, for the purpose of ensuring the rule of law.

Article 53. Application to Court for the Protection of Public Interests, Rights and Legitimate Interests of Other Persons

1. In the instances, provided by federal law, state bodies, local government bodies and other agencies are entitled to apply to the commercial court for the protection of public interests.

2. Where it is provided by this Code and other federal laws, organisations and individuals are entitled to apply to the commercial court for the protection of rights and legitimate interests of other persons.

3. Such an application must specify the violation of public interests or rights and (or) legitimate interests of other persons, being the ground for application to the commercial court.

4. A body, applying to the commercial court for the protection of public interests, organisations and individuals, applying for the protection of rights and legitimate interests of other persons, enjoy the procedural rights and discharge the procedural duties of plaintiffs.

5. The renunciation of claim by the bodies, organisations and individuals, cited in Parts 1 and 2 of this Article, does not deprive the plaintiff of the right to demand the consideration of the case on its

merits.

Article 53.1. Participation of the Business Ombudsman under the President of the Russian Federation, of business ombudsmen in constituent units of the Russian Federation in the case

1. The Business Ombudsman under the President of the Russian Federation, business ombudsmen in constituent units of the Russian Federation, applying to the commercial court, enjoy the procedural rights and discharge the procedural duties of plaintiffs.

2. The Business Ombudsman under the President of the Russian Federation may enter the case on the side of the plaintiff or the defendant as a third person, not filing independent claims.

3. The Business Ombudsman under the President of the Russian Federation may appeal against effective judicial acts in accordance with the rules, established in Article 42 of this Code.

Article 54. Other Participants of Commercial Proceedings

Along with the persons participating in the case, their representatives and persons assisting the administration of justice (experts, specialists, witnesses, interpreters, an assistant of a judge and a court session secretary) may take part in commercial proceedings.

Article 55. Expert

1. An expert in the commercial court is a person with special knowledge in matters concerning the case under consideration, and appointed by the court to state an opinion in the instances and in the manner provided by this Code.

2. The person, entrusted with conducting an expert examination, is obliged to appear, when summoned, before the commercial court, and to issue an objective opinion with regard to the questions posed.

3. Experts are entitled, by authority of the commercial court, to access the case materials, to participate in court sessions, to pose questions to the persons participating in the case and witnesses, to file motions for the presentation of additional materials.

4. Experts are entitled to refuse to state an opinion regarding the matters, exceeding the limits of their special knowledge, and if the presented materials are insufficient to state an opinion.

5. The expert is criminally liable for deliberately stating a false opinion, is warned about it by the commercial court, and gives a recognisance in respect of the warning.

6. In the event of non-fulfilment of the commercial court's demand to submit an expert opinion to the court within the term, fixed in the ruling on the appointment of an expert examination, in the absence of a reasoned statement from the expert or the state forensic-expert institution, stating the impossibility of conduction of an expert examination in due time for the reasons, indicated in Part 4 of this Article, the court imposes a court fine on the head of the state forensic-expert institution or on the expert, guilty of such violations, in the manner and amount established in **Chapter 11** of this Code.

Article 55¹. Specialist

1. A specialist in the commercial court is a person with special knowledge in the corresponding field, providing consultations in the matters concerning the case.

2. The person summoned by the commercial court in the capacity of a specialist is obliged to appear before the court, answer the questions posed, provide oral consultations and clarifications.

3. Specialists are entitled, by authority of the commercial court, to access the case materials, to participate in court sessions, to file motions for the presentation of additional materials.

4. Specialists are entitled to refuse to provide consultations in matters, exceeding the limits of their knowledge, and if the materials presented to them are insufficient to provide consultations.

Article 56. Witness

1. A witness is a person who has information on the factual circumstances, significant to the consideration of the case.

2. The witness is obliged to appear before the commercial court, when summoned.

3. Witnesses are obliged to give information on the merits of the case under consideration, personally known to them, to the commercial court, and to answer additional questions, posed by the commercial court and the persons participating in the case.

4. The witness is criminally liable for deliberately giving false evidence, as well as for the refusal to testify, is warned by the commercial court about it, and gives a recognisance in respect of the warning.

5. Judges and other persons participating in the administration of justice - in respect of circumstances, which became known to them in connection with their participation in the consideration of a case, representatives in a civil or another case - in respect of the circumstances, which became known to them in connection with their discharging of duties of representatives, as well as persons, who due to their mental deficiencies are unable to understand facts correctly and to testify about them, are not subject to examination as witnesses.

5¹. Intermediaries, rendering assistance to the parties in a dispute settlement, for instance mediators, are not subject to examination as witnesses in respect of the circumstances that became known to them in connection with the execution of the corresponding duties.

6. Nobody is obliged to testify against themselves, their spouse or close relatives, the circle of which is determined by federal law.

7. A witness is entitled to the reimbursement of expenses, entailed by the summoning, and to the receipt of monetary compensation for the loss of time.

Article 57. Interpreter

1. An interpreter is a person who fluently speaks the language, the command of which is necessary for translation in the course of the proceedings, and is drawn to participation in commercial proceedings by the commercial court in the instances and in the manner provided by this Code.

2. Persons participating in the case are entitled to suggest interpreters to the commercial court.

Other participants of commercial proceedings are not entitled to assume the duties of an interpreter, even though they may have command of the languages, necessary for translation.

3. The commercial court issues a ruling on the drawing of the interpreter to the participation in commercial proceedings.

4. The interpreter is obliged to appear before the commercial court, when summoned, and to make a complete, correct and timely translation.

5. Interpreters are entitled to pose questions to the persons, present during the translation, to rectify the translation, to access the minutes of the court session or of an individual procedural action and to make notes in respect of the correctness of the recording of the translation.

6. The interpreter is criminally liable for a deliberately false translation, is warned about it by the commercial court and gives a recognisance in respect of the warning.

7. The rules of this Article extend to persons, skilled in sign language translation, and drawn to participation in commercial proceedings by the commercial court.

Article 58. Assistant of a Judge. Court Session Secretary

1. An assistant of a judge assists the judge in the preparation and organisation of court proceedings and is not entitled to exercise functions, related to the administration of justice.

2. An assistant of a judge may take the minutes of a court session and carry out other procedural actions in the instances and manner provided by this Code.

3. An assistant of a judge cannot perform actions, entailing the emergence, change or termination of the rights and duties of persons participating in the case and of other participants of the commercial proceedings.

4. A court session secretary takes the minutes of a court session. In the minutes, the court session secretary is obliged to state correctly and fully the actions and decisions of the court, as well as the actions of participants of the commercial proceedings, which took place during the court session.

5. A court session secretary, by order of the presiding judge, verifies the appearance of the persons, who are to participate in a court session, before the court.

Chapter 6. Representation in the Commercial Court

Article 59. Conduct of Cases through Representatives in the Commercial Court

1. Individuals are entitled to conduct their cases in the commercial court personally or through representatives. Conducting cases personally does not deprive an individual of the right to have representatives.

2. The rights and legitimate interests of incapable individuals are protected in commercial courts by their legal representatives: parents, adoptive parents, custodians and guardians, who may entrust another representative, selected by them, with the conduct of the case in the commercial court.

3. Lawyers and other persons, rendering legal assistance, may act in the commercial court as representatives of individuals, including individual entrepreneurs and organisations.

4. Cases of organisations are conducted in commercial courts by their bodies, acting in compliance with the federal law, other normative legal acts or constituent documents of the organisations.

If an organisation is being liquidated, it is represented in court by an authorised representative of the liquidation commission.

5. *Abolished*

5¹. *Abolished*

6. A capable person with a properly drawn-up and confirmed authority to conduct the case, save for the persons indicated in Article 60 of this Code, may act as a representative in the commercial court.

Article 60. Persons, Who May Not Act as Representatives in the Commercial Court

1. Judges, commercial court assessors, investigators, prosecutors, assistants of judges and court staff may not act as representatives in the commercial court. This rule does not extend to the instances, when the said persons act in the commercial court as representatives of the corresponding bodies or as legal representatives.

2. Persons, who are not fully-capable or those under custody or guardianship may not act as representatives in the commercial court.

Article 61. Formalising and Confirming the Authority of a Representative

1. The authority of the heads of organisations, acting on behalf of the organisations within the scope of powers, provided by federal law, other normative legal acts or constituent documents, is confirmed by documents, certifying their official status, as well as by constituent and other documents, submitted to the court.

2. The authority of legal representatives is confirmed by the documents, certifying their status and powers, submitted to the court.

3. The authority of a lawyer to conduct cases in the commercial court is confirmed in compliance with the federal law.

4. The authority of other representatives to conduct cases in the commercial court must be

expressed in a certificate of authority, issued and drawn up in compliance with federal laws, or in another document, in the instances provided by an international treaty of the Russian Federation or by a federal law. The authority of a representative may be likewise expressed in the statement of the person represented, made in a court session, which is to be cited in the minutes of the court session.

5. The certificate of authority, issued by an organisation, must be signed by the head of the organisation or by another person, authorised to do so by its constituent documents, with the seal of the organisation affixed thereto.

6. The certificate of authority, issued by an individual entrepreneur, must be signed by the entrepreneur with the entrepreneur's seal affixed thereto, or may be certified in compliance with Part 7 of this Article.

7. The certificate of authority, issued by an individual, may be certified by a notary or in another manner, established by federal law.

Article 62. Authority of a Representative

1. A representative is entitled to perform all procedural actions, save for the actions, indicated in Part 2 of this Article, on behalf of the person represented, unless otherwise stated in the certificate of authority or in another document.

2. In the certificate of authority, issued by the person represented, the rights of the representative to sign the statement of claim, the statement of defence, the provisional measures application; to transfer the case to an arbitration tribunal, to renounce the claim in whole or in part and to acknowledge the claim, to change the ground or the subject matter of the claim, to conclude a settlement agreement or an agreement regarding the facts, to transfer the authority to another person (sub-delegation), as well as the rights to sign an application for the review of judicial acts due to new or newly discovered facts, to appeal against a judicial act of a commercial court and to receive the awarded money or other property must be specially stipulated.

Article 63. Verifying the Authority of Persons Participating in the Case and of Their Representatives

1. The commercial court is obliged to verify the authority of persons participating in the case and of their representatives.

2. The commercial court acknowledges the authority of persons participating in the case and of their representatives and admits them to participation in a court session on the basis of examination of documents, submitted by them to the court.

3. If necessary, documents, confirming the authority of the said persons, are attached to the case, or the information regarding them is included in the minutes of the court session.

4. If a person participating in the case or its representative fails to submit the necessary documents in support of the authority or submits documents, which do not meet the requirements, established by this Code and other federal laws, as well as if there are violations of the rules of representation, established in **Articles 59** and **60** of this Code, the commercial court refuses to acknowledge the authority of that person to participate in the case, which is indicated in the minutes the court session.

Chapter 7. Evidence and Proof

Article 64. Evidence

1. Evidence in the case is data on the facts, obtained in the manner, provided by this Code and other federal laws, on the basis of which the commercial court establishes the existence or absence of circumstances, proving the claims and objections of the persons participating in the case, as well as other circumstances, significant to the correct consideration of the case.

2. Written and real evidence, explanations of the persons participating in the case, expert opinions, consultations of specialists, witness testimonies, sound recordings and videotapes, other documents and materials are admitted as evidence.

Explanations of the persons participating in the case and of other participants of the commercial proceedings, received through the use of videoconferencing systems, are admissible.

3. Evidence obtained in violation of federal laws is inadmissible.

Article 65. Burden of Proof

1. Each person participating in the case is obliged to prove the circumstances it uses as grounds for its claims or objections. The burden of proving circumstances, serving as grounds for the adoption of acts and decisions, for the performance of actions (failure to act) by state bodies, local government bodies, other bodies or state officials, is placed on the appropriate body or state official.

2. Circumstances, significant to the correct consideration of a case, are determined by the commercial court on the basis of claims and objections of the persons participating in the case, in compliance with the applicable rules of substantive law.

3. Each person participating in the case must disclose the evidence, it uses in substantiation of its claims and objections, to other persons participating in the case, prior to the court session or within the term fixed by the court, unless otherwise established in this Code.

4. Persons participating in the case are only entitled to refer to the evidence to which other persons participating in the case have had access with due advance.

5. If the evidence is presented in violation of the manner for producing evidence, established in this Code, including a violation of the term for the presentation of evidence, fixed by the court, the commercial court may impose the judicial costs onto the person participating in the case and guilty of such a violation, regardless of the results of the case consideration, in conformity with **Part 2 of Article 111** of this Code.

Article 66. Presentation of Evidence and Order to Present Evidence

1. Evidence is presented by the persons participating in a case.

Copies of documents, submitted to the court by a person participating in the case, are forwarded to other persons participating in the case, if they do not have these documents.

2. The commercial court may suggest to persons participating in the case to present additional evidence to ascertain the circumstances, significant for the correct consideration of the case and the delivery of a lawful and reasonable judicial act, prior to the beginning of the court session or within the term fixed by the court.

3. The commercial court may fix a term for the presentation of additional evidence if the circumstances subject to proof change due to the plaintiff changing the ground or subject matter of the claim and the defendant filing a counterclaim.

4. A person participating in the case and lacking the opportunity to obtain the necessary piece of evidence from the person possessing it on its own, may file a motion for the commercial court to order the presentation of this piece of evidence.

The piece of evidence must be specified in the motion along with the circumstances significant to the case, which may be established by this piece of evidence, as well as the reasons, impeding the obtainment of this piece of evidence, and its location.

If the motion is satisfied, the court orders the person possessing the appropriate piece of evidence to present it.

5. If state bodies, local government bodies, other bodies and state officials fail to present evidence in cases, arising from administrative and other public relations, the commercial court on its own initiative orders these bodies to present the evidence.

Copies of documents, that the commercial court on its own initiative ordered to present, are forwarded by the court to the persons participating in the case, if they do not have these documents.

6. The commercial court issues a ruling on the order to present evidence.

The term and manner for the presentation of evidence are specified in the ruling.

A copy of the ruling is forwarded to the persons participating in the case, as well as to the person possessing the piece of evidence, ordered for presentation.

7. The person possessing the piece of evidence, ordered for presentation, sends it directly to the commercial court. If necessary, the court may demand that this piece of evidence is handed to the person with the corresponding request, for presentation to the court.

8. If the person, whom the commercial court orders to present the piece of evidence, has no opportunity to present it at all or to present it within the term, fixed by the court, it is obliged to notify the court of that and to indicate the reasons for the non-presentation of the piece of evidence within five days from the receipt of a copy of the ruling on the order to present evidence.

9. In the event of failure to discharge the duty to present the piece of evidence, ordered for presentation by the commercial court, for reasons not recognised by the commercial court as good, or in the event of failure to notify the court of the impossibility to present that piece of evidence at all or within the fixed term, the court imposes a court fine on the person, to whom it was ordered to present the piece of evidence, in the manner and amount, established in **Chapter 11** of this Code.

10. The court issues a ruling in respect of imposing a court fine.

The ruling on the imposition of a court fine specifies a new term for the presentation of the piece of evidence.

In the event of failure to meet these requirements within the term, fixed in the ruling on the imposition of a court fine, the commercial court may repeatedly impose the fine, according to the rules, provided by Part 9 of this Article.

11. The imposition of court fines does not relieve the person possessing the piece of evidence, ordered for presentation, of the duty to present it to the commercial court.

12. The commercial court ruling on the imposition of a court fine may be appealed against.

Article 67. Relevance of Evidence

1. The commercial court only accepts the evidence which is relevant to the case under consideration.

2. The commercial court does not accept documents, which contain motions in support of persons participating in the case or the evaluation of their activities, other documents, not relevant to the establishment of the facts of the case under consideration, and refuses to add them to case materials. The court cites the refusal to add such documents to case materials in the minutes of the court session.

Article 68. Admissibility of Evidence

Circumstances of a case, which, according to the law, have to be proven by certain pieces of evidence, may not be proven by other pieces of evidence.

Article 69. Grounds for Relief from the Burden of Proof

1. Circumstances of a case, recognised by the commercial court as commonly known, do not need to be proven.

2. Circumstances, established by an effective judicial act of the commercial court, delivered in a previously considered case, do not have to be proven again during the consideration by the commercial court of another case with the participation of the same persons.

3. An effective decision of a court of general jurisdiction in respect of a previously considered civil case is obligatory for the commercial court, considering a case in respect of the matters, concerning the circumstances, established by the decision of the court of general jurisdiction, and pertinent to the persons participating in the case.

4. An effective court sentence in a criminal case is obligatory for the commercial court in respect of the issues, whether certain actions took place and whether they were committed by a certain person.

Article 70. Relief from Proving Circumstances, Acknowledged by the Parties

1. Commercial courts of the first and appellate instances must at all stages of commercial proceedings assist the parties in achieving an agreement on the assessment of circumstances on the whole or in part, and for this purpose take the necessary initiative, use their procedural powers and the authority of a judicial body.

2. Circumstances, acknowledged by the parties as a result of an agreement, achieved by them, are accepted by the commercial court as facts, not requiring further proof.

An agreement regarding the circumstances, achieved by the parties in or outside of a court session, is certified by their written applications and cited in the minutes of the court session.

3. A party's acknowledgement of the circumstances, which the other party uses as ground for its claims and objections, relieves the other party from the burden of proving such circumstances.

The fact of the acknowledgement of circumstances by the parties is cited by the commercial court in the minutes of the court session and is certified by the signatures of the parties. The acknowledgement, stated in writing, is attached to case materials.

3¹. Circumstances to which the party refers in support of its claims or objections are seen as recognised by the other party, if they are not directly disputed by it or if the non-consent to such circumstances does not stem from other evidence, proving the objections raised against the merits of the stated claims.

4. The commercial court does not accept the acknowledgement of circumstances by a party, if it has evidence, allowing to suggest, that the said circumstances have been acknowledged by the party to conceal certain facts or under the influence of deceit, violence, threat or error; the commercial court indicates this in the minutes of the court session.

In this situation the given circumstances are subject to proof on general terms.

5. Circumstances, acknowledged and certified by the parties in the manner established in this Article, in the event of their acceptance by the commercial court, are not verified by it in the course of further proceedings in the case.

Article 71. Evaluation of Evidence

1. The commercial court evaluates evidence according to its inner conviction, based on a comprehensive, full, unbiased and direct examination of the evidence in the case.

2. The commercial court evaluates the relevance, admissibility and reliability of each piece of evidence separately, as well as the sufficiency and interrelation of evidence on the whole.

3. A piece of evidence is recognised by the court as reliable if as a result of its verification and examination the data contained in it is found to be true.

4. Each piece of evidence is subject to evaluation by the commercial court together with all the other evidence.

5. No piece of evidence is regarded by the commercial court as having predetermined strength.

6. The commercial court may not regard as proved a fact, that is only confirmed by a copy of a document or of another written piece of evidence, if the original of the document is lost, and copies of the document, distributed to the persons participating in the case, are not identical, making it impossible to establish the real contents of the original source with the help of other evidence.

7. A court expresses the results of evaluation of evidence in a judicial act, specifying the reasons for accepting or refusing to accept the evidence, presented by the persons participating in the case in substantiation of their claims and objections.

Article 72. Securing of Evidence

1. Persons participating in the case, who have reason to believe that it will be impossible or difficult to present the evidence to the court, may file an application for the securing of evidence.

2. An application for the securing of evidence is filed to the commercial court considering the case.

The evidence to be secured, the circumstances for the confirmation of which this evidence is necessary, and the reasons for applying for the securing of evidence must be specified in the application.

3. The commercial court secures the evidence according to the rules established in this Code for provisional measures.

4. The commercial court may upon the application of an organisation or an individual take measures, aimed at securing the evidence before the claim is filed, in the manner provided by **Article 99** of this Code.

Article 73. Letters of Request

1. If it is impossible for the commercial court considering the case to obtain the evidence, situated on the territory of another constituent unit of the Russian Federation, in the manner provided by **Article 66** of this Code, it may entrust the corresponding commercial court with performing certain procedural actions.

2. A ruling is issued in respect of the request to perform certain procedural actions.

The contents of the case under consideration are summarised in the ruling, along with the circumstances subject to ascertainment and the evidence that the commercial court carrying out the request is to obtain.

A copy of the ruling is forwarded to the court – addressee of the letter of request.

3. A ruling in respect of the letter of request is mandatory for the addressee commercial court and must be executed in no more than ten days from the date of receipt of a copy of the ruling.

Article 74. Execution of a Letter of Request

1. A letter of request is executed in a court session of the commercial court according to the rules established by this Code. Persons participating in the case are notified of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear in court, is not an obstacle for conducting the court session, if that does not contravene the essence of the letter of request.

2. A ruling is issued on the execution of the letter of request which, together with all the materials collected in the course of execution, is promptly sent to the commercial court that issued the letter of request.

If it is impossible to execute a letter of request due to circumstances beyond control of the court, this is indicated in the ruling.

3. Persons participating in the case, witnesses and experts, specialists, who gave explanations, testimonies, opinions or consultations to the commercial court, executing the letter of request, in the event of their participation in a session of the commercial court considering the case, give explanations, testimonies, opinions or consultations on general terms.

Article 75. Written Evidence

1. Contracts, acts, reference notes, business correspondence and other documents, containing data on the circumstances significant to the case and made in the form of digital or graphical records or in any other form, which allows to establish the authenticity of a document, are written evidence.

2. Minutes of court sessions, records of performance of individual procedural actions and attachments thereto likewise pertain to written evidence.

3. Documents received by the facsimile, electronic or other kinds of communication, including the use of the Internet, as well as documents, sealed by an electronic digital signature or another analogue of the handwritten signature, are admitted as written evidence in the instances and in the manner established by this Code, by other federal laws and normative legal acts or by a contract, or defined by the Supreme Commercial Court of the Russian Federation within the scope of its authority.

If copies of documents are submitted to the commercial court in electronic form, the court may demand that the originals of these documents be presented.

4. Documents submitted to the commercial court and confirming the commitment of legally significant actions must meet the requirements established for the given type of documents.

5. A properly certified translation into the Russian language must be attached to written evidence, made in foreign language in whole or in part.

6. A document obtained in a foreign state is recognised by the commercial court as written evidence, if it is legalised in the established manner.

7. Foreign official documents are recognised by the commercial court as written evidence without their legalisation in the instances, provided by an international treaty of the Russian Federation.

8. Written evidence is submitted to the commercial court in the original or in the form of a properly certified copy. If only a part of a document is relevant to the case under consideration, a certified extract is submitted.

9. Originals of documents are submitted to the commercial court if the circumstances of a case are only subject to confirmation by such documents under a federal law or another normative legal act, as well as upon the order for presentation, made by the commercial court.

10. Originals of documents, contained in the case, may be returned to the persons, who submitted them, on the basis of their applications after the entry into force of the judicial act, finalising the consideration of the case, unless the said documents are to be handed to another person. Simultaneously with the applications, the said persons submit properly certified copies of the documents or motions for the court to certify the correctness of the copies left in the case materials.

11. If the commercial court comes to a conclusion that the return of the original documents will not impair the correct consideration of the case, the documents may be returned in the course of proceedings, prior to the entry into force of the judicial act, finalising the consideration of the case.

Article 76. Real Evidence

1. Articles, which due to their appearance, properties, location or other features may serve as means of establishing circumstances, significant to the case, are real evidence.

2. The commercial court issues a ruling on the attachment of real evidence to case materials.

Article 77. Custody of Real Evidence

1. Real evidence is stored at its location. It must be described in detail, sealed and, if necessary, photographed or videotaped.

2. Real evidence may be stored at the commercial court, should the court deem it necessary.

3. The costs of storing real evidence are distributed between the parties according to the rules of **Article 110** of this Code.

4. The commercial court and the custodian take measures, aimed at preserving the immutable condition of evidence.

Article 78. Inspection and Examination of Written and Real Evidence at Its Location

1. The commercial court may inspect and examine written and real evidence at its location if it is impossible or difficult to deliver it to court.

A ruling is issued on the inspection and examination on the spot.

2. Inspection and examination of written and real evidence is conducted by the commercial court with the notification of persons participating in the case of the place and time of the inspection and examination. Failure of properly notified persons to appear is not an obstacle to conducting inspection and examination.

3. If necessary, the commercial court may summon experts and witnesses for participation in the inspection and examination of written or real evidence, as well as perform photography, sound recording or videotaping.

4. Directly in the course of the inspection or examination of written and real evidence on the spot, the commercial court keeps the minutes in the manner established in **Article 155** of this Code. Documents, drawn up or verified in the course of the inspection, as well as photographs, audio recordings and videotapes are attached to the minutes.

Article 79. Inspection and Examination of Perishable Real Evidence

1. Perishable real evidence is immediately inspected and examined by the commercial court at its location. After inspection it is subject to sale in the established manner.

2. Persons participating in the case are notified by the commercial court of the time and place of the inspection and examination of perishable real evidence. Failure of properly notified persons to appear is not an obstacle for the conduction of the inspection and examination of perishable real evidence.

3. Inspection and examination of perishable real evidence is carried out in the manner, established in **Article 78** of this Code, with regard to the special rules envisaged in this Article.

Article 80. Disposal of the Real Evidence, Located at the Commercial Court

1. Real evidence, located at the commercial court, is returned to the persons from whom it was received after its inspection and examination by the court, unless it is subject to handing to other persons.

2. The commercial court may keep the real evidence until the judicial act, finalising the consideration of the case is delivered, and return the evidence after it enters into force.

3. Articles, which under federal law may not be in possession of individuals, are handed to appropriate organisations.

4. The commercial court issues a ruling on the matters, concerning the disposal of real evidence.

Article 81. Explanations of Persons Participating in the Case

1. A person participating in the case presents in the written or oral form its explanations concerning the circumstances, significant to the consideration of the case and known to this person to the commercial court. On suggestion of the court, the person participating in the case may state its explanations in writing.

Explanations stated in writing are attached to case materials.

2. Explanations, stated by persons participating in the case in writing, are announced in court session.

After the announcement of a written explanation, the person who stated the explanation may give necessary clarifications in respect of it, and is obliged to answer the questions, posed by other persons participating in the case and by the commercial court.

Article 82. Appointment of an Expert Examination

1. In order to clarify the matters, arising in the course of the consideration of the case and requiring special knowledge, the commercial court appoints an expert examination upon the motion of

a person participating in the case or by consent of persons participating in the case. The commercial court may appoint an expert examination on its own initiative if this appointment is provided by law or stipulated in an agreement, or is necessary to verify an application concerning the falsification of presented evidence, or if it is necessary to conduct an additional or a repeated expert examination.

2. The commercial court determines the range and contents of matters, in respect of which an expert examination is to be conducted. Persons participating in the case are entitled to present to the commercial court the matters, which are to be clarified in the course of the expert examination. The court is obliged to substantiate the rejection of the matters, presented by persons participating in the case.

3. Persons participating in the case have the rights: to apply for the summoning of persons, indicated by them as experts, or for the conduction of an expert examination at a specific expert institution; to recuse experts; to apply for additional questions to the expert to be added into the ruling on the appointment of an expert examination; to give explanations to the expert; to access the expert opinion or the report on the impossibility to state an opinion; to apply for the conduction of an additional or a repeated expert examination.

4. The commercial court issues a ruling on the appointment of an expert examination or on the rejection of a motion for the appointment of an expert examination.

The ruling on the appointment of an expert examination specifies the reasons for the appointment; the family name, first name and patronymic of the expert or the name of the expert institution, at which the expert examination is to be conducted; questions, posed to the expert; materials and documents placed at the expert's disposal; the term, during which the expert examination is to be conducted and an expert opinion is to be submitted to the commercial court.

A ruling must likewise contain an indication of the warning about the criminal liability for stating a deliberately false opinion, given to the expert.

Article 83. Conduction of an Expert Examination

1. An expert examination is conducted by state court experts by order of the head of a state court expert institution or by other experts from among the persons having special knowledge in compliance with the federal law.

Several experts may be entrusted with conducting an expert examination.

2. Persons participating in the case may be present during the conduction of an expert examination (except for cases, where such presence could impede the normal work of the experts), but they may not interfere in the examination.

3. The presence of the participants of commercial proceedings is not allowed during the drawing-up of the expert opinion by an expert, as well as during the experts' consultations and the formulation of conclusions, if the expert examination is conducted by a commission of experts.

Article 84. Examination by a Commission of Experts

1. An examination by a commission of experts is conducted by at least two experts of the same specialty. The commercial court specifies that the examination is to be carried out by a commission of experts.

2. If the opinions of experts coincide, based on the results of conducted examinations, they draw up a single expert opinion. If there are differences of opinions, each expert, participating in the expert examination, gives a separate opinion regarding the matters causing the differences.

Article 85. Complex Expert Examination

1. A complex expert examination is conducted by at least two experts of different specialties.

2. The experts' opinion includes the type and volume of examinations, conducted by each expert, the facts established and the conclusions made by each expert. Each expert, participating in the

complex expert examination, signs the part of the expert opinion, containing the description of the examinations, made by this expert, and is liable for it.

3. A general conclusion is drawn by experts, competent to evaluate the gained results and to formulate the given conclusion. Where there are differences between experts, the results of examinations are formalised in compliance with **Part 2 of Article 84** of this Code.

Article 86. Expert Opinion

1. On the basis of conducted examinations and subject to their results, the expert in their own name or an expert commission states a written opinion and signs it.

2. The expert opinion or the opinion of an expert commission must include the following:

- 1) the time and place of conduction of the expert examination;
- 2) the reasons for conducting the expert examination;
- 3) data on the state court expert institution, and on the expert (surname, first name, patronymic, speciality, working record, scientific degree and academic status, current position), entrusted with the conduct of the expert examination;
- 4) records in respect of the warning, given to the expert in compliance with the laws of the Russian Federation, concerning the criminal liability for stating a deliberately false opinion;
- 5) questions posed to the expert or the expert commission;
- 6) objects of examination and case materials, presented to the expert for conducting the expert examination;
- 7) contents and results of the examination with an indication of methods applied;
- 8) an evaluation of the results of the examination, conclusions regarding the posed questions and their substantiation;
- 9) other data in compliance with federal laws.

Materials and documents, illustrating the opinion of the expert or of the expert commission, are attached to the expert opinion and are an integral part of the opinion.

If in the course of an expert examination an expert establishes circumstances, which are significant to the case, and in respect of which questions have not been posed, the expert may include conclusions, regarding such circumstances, into the opinion.

3. The expert opinion is announced in court session and is examined together with the other evidence in the case.

An expert may be summoned before the court upon the motion of a person participating in the case or on the initiative of the commercial court.

After the announcement of the opinion, the expert may give the necessary explanations in respect of it and is obliged to answer additional questions, posed by persons participating in the case and by the court. The expert's answers to additional questions are entered into the minutes of the court session.

Article 87. Additional and Repeated Expert Examinations

1. If an expert opinion is not sufficiently clear and full, as well as if questions arise in respect of the circumstances examined beforehand, an additional expert examination may be appointed with the same or another expert entrusted with conducting it.

2. If doubts arise in respect of the substantiation of the expert opinion or if there are contradictions in the conclusions of an expert or of an expert commission, a repeated expert examination may be appointed with regard to the same questions, and another expert or another expert commission is entrusted with conducting it.

Article 87¹. Consultation of a Specialist

1. In order to receive clarifications, consultations and to learn the professional opinions of

persons having theoretical and practical knowledge in the matter of the dispute before the commercial court, the commercial court may summon a specialist.

Counsels of staff of a specialised commercial court, appropriately qualified to the specialisation of the court, may be summoned in the capacity of specialists.

2. Specialists provide consultations impartially and in good faith, based on their professional knowledge and according to their inner conviction.

A consultation is provided in the oral form, without conducting any special research, appointed on the basis of a ruling of the court.

3. In order to get clarifications and additions regarding the consultation provided, the court and the persons participating in the case may pose questions to the specialist.

Article 88. Testimonial Evidence

1. The commercial court, upon the motion of a person participating in a case, summons a witness for the participation in commercial proceedings.

A person, filing a motion for the summoning of a witness, is obliged to indicate, what circumstances, significant to the case, this witness may confirm, and to communicate to the court the surname, first name, patronymic and place of residence of the witness.

2. The commercial court may on its own initiative summon a person, who participated in the making of a document, examined by the court as written evidence, or in the creation or alteration of an object, examined by the court as real evidence, in the capacity of a witness.

3. Witnesses report information known to them in the oral form. At the suggestion of the court a witness may state the testimonies, given orally, in writing.

Testimonial evidence, stated in writing, is attached to case materials.

4. Information reported by witnesses, who cannot indicate the source of their knowledge, is not regarded as evidence.

Article 89. Other Documents and Materials

1. Other documents and materials are accepted as evidence if they contain data, concerning the circumstances, significant to the correct consideration of the case.

2. Other documents and materials may contain data recorded either in written or in any other form. Materials obtained by means of photography or filming, sound recording and videotaping, as well as other media obtained, ordered for presentation or presented in the manner, established in this Code, may pertain thereto.

3. Documents are attached to case materials and stored at the commercial court for the full term of the case storage. Documents or their copies may be returned to the person from whom they were obtained, upon its motion.

Chapter 8. Provisional Measures of the Commercial Court

Article 90. Grounds for Provisional Measures

1. The commercial court may, upon the application of a person participating in the case (and in the instances, provided by this Code, as well upon the application of another person), take urgent temporary measures, aimed at securing the claim or the property interests of the applicant (provisional measures).

2. Provisional measures are allowed at any stage of the commercial proceedings, if failure to take these measures may impede or make the enforcement of a judicial act impossible, and likewise if the enforcement of a judicial act is expected to take place outside of the Russian Federation, as well as for the purpose of preventing the infliction of extensive damages to the applicant.

3. For reasons stated in Part 2 of this Article and according to the rules of this Article,

provisional measures may be taken by the commercial court upon the application of a party to arbitration proceedings at the location of an arbitration tribunal, or at the location or place of residence of the debtor, or at the location of the debtor's property.

4. A fee in the amount, stipulated in the federal law, for the payment for applications to issue a writ of execution for the enforcement of an arbitration tribunal award, is to be paid for a provisional measures application, filed with the commercial court by the persons, indicated in Part 3 of this Article and in **Article 99** of this Code.

Article 91. Provisional Measures

1. Provisional measures include:

- 1) arrest of monetary assets (including the monetary assets to be added to a bank account in the future) or other property, possessed by the defendant and kept by the defendant or by other persons;
- 2) injunction against the defendant or other persons, prohibiting them to perform certain actions, concerning the subject matter of the dispute;
- 3) placement on the defendant of the duty to perform certain actions for the purpose of preventing damage to, or deterioration of the disputable property;
- 4) transfer of disputable property to the plaintiff or another person, for keeping custody thereof;
- 5) suspension of recovery on the basis of an executive or other document, disputed by the plaintiff, under which recovery is effected in an indisputable (non-acceptance) procedure;
- 6) suspension of sale of property in the event of filing of a claim for the release of the arrested property.

The commercial court may take other provisional measures and take several provisional measures simultaneously.

2. Provisional measures must be proportional to the stated claims.

Article 92. Provisional Measures Application

1. A provisional measures application may be filed with the commercial court simultaneously with the statement of claim or in the course of the proceedings in the case prior to the delivery of a judicial act finalising the consideration of the case on its merits. A provisional measures application may be set forth in the statement of claim.

2. The following must be indicated in the provisional measures application:

- 1) the name of the commercial court to which the application is filed;
- 2) names of the plaintiff and defendant, their location or place of residence;
- 3) the subject matter of the dispute;
- 4) the amount of property claims;
- 5) substantiation of the reason for filing the provisional measures application;
- 6) provisional measures requested by the plaintiff;
- 7) a list of attached documents.

A provisional measures application may likewise contain information about the counter indemnity and other data, including telephone and fax numbers, e-mail addresses of persons participating in the case.

3. A provisional measures application is signed by the person participating in the case or by its representative.

If an application is signed by a representative, a certificate of authority or another document, confirming the authority of the representative to do that, must be attached to the application.

4. If a motion to take provisional measures is set forth in the statement of claim, the motion must contain the data stipulated in Items 5 and 6 of Part 2 of this Article.

5. If a party to arbitration proceedings files a provisional measures application, a copy of the statement of claim, accepted by an arbitration tribunal and certified by the chairman of an institutional arbitration tribunal, or a copy of the statement of claim, attested and certified by a notary, must be

attached to the application along with a copy of a properly certified arbitration agreement.

6. If a fee is to be paid for the provisional measures application in accordance with this Code, a document confirming its payment must be attached to it.

Article 93. Considering a Provisional Measures Application

1. A provisional measures application is considered by the commercial court considering the case or considering an appeal against the ruling to secure the claim or on the refusal to secure the claim.

1¹. A provisional measures application is considered by the commercial court considering the case, by a single judge, without notification of the parties and no later than on the day, following the receipt of the application by the court.

1². A provisional measures application is considered by the commercial court considering the appeal against the ruling to secure the claim or on the refusal to secure the claim simultaneously with the consideration of such an appeal and according to the rules of consideration of the case by the court of the appropriate instance, established by this Code.

2. The commercial court shelves the provisional measures application under the rules of **Article 128** of this Code, if it does not meet the requirements, provided by **Article 92** of this Code, and promptly informs the person, who filed the application, about it. After all faults indicated by the court are corrected, the provisional measures application is considered by the commercial court without delay.

3. The court may refuse to secure the claim, if the grounds for taking measures, aimed at securing the claim, stipulated in **Article 90** of this Code, are absent.

4. The court may not refuse to secure the claim if the person, applying for that, provides counter indemnity.

5. After the consideration of the provisional measures application, the commercial court issues a ruling to secure the claim or to refuse to secure the claim.

6. A copy of the ruling to secure the claim is forwarded no later than on the day, following its issuance, to persons participating in the case and to the persons, on which the commercial court places the duty of taking provisional measures, as well as (depending on the type of measures taken) to state bodies and other bodies, engaged in the state registration of property or property rights.

A copy of the ruling on the refusal to secure the claim is forwarded to the person, who filed the application.

7. The commercial court ruling to secure the claim or to refuse to secure the claim may be appealed against. Filing an appeal against a ruling to secure the claim does not suspend the execution of the ruling.

8. A motion to secure the claim, set forth in the statement of claim, is considered by the commercial court in the manner, established by this Article, and separately from other motions and demands in that statement of claim.

Article 94. Counter Indemnity

1. The commercial court, when allowing to secure the claim, may, upon the motion of the defendant, demand of the person applying for provisional measures, or suggest that this person on its own initiative secures the reimbursement of the defendant's possible losses (counter indemnity) by depositing money in the amount suggested by the court, to the court's bank account, or by providing a bank guarantee, a surety or another financial provision in the same amount. The amount of counter indemnity may be established within the limits of the plaintiff's property claims, indicated in the application, as well as within the limits of the aggregate amount of interest on these claims. The amount of counter indemnity may not be less than half the amount of property claims.

2. The defendant may likewise provide counter indemnity, instead of taking measures, aimed at securing the claim for the recovery of money, by depositing money in the amount of the plaintiff's

claims to the commercial court's bank account.

3. The commercial court issues a ruling regarding the counter indemnity no later than on the day following the receipt of the provisional measures application.

The ruling must specify the amount of the counter indemnity and the term for its provision, which may not exceed fifteen days from the date of issuance of the ruling.

A copy of the ruling is forwarded to persons participating in the case no later than on the day following the issuance of the ruling.

A ruling on the counter indemnity may be appealed against.

4. In the event of issuance of a ruling on the counter indemnity, the commercial court does not consider the provisional measures application, until a document, confirming the provision of a counter indemnity, is submitted.

5. Upon submission of a document confirming the provision of counter indemnity to the commercial court or on the expiry of the term for its submission, indicated in the court ruling, the commercial court, no later than on the day following the receipt of such a document, considers the provisional measures application in the manner, established in Article 93 of this Code.

6. Failure of a person filing a provisional measures application to execute a commercial court ruling regarding the counter indemnity within the term, indicated in the ruling, may constitute grounds for the refusal to secure the claim.

7. Submission by the defendant of a document confirming the provision of counter indemnity serves as ground for the refusal to secure the claim or for the cancellation of provisional measures.

Article 95. Replacement of a Provisional Measure

1. The replacement of a provisional measure by another one is allowed upon the motion of the plaintiff or the defendant.

2. The issue of replacement of a provisional measure by another one is considered by the commercial court in court session, no later than on the day following the receipt of a motion to replace a provisional measure by another one by the court, and under the rules provided by this Code.

Article 96. Enforcement of a Commercial Court Ruling to Secure the Claim

1. A commercial court ruling to secure the claim is executed promptly, in the manner established for the enforcement of judicial acts of the commercial court. A writ of execution is issued on the basis of a ruling to secure the claim by the commercial court, which issued the said ruling.

2. A court fine may be imposed on the person entrusted by the court with the duty of taking provisional measures in case of failure to execute the ruling, in the manner and amount established by **Chapter 11** of this Code.

3. If the defendant provides counter indemnity by depositing money in the amount of the plaintiff's claims to the court's bank account or by submitting a bank guarantee, pledge or another financial guarantee in the same amount in the course of enforcement of a commercial court ruling to secure the claim by arrest of monetary assets or other property in the defendant's possession, the defendant is entitled to apply to the commercial court, considering the case, for the cancellation of the said provisional measures; the appeal is considered in compliance with **Article 93** of this Code.

4. If the court satisfies the claim, provisional measures stay in effect pending the actual execution of the judicial act, finalising the consideration of the case on its merits.

5. If the claim is not satisfied or is suspended, or if proceedings are terminated, provisional measures stay in effect pending the entry of the corresponding judicial act into force. After the judicial act enters into force, the commercial court, upon the application of a person participating in the case, issues a ruling to cancel the provisional measures or indicates it in the judicial acts, concerning the refusal to satisfy the claim, to suspend the claim or to terminate the proceedings.

6. A dispute concerning the payment of damages, caused by failure to execute a commercial court ruling to secure the claim, is considered by the same commercial court.

Article 97. Cancellation of the Provisional Measure by the Commercial Court

1. The commercial court considering the case may cancel the securing of claim upon the application of a person participating in the case.

2. The issue of cancellation of the securing of claim is resolved in a court session within five days from the receipt of the corresponding application by the commercial court and in the manner, provided by **Article 93** of this Code.

3. If the defendant submits a document confirming the provision of counter indemnity, the issue of cancellation of provisional measures is considered by the commercial court no later than on the day, following the submission of the said document.

4. A ruling is issued after an application for cancellation of provisional measures has been considered.

Copies of the ruling are forwarded to persons participating in the case no later than on the day following its issuance. Depending on the type of measures taken, copies of the ruling to cancel provisional measures are likewise forwarded to state bodies and other bodies, engaged in the state registration of property and property rights.

5. Rulings of the commercial court to cancel provisional measures and to refuse to cancel provisional measures may be appealed against.

6. A refusal to cancel provisional measures does not prevent one from filing the same application repeatedly, if new circumstances arise, proving the necessity to cancel the provisional measures.

Article 98. Losses and Compensation in Connection with the Securing of Claim

1. The defendant and other persons whose rights and (or) legitimate interests were violated by provisional measures may, after the commercial court's judicial act on the refusal to satisfy the claim enters into force, demand compensation or indemnification (in the manner and amount, provided by civil legislation) from the person that had applied for provisional measures.

2. The amount of compensation is defined by the court, depending on the nature of the violation and other facts of the case, with regard to the requirements of reasonableness and fairness; in respect of the disputes cited in **Article 225¹** of this Code - within the limits from ten thousand to one million roubles and in respect of other disputes - within the limits from one thousand to one million roubles.

3. The claim for indemnification or payment of compensation is filed with the commercial court that considered the case, in which provisional measures were taken.

4. The rules, established by this Article, are applied, when a claim is suspended for reasons provided by **Items 1 and 2 of Part 1 of Article 148** of this Code, as well as in the event of termination of proceedings for reasons, provided by **Items 2 - 4 of Part 1 of Article 150** of this Code.

Article 99. Preliminary Measures

1. The commercial court, upon the application of an organisation or an individual, may take preliminary measures, aimed at securing the property interests of the applicant, prior to filing a claim.

2. Preliminary measures are taken by the commercial court according to the rules, provided by this Chapter, subject to the special rules established by this Article.

3. An application for the securing of property interests is filed with the commercial court at the location of the applicant, or at the location of monetary assets or other property in respect of which the applicant requests that measures securing the property interests are taken, or at the place of violation of the applicant's rights.

3¹. An application for the securing of property interests in the dispute, indicated in **Article 225¹** of this Code, is filed with the commercial court at the location of the legal entity cited in the Article or,

if such a dispute arises from the activities of the registrar of placement owners, at the location of the issuer of securities.

4. When filing an application for the securing of property interests, the applicant submits to the commercial court a document, confirming the provision of the counter indemnity in the amount of the sum of property interests to be secured, indicated in the application.

In the event of failure to submit such a document, the commercial court may suggest that the applicant provides the counter indemnity in compliance with **Article 94** of this Code and shelves the application for the securing of property interests under the rules of **Article 128** of this Code, pending the submission of the document confirming the provision of the counter indemnity.

5. The commercial court issues a ruling to secure property interests. A term of fifteen days at most from the date of its issuance is fixed in it for filing a statement of claim regarding the claims, in connection with which the court takes measures for the securing of the applicant's property interests.

6. A debtor under the claim, in connection with which the commercial court takes preliminary measures, may apply for the replacement of those measures through counter indemnity under **Part 2 of Article 94** of this Code.

7. A statement of claim is filed by the applicant with the commercial court, which issued the ruling to secure the property interests, or to another court, about which the applicant informs the commercial court that issued the said ruling.

8. If the applicant does not file a statement of claim within the term fixed in the commercial court ruling to secure the property interests, the securing is cancelled by the same commercial court.

A ruling is issued on the cancellation of securing of property interests.

Copies of the ruling are forwarded to the applicant and to other persons concerned, no later than on the day following the issuance of the ruling.

9. If the applicant files a statement of claim regarding the claims, in connection with which the commercial court took measures to secure the applicant's property interests, these measures are regarded as measures of securing the statement of claim.

10. If within the fixed term the applicant does not file a statement of claim regarding the claims, in connection with which the commercial court took measures to secure the property interests, or if the claim is dismissed by a judicial act of the commercial court that entered into force, an organisation or an individual, whose rights and (or) legitimate interests were violated by the securing of property interests prior to the filing of a statement of claim, may demand that the applicant repairs damages or pays compensation in the manner, provided by **Article 98** of this Code.

Article 100. Securing the Execution of Judicial Acts

The rules of securing a claim provided by this Chapter also apply for securing the execution of judicial acts.

Chapter 9. Judicial Costs

Article 101. Composition of Judicial Costs

Judicial costs consist of the fee and legal expenses, connected with the consideration of the case by the commercial court.

Article 102. Payment of the Fee

Grounds and manner for the payment of the fee, as well as the manner for allowing to postpone the payment of the fee or to pay it by instalments are established in compliance with the tax legislation of the Russian Federation.

Article 103. Amount of a Claim

1. The amount of a claim is determined:

1) in claims for the recovery of money – based on the sum claimed for;

2) in claims for the recognition of an enforcement document or another document, under which the recovery is effected in an indisputable (non-acceptance) manner, as not subject to enforcement - based on the sum claimed for;

3) in claims for the vindication of property – based on the cost of property claimed;

4) in claims for the vindication of a land plot – based on the cost of the land plot claimed.

The cost of the claim likewise includes the amount of forfeit (fine or penalty) and interest, specified in the statement of claim.

The amount of a claim consisting of several independent claims is determined by the aggregate of all the claims.

2. The fee with regard to statements of claim for the recognition of rights, including the right of property, the right of use, the right of possession and the right of disposal, is paid in the amount set for non-property statements of claim.

3. The amount of a claim is indicated by the applicant.

If the applicant indicates the amount of the claim incorrectly, it is determined by the commercial court.

Article 104. Grounds and Manner for the Refund or Set-off of the Fee

The grounds and manner for the refund or set-off of the fee are established in compliance with the tax legislation of the Russian Federation.

Article 105. Fee Payment Privileges

Privileges as to the payment of the fee are granted in the instances and in the manner, established by the tax legislation of the Russian Federation.

Article 106. Legal Expenses

Legal expenses in connection with the consideration of the case in the commercial court include sums of money, payable to experts, specialists, witnesses and interpreters, expenses, related to the inspection of evidence on the spot, expenses for the services of lawyers and of other persons, rendering legal assistance (representatives), expenses of a legal entity for the notification concerning a corporate dispute, if federal law states an obligation to notify, and other expenses, incurred by persons participating in the case in connection with the consideration of the case in the commercial court.

Article 107. Sums of Money, Payable to Experts, Specialists, Witnesses and Interpreters

1. Experts, specialists, witnesses and interpreters are compensated for the expenses, incurred by them, due to their appearance before the commercial court, including travel expenses, expenses for the rental of housing accommodation and additional expenses, related to habitation away from the place of permanent residence (daily allowance).

2. Experts receive a reward for the work, carried out by them, by order of the commercial court, if such work does not belong to their official duties as employees of state court expert institutions.

Specialists receive a reward for the work, carried out by them by request of the commercial court, unless they are counsels of staff of a specialised commercial court.

The amount of an expert's reward is determined by the court by agreement with the persons participating in the case and by agreement with the expert.

3. Interpreters receive a reward for the work, carried out by order of the commercial court.

The amount of an interpreter's reward is determined by the court by agreement with the interpreter.

4. Employed individuals, summoned before the commercial court as witnesses, are paid their average wages at their places of employment during their absence due to their appearance before the court. Witnesses, not engaged in labour relations, receive a compensation for the distraction from their normal occupations, on the basis of the time actually spent and the minimum wages, established by federal laws.

Article 108. Deposition of Money, Necessary to Cover Legal Expenses, by the Parties

1. The sums of money, payable to experts and witnesses, are deposited to the commercial court's bank account by the person that files the corresponding motion within the term, fixed by the commercial court. If motions are filed by both parties, the required sums are deposited to the commercial court's bank account in equal amounts.

2. If the sums of money, payable to experts and witnesses, are not deposited to the commercial court's bank account within the time fixed by the commercial court, it may reject a motion to appoint an expert examination and summon witnesses, if the case can be considered and a decision can be delivered on the basis of other evidence presented by the parties.

Article 109. Payment of Sums of Money Due to Experts, Specialists, Witnesses and Interpreters

1. The sums of money due to experts, specialists, witnesses and interpreters are paid upon the discharge of their duties.

2. The sums of money due to experts and witnesses are paid from the depository bank account of the commercial court.

3. The services of an interpreter, a specialist drawn to the participation in commercial proceedings by the commercial court, the interpreter's, specialist's daily allowance and the compensation for the expenses incurred by them due to the appearance before the commercial court, as well as the sums of money, payable to experts and witnesses, should the commercial court on its own initiative appoint an expert examination and summon a witness, are paid at the expense of the federal budget.

4. The rule, prescribing payment for the services of an interpreter at the expense of the federal budget, is not extended to the compensation of expenses for the services of an interpreter, incurred by foreign persons or stateless persons, unless otherwise provided by an international treaty of the Russian Federation.

Article 110. Distribution of Costs between Persons Participating in the Case

1. The costs, incurred by persons participating in the case, to whose benefit a judicial act is delivered, are recovered by the commercial court from the corresponding party.

If a claim is partially satisfied, the costs are placed on persons participating in the case in proportion to the amount of satisfied claims.

2. The expenses for the services of a representative, incurred by the person to whose benefit a judicial act is delivered, are recovered by the commercial court from the other person participating in the case, within reasonable limits.

3. If the plaintiff is in an established manner relieved from payment of the fee and the defendant is not, the fee is recovered from the defendant to the benefit of the federal budget in proportion to the amount of satisfied claims.

4. If there is an agreement between persons participating in the case regarding the distribution of costs, the commercial court places the costs on them in compliance with the agreement.

5. Judicial costs incurred by persons participating in the case due to the consideration of an

appeal or a cassational appeal are distributed according to the rules, established by this Article.

6. Unpaid or partially paid expenses for the conduction of an expert examination are subject to recovery in favour of the expert or the state court expert institution from the persons participating in the case, in proportion to the amount of the satisfied stated claims.

Article 111. Placing Costs on the Person, Abusing Its Procedural Rights

1. If a dispute emerges as a result of a breach of the claim procedure or another alternative dispute resolution procedure, provided by federal laws or by an agreement, by a person participating in the case, including the violation of the term for answering a claim or not answering a claim, the commercial court places the costs on this person, regardless of the results of the consideration of the case.

2. The commercial court may place all judicial costs on the person, abusing its procedural rights or failing to discharge its procedural duties, if such conduct leads to the disruption of a court session, delay of proceedings or impedes the consideration of the case and the delivery of a lawful and substantiated judicial act.

3. The commercial court may decrease the amount of the reimbursement of judicial costs upon the application of a person participating in the case, upon which the reimbursement is placed, if this person provides evidence of the reimbursement's excessiveness.

Article 112. Resolving the Issues of Judicial Costs

1. The issues of distributing the judicial costs and of placing them onto the person, abusing its procedural rights, as well as other issues, concerning judicial costs, are resolved by the commercial court of the appropriate instance in the judicial act, finalising the consideration of the case on its merits, or in a ruling.

2. An application on the issue of judicial costs, incurred in connection with consideration of a case in a commercial court of the first, appellate or cassational instances or during the supervisory review of the case, and not resolved after the consideration by the appropriate court, may be filed with the commercial court, which considered the case as a court of the first instance, within six months from the day of entry into force of the last judicial act, finalising the consideration of the case on its merits.

The term for filing such an application, exceeded for a good reason, may be restored by the court.

An application concerning the issue of judicial costs is considered in accordance with the rules, provided by **Article 159** of this Code for the consideration of a motion.

After the consideration of such an application, a ruling is issued, which may be appealed against.

Chapter 10. Procedural Terms

Article 113. Establishment and Calculation of Procedural Terms

1. Procedural actions are carried out within the terms, established by this Code and other federal laws, and if procedural terms are not established, they are fixed by the commercial court.

2. Terms for the performance of procedural actions are determined by an exact calendar date, an indication to an event which is bound to occur, or by a term, during which an action may be performed.

3. Procedural terms are calculated in years, months and days. Non-working days are not included into terms, calculated in days.

4. A procedural term calculated in years, months or days begins on the day, following the calendar date or the date of occurrence of an event, determining the beginning of the term.

Article 114. Termination of Procedural Terms

1. A procedural term calculated in years expires in the appropriate month and on the appropriate day of the last year of the established term.
2. A procedural term calculated in months expires on the appropriate date of the last month of the established term. If the date of expiry of a procedural term, calculated in months, falls on a month, which does not have the appropriate date, the term expires on the last day of that month.
3. A procedural term, calculated in days, expires on the last day of the established term.
4. If the last day of a procedural term falls on a non-working day, the first working day following it is regarded as the last day of the term.
5. A procedural action, for the performance of which a term is fixed, may be performed before 24:00 of the last day of the established term.
6. If an application, an appeal, other documents or sums of money are mailed, delivered or declared to a body or a person, authorised to accept them, before 24:00 of the last day of a procedural term, the term is not regarded as exceeded.
7. If a procedural action must be performed directly at the commercial court or at another organisation, the term expires on the hour, on which the working hours are over or appropriate operations are ceased at the court or the organisation, according to the established rules.

Article 115. Consequences of Exceeding Procedural Terms

1. Persons participating in the case forfeit the right to perform procedural actions upon the expiry of the procedural terms established by this Code, other federal laws, or by the commercial court.
2. Applications, appeals and other documents submitted upon the expiry of procedural terms, if there are no motions to restore or extend the exceeded terms, are not considered by the commercial court and are returned to the persons that submitted them.

Article 116. Suspension of Procedural Terms

1. The running of all unexpired procedural terms is suspended simultaneously with the suspension of proceedings in the case.
2. The running of procedural terms continues from the date of renewal of proceedings in a case.

Article 117. Restoration of Procedural Terms

1. A procedural term is subject to restoration upon the motion of a person participating in the case, unless otherwise provided by this Code.
2. The commercial court restores an exceeded procedural term if it recognises the reasons for exceeding it as good, and if the maximum allowed restoration terms, provided by **Articles 259, 276, 292 and 312** of this Code, are not expired.
3. The motion for the restoration of an exceeded procedural term is filed with the commercial court, at which the procedural action is to be performed. Simultaneously with the filing of the motion, the necessary procedural actions are performed (an application or appeal is filed, documents are submitted, etc.), the term for which has expired.
4. A motion to restore an exceeded procedural term is considered within five days from the date of its receipt by the commercial court, in a court session, without the notification of the persons participating in the case, unless otherwise provided by this Code.
The restoration of an exceeded procedural term is specified by the commercial court in the appropriate judicial act.
5. A ruling is issued by the commercial court on the refusal to restore a missed procedural term.

A copy of the ruling is forwarded to the person, which filed the motion, no later than on the day following the issuance of the ruling.

6. A commercial court ruling on the refusal to restore an exceeded procedural term may be appealed against.

Article 118. Extension of Procedural Terms

1. Procedural terms, established by the commercial court, may be extended by it at the application of a person participating in the case under the rules, provided by **Article 117** of this Code.

2. A commercial court ruling to deny the extension of an exceeded procedural term may be appealed against.

Chapter 11. Court Fines

Article 119. Imposition of Court Fines

1. Court fines are imposed by the commercial court in the instances provided by this Code. The amount of a court fine may not exceed two thousand five hundred roubles if imposed on individuals, five thousand roubles if imposed on state officials and one hundred thousand roubles if imposed on organisations, unless otherwise provided by this Article.

2. The amount of a court fine imposed by the commercial court in the instance, provided by **Part 4 of Article 225⁴** of this Code, is five thousand roubles.

3. The amount of a court fine imposed by the commercial court in the instance, provided by **Part 10 of Article 225⁶** of this Code, on individuals is two thousand and five hundred roubles and on the persons, exercising the functions of a sole executive body or heading the collective executive body of a legal entity - five thousand roubles.

4. The amount of a court fine imposed by the commercial court in the instance, provided by **Parts 2 and 3 of Article 225¹²** of this Code, on individuals is two thousand and five hundred roubles, on the persons, exercising the functions of a sole executive body or heading the collective executive body of a legal entity - five thousand roubles, on organisations - ten thousand roubles.

5. The commercial court may impose a court fine for the contempt of court on persons participating in the case and on other persons present in the courtroom. A court fine for the contempt of court is imposed if there is no criminal liability for the committed actions.

6. Court fines, imposed by the commercial court on officials of state bodies, local government bodies and of other bodies and organisations, are paid from the private funds of those persons.

7. Court fines are recovered to the benefit of the federal budget.

Article 120. Considering the Imposition of a Court Fine

1. The issue of imposing a court fine on a person present in the court session is resolved in the same court session of the commercial court.

2. The issue of imposing a court fine on a person not present in the court session is resolved in another court session of the commercial court.

3. The person, the imposition of a court fine upon which is considered, is notified about the time and place of the court session with an indication of grounds for holding the court session. Failure of a properly notified person to appear is not an obstacle to consider the imposition of a court fine.

4. The commercial court issues a ruling after considering the imposition of a court fine.

A copy of a ruling on the imposition of a court fine is forwarded to the person, upon which the fine is imposed, within five days from the date of issuance of the ruling.

5. A ruling on the imposition of a court fine is executed promptly, in the manner established for the enforcement of a decision of a commercial court.

A writ of execution is forwarded by the commercial court to a bailiff at the place of residence

or location of the person, upon which the court fine is imposed.

6. A ruling of a commercial court to impose a court fine may be appealed against within ten days from the receipt of a copy of the ruling by the person, upon which the court fine is imposed.

7. Lodging an appeal against a ruling on the imposition of a court fine does not suspend the enforcement of the ruling.

Chapter 12. Court Notices

Article 121. Court Notices

1. The commercial court notifies the persons participating in the case and other participants of the commercial proceedings of the acceptance of the statement of claim or of the application and of the institution of proceedings in the case, of the time and place of a court session or of the performance of an individual procedural action, by forwarding a copy of the court act in the manner, established by this Code, no later than fifteen days before the beginning of the court session or the performance of the individual procedural action, unless otherwise stipulated in this Code.

Information on the acceptance of the statement of claim or the application, on the time and place of the court session or on the performance of an individual procedural action is placed by the commercial court on its official website no later than fifteen days before the beginning of the court session or of the performance of the individual procedural action, unless otherwise stipulated in this Code. Documents, confirming the placement of the said information by the commercial court on its official website, including the date of their placement, are attached to case materials.

2. A judicial act, notifying or summoning the participants of commercial proceedings, must contain the following data:

1) the name and address of the commercial court, the address of the commercial court's official website, the telephone numbers and e-mail addresses of the commercial court, at which the persons participating in the case may receive information on the case under consideration;

2) the time and place of a court session or of performance of an individual procedural action;

3) the name of the person notified by the court or summoned before the court;

4) the title of the case, in respect of which the notice or summons are sent, as well as an indication as to the capacity, in which the person is summoned;

5) an indication, regarding what actions and by what time the notified or summoned person is entitled or obliged to perform.

3. In urgent situations, the commercial court may notify or summon the persons participating in the case and other participants of commercial proceedings by a telephone message, a telegram, a fax message or an e-mail, or with the use of other means of communication.

4. A court notice addressed to a legal entity is forwarded by the commercial court to the legal entity's location. If the claim stems from the activity of the legal entity's representative office or branch office, such a notice is also sent to the location of this representative or branch office. The location of the legal entity, of its representative or branch office is determined on the ground of an excerpt from the Unified State Register of Legal Entities.

Court notices addressed to individuals, including individual entrepreneurs, are sent to their place of residence. The place of residence of an individual entrepreneur is determined on the ground of an excerpt from the Unified State Register of Individual Entrepreneurs.

If a person participating in the case conducts the case through its representative, the commercial court also sends a court notice to the location of the representative.

If a person participating in the case files a motion for the court notices to be sent to a different address, the commercial court also sends a court notice to this address. In this case, a court notice is regarded as served to the person participating in the case, if it is delivered to the address, indicated by the person.

5. Foreign persons are notified by the commercial court according to the rules, established in this Chapter, unless otherwise provided by this Code or an international treaty of the Russian

Federation.

6. Persons participating in the case – upon the receipt of a ruling on the acceptance of the statement of claim or the application and after the institution of proceedings in the case, and persons, who joined the case or were summoned to take part in the case later, as well as other participants of commercial proceedings – after receiving the first court act on the case under consideration, take their own measures to obtain information on the progress of the case with the use of any kind of information sources and of any means of communication.

Persons participating in the case bear the risk of unfavourable consequences, occurring as a result of failure to take measures to obtain information on the progress of the case, if the court has information, that the said persons were properly informed about the initiated proceedings.

Article 122. Forwarding of Copies of Judicial Acts by the Commercial Court

1. A copy of a judicial act is forwarded by the commercial court via registered letter with advice of delivery or handed to the addressee against receipt directly at the commercial court or at the addressee's location, and in urgent cases – by a telephone message or a telegram, by fax or e-mail, or with the use of other means of communication.

If the commercial court has proof of receipt by the persons participating in the case and by other participants of commercial proceedings of the ruling on the acceptance of a statement of claim or of an application, on the institution of proceedings in a case, as well as information on the time and place of the first court session, the court has the right to inform them about subsequent court sessions and individual procedural actions by means of a telephone message or a telegram, by fax or e-mail, or with the use of other means of communication.

2. If a copy of a judicial act is served to the addressee or its representative directly at the commercial court or at their location, this is done against receipt.

3. If a copy of a judicial act is sent to the addressee in the form of a telephone message, a telegram, by fax or e-mail, or with the use of other means of communication and methods of delivery of correspondence, the surname of the person, who transmitted the text, the date and time of transmission and the surname of the person, who received it, are indicated on the copy of the transmitted text which stays at the commercial court.

4. If the addressee refuses to accept or receive a copy of a judicial act, the person delivering or serving it must record the refusal by making a note about it on the receipt or on the copy of the judicial act, subject to return to the commercial court.

5. Documents confirming the forwarding of copies of judicial acts by the commercial court, and their service to the addressee in the manner, established by this Article (advice of delivery, receipt or other documents) are attached to case materials.

6. If the addressee's location or place of residence is unknown, the person delivering the correspondence makes a note about it on the advice of delivery subject to handing in, with an indication of the date and time of the action performed, as well as of the source of information.

Article 123. Proper Notice

1. Persons participating in the case and other participants of the commercial proceedings are regarded as properly notified, if by the beginning of the court session or of the performance of an individual procedural action the commercial court has information of receipt by the addressee of a copy of the ruling on the acceptance of the statement of claim or of the application and of the institution of proceedings in the case, forwarded to it in the manner established in this Code, or other proof of receipt by the persons participating in the case of the information on the instituted judicial proceedings.

2. Individuals are regarded as properly notified, if the court notice is served to them in person or to an adult person, residing with the individual, against receipt, made on the advice of delivery, which is to be returned to the commercial court, or on another document, with an indication of the date

and time of service, as well as of the source of information.

3. A court notice addressed to a legal entity is served to the person, authorised to receive correspondence.

4. Persons participating in the case and other participants of the commercial proceedings are also regarded as properly notified by the commercial court if:

1) the addressee refused to receive a copy of the court act and this refusal is fixed by the postal organisation or by the commercial court;

2) despite the postal notification, the addressee did not appear to receive the copy of the court act, forwarded by the commercial court in the established manner, about which the postal organisation informs the commercial court;

3) the copy of the court act was not served because of absence of the addressee at the indicated address, about which the postal organisation notifies the commercial court with an indication of the source of such information;

4) the court notice is served to the authorised person of the legal entity's representative or branch office;

5) the court notice is served to the representative of the person participating in the case;

6) there is proof of service or of forwarding of a court notice in the manner, established in **Parts 2 and 3 of Article 122** of this Code.

5. If the location or place of residence of the defendant is unknown, the forwarding of the notice to the last known address of the defendant's location or place of residence is regarded as proper notice.

Article 124. Alteration of a Person's Name or Address during the Consideration of the Case

1. Persons participating in the case are obliged to notify the commercial court of alteration of their name. If there is no such report, a person, being a party to the case, is named in a judicial act on the basis of its last name known to the commercial court.

2. Persons participating in the case are obliged to notify the commercial court of the alteration of their address during the proceedings. In the absence of such notification, copies of judicial acts are forwarded to the last address known to the commercial court and are regarded as served, even if the addressee is not present or does not reside at the address any more.

3. If a person participating in the case informed the commercial court of its telephone and fax numbers, e-mail addresses and other similar data, this person is obliged to inform the commercial court about their alteration in the course of proceedings.

4. The commercial court cites in its ruling or in the minutes of the court session the alteration of the name of a person participating in the case, the alteration of its address, telephone and fax numbers, e-mail addresses or other similar data.

Section II. Proceedings in the Commercial Court of the First Instance. Adversarial Proceedings

Chapter 13. Filing of a Claim

Article 125. Form and Contents of a Statement of Claim

1. A statement of claim is filed with the commercial court in the written form. The statement of claim is signed by the plaintiff or its representative. The statement of claim may also be filed with the commercial court by filling out the form on the commercial court's official website.

2. The statement of claim must include the following:

1) the name of the commercial court, to which the statement of claim is filed;

2) the name and location of the plaintiff; if the plaintiff is an individual, the plaintiff's place of

residence, date and place of birth, place of employment or the date and place of state registration as an individual entrepreneur, telephone and fax numbers, e-mail addresses;

3) the name of the defendant, the location or place of residence thereof;

4) the claims of the plaintiff in respect of the defendant, with reference to laws and other normative legal acts, and in the event of filing a claim against several defendants, claims in respect of each of them;

5) circumstances serving as grounds for claims and the evidence proving these circumstances;

6) the amount of the claim, if it can be evaluated;

7) the calculation of the recoverable or disputable sum of money;

8) information regarding the plaintiff's following of a claim procedure or another alternative dispute resolution procedure, where it is envisaged by federal laws or an agreement;

9) information about the measures, taken by the commercial court, to secure the property interests prior to the filing of a claim;

10) a list of attached documents.

The statement of claim must likewise include other information, if it is necessary for the correct and timely consideration of the case; it may include motions, particularly motions for the order to present evidence, made by the defendant or other persons.

3. The plaintiff must send a copy of the statement of claim to other persons participating in the case, along with copies of the documents, attached to it, if they don't have them, via registered letter with advice of delivery.

Article 126. Documents, Attached to the Statement of Claim

1. The following is attached to the statement of claim:

1) an advice of delivery or other documents, confirming the forwarding of a copy of the statement of claim to other persons participating in the case, along with copies of the documents, attached to it, in case they do not have them;

2) a document confirming the payment of the fee in the established manner and amount, or the right to privileges as to the payment, or a motion for the delay of payment, for payment by instalments or for a decrease of the payable amount of the fee;

3) documents, confirming the circumstances, used by the plaintiff as grounds for claims;

4) a copy of a certificate of state registration of a legal entity or an individual entrepreneur;

5) a certificate of authority or other documents confirming the power to sign a statement of claim;

6) a copy of a commercial court ruling on the preliminary measures;

7) documents, confirming the plaintiff's following of a claim procedure or of another alternative dispute resolution procedure, where it is provided by federal laws or a contract;

8) a draft contract, if a demand is made to compel a party to conclude the contract;

9) an excerpt from the Unified State Register of Legal Entities or from the Unified State Register of Individual Entrepreneurs, with an indication of the plaintiff's and defendant's locations or places of residence, and (or) on the acquisition by a natural person of the status of an individual entrepreneur or on the termination of activities in the capacity of an individual entrepreneur by a natural person, or another document, confirming the said data or absence thereof. Such documents must be received no earlier than thirty days prior to the day of the plaintiff's application to the commercial court.

2. Documents attached to the statement of claim may be submitted to the commercial court in electronic form.

Article 127. Accepting a Statement of Claim and Initiating Proceedings

1. The issue of accepting a statement of claim by the commercial court is resolved by a single judge within five days from the receipt of the statement of claim by the commercial court.

2. The commercial court is obliged to accept a statement of claim, filed in compliance with the requirements of this Code to the form and contents thereof.

3. The commercial court issues a ruling on the acceptance of the statement of claim, which initiates the proceedings in the case.

4. The ruling includes indications regarding the preparation of the case for judicial proceedings, the actions to be performed by the persons participating in the case, the terms for the performance thereof, as well as the address of the commercial court's official website, telephone, fax numbers and e-mail addresses, at which the persons participating in the case may receive information on the case under consideration.

5. Copies of a ruling on the acceptance of the statement of claim by the commercial court are forwarded to the persons participating in the case no later than on the day following its issuance.

Article 128. Shelving a Statement of Claim

1. If, when resolving the issue of acceptance of a statement of claim, the commercial court establishes, that it has been filed in violation of the requirements, established by **Articles 125** and **126** of this Code, it issues a ruling on the shelving of the statement of claim.

2. The commercial court issues a ruling, indicating the grounds for the shelving of the statement of claim and the term, within which the plaintiff is to eliminate the circumstances that served as grounds for shelving the statement of claim.

A copy of the ruling on the shelving of the statement of claim is forwarded to the plaintiff no later than on the day following its issuance.

3. If the circumstances that served as grounds for shelving the statement of claim are eliminated within the term, fixed in the commercial court ruling, the statement of claim is regarded as filed on the day of its initial receipt by the court and is accepted by the commercial court.

4. If the circumstances indicated in Part 2 of this Article are not eliminated within the term, fixed in the ruling, the commercial court returns the statement of claim and the documents attached to it in the manner, provided by Article 129 of this Code.

Article 129. Return of the Statement of Claim

1. The commercial court returns the statement of claim, if, when resolving the issue of its acceptance, it establishes that:

1) the given commercial court has no jurisdiction over the case;

2) *abrogated*;

3) prior to the issuance of a commercial court ruling on the acceptance of the statement of claim the plaintiff files a motion for the return of the statement of claim;

4) the circumstances which served as grounds for shelving the statement of claim have not been corrected within the term, fixed in a court ruling.

The commercial court likewise returns the statement of claim, if a motion to postpone the payment of the fee, for its payment by instalments or for a decrease of its amount is rejected.

2. The commercial court issues a ruling on the return of the statement of claim.

The ruling specifies the reasons for the return of the statement of claim and resolves the issue of returning the fee from the federal budget.

3. A copy of the ruling, concerning the return of the statement of claim is forwarded to the plaintiff no later than on the day following the date of its issuance, or upon the expiration of the term, fixed by the court for the elimination of circumstances, serving as grounds for its shelving, along with the statement of claim and the documents, attached thereto.

4. The commercial court ruling on the return of the statement of claim may be appealed against.

5. In the event of cancellation of the ruling, the statement of claim is regarded as filed on the date of the initial application to the commercial court.

6. The return of a statement of claim is not an obstacle for a repeated filing of the same claim

with the commercial court on general terms after the circumstances which served as grounds for its return have been eliminated.

Article 130. Joinder and Separation of Several Claims

1. The plaintiff may in one statement of claim join several claims, which are interconnected, due to the grounds of their origin or to the evidence presented.

2. The commercial court of the first instance may join several similar cases, of which the same persons are participants, in a single procedure, to consider them jointly.

2¹. The commercial court of the first instance, upon establishing that there are several cases being considered by it, which are interrelated due to the grounds of the origin of claims and (or) presented evidence, as well as in other instances where there is the risk of delivery of contradictory judicial acts, joins these cases for their joint consideration, on its own initiative or upon the motion of a party to the case.

3. The commercial court of the first instance may single out one or several interconnected claims for consideration in a separate procedure, if it deems separate consideration of the claims complying with the aims of efficient justice.

4. Combining cases for their consideration in a single procedure and singling out claims for considering them in a separate procedure is allowed prior to the delivery of the judicial act, finalising the consideration of the case by a commercial court of the first instance.

5. The commercial court issues a ruling on the joinder of cases for their consideration in a single procedure, or on the singling out of claims for consideration in a separate procedure, or on the refusal to do so. A copy of the ruling is forwarded to the persons participating in the case.

6. Cases under consideration by a commercial court of the first instance in case of their joinder for consideration in a single procedure are transferred to the judge, who was the first to accept the statement of claim for proceedings.

7. The commercial court ruling to reject the motion on the joinder of cases for their consideration in a single procedure or on the singling out of claims for their consideration in a separate procedure may be appealed against in an appellate commercial court by the person that filed the corresponding motion, no later than ten days from the day of the ruling's issuance.

8. After the joinder of cases in a single procedure or singling out of claims for consideration in a separate procedure, the case is considered de novo.

9. If, when considering a case, the commercial court establishes that another commercial court is considering a case, in which claims are connected, due to the grounds of their origin and (or) the evidence presented, to the claims in the case under its consideration, and there is the risk of delivery of contradictory judicial acts, the commercial court may suspend proceedings in the case under **Item 1 of Part 11 of Article 143** of this Code.

Article 131. Statement of Defence

1. Defendants are obliged to forward or present statements of defence to the commercial court and to the persons participating in the case, indicating objections regarding the claims, made against them, in respect of each argument, contained in the statement of claim.

Such a statement may be presented to the commercial court by filling out the form, placed on the official website of the commercial court considering the case. Documents attached to the statement may be submitted to the commercial court in electronic form.

2. In the instances and in the manner, established by this Code, other participants of commercial proceedings may forward a written statement of defence to the commercial court and to other persons participating in the case.

3. A statement of defence is sent to the commercial court and to persons participating in the case via registered letter with advice of delivery within the term, allowing to access it prior to the beginning of the court session. The commercial court may point out the obligation to forward the

statement and the term during which the persons participating in the case must present one, in its ruling on the acceptance of the statement of claim.

4. If the defendant does not present a statement of defence within the term, fixed by the court, the commercial court may consider the case on the basis of the available evidence or, where it is impossible to consider the case without a statement, it may fix a new term for its presentation. Doing so, the commercial court may place the judicial costs on the defendant, regardless of the results of the consideration of the case, in compliance with **Part 2 of Article 111** of this Code.

5. A statement of defence includes:

1) the name and location of the plaintiff or, if the plaintiff is an individual, the place of residence thereof;

2) the name and location of the defendant or, if the defendant is an individual, the place of residence, date and place of birth, place of employment or the date and place of state registration thereof as an individual entrepreneur;

3) objections in respect of each argument, concerning the merits of the stated claims, with reference to laws and other normative legal acts, as well as to the evidence, proving the objections;

4) a list of documents, attached to the statement.

6. The statement must include telephone and fax numbers, e-mail addresses and other data, necessary for the correct and timely consideration of the case.

7. Documents proving arguments and (or) objections in respect of the claim, as well as documents, proving the forwarding of copies of the statement and of the attached documents to the plaintiff and other persons participating in the case, are attached to the statement.

8. A statement of defence is signed by the defendant or by its representative. If the opinion is signed by a representative, a certificate of authority or another document, confirming the power to sign the statement is attached to it.

Article 132. Filing a Counterclaim

1. The defendant, prior to the delivery of a judicial act, finalising the consideration of the case on its merits by a commercial court of the first instance, may file a counterclaim against the plaintiff, for joint consideration with the initial claim.

2. The counterclaim is filed under the general terms of filing claims.

3. The commercial court accepts the counterclaim if:

1) it is aimed at the offset of the original claim;

2) its satisfaction excludes, in whole or in part, the satisfaction of the original claim;

3) the counterclaim and the initial claim are interconnected and their joint consideration will lead to a more rapid and correct consideration of the case.

4. The commercial court returns a counterclaim under the rules of **Article 129** of this Code, if there are no conditions, provided by Part 3 of this Article.

5. If a commercial court of the first instance establishes, that there are several cases under its consideration, the claims in which satisfy the conditions of the original claim and the counterclaim, it joins these cases on its own initiative or upon the motion of a person participating in the case into a single procedure for their joint consideration, according to the rules, established by **Article 130** of this Code.

6. After the acceptance of the counterclaim the case is considered from the very beginning.

Chapter 14. Preparing a Case for Judicial Proceedings

Article 133. Tasks of Preparing a Case for Judicial Proceedings

1. The tasks of preparing a case for judicial proceedings are to define the nature of the disputable relation, the applicable law, the circumstances, significant to the correct consideration of the case; to establish the circle of persons participating in the case and of other participants of commercial

proceedings; to assist the persons participating in the case in the presentation of the necessary evidence; to reconcile the parties.

2. A single judge prepares each case under the consideration of a commercial court of the first instance for judicial proceedings for the purpose of ensuring its correct and timely consideration.

Article 134. Term for Preparing the Case for Judicial Proceedings

1. After accepting the case, the commercial court of the first instance issues a ruling on the preparation of the case for judicial proceedings and indicates to the parties the possibility to file a motion for the consideration of the case with the participation of commercial court assessors, as well as actions to be performed by the persons participating in the case and the terms for performing those actions. A ruling on the acceptance of the case may also specify the preparation of the case for judicial proceedings.

2. The preparation of the case for judicial proceedings takes place within the term, fixed by a judge with regard to circumstances of a specific case and the need to perform the appropriate procedural actions, and is finished by a preliminary court session, if otherwise not established in this Code.

Article 135. Actions to be Taken, while Preparing the Case for Judicial Proceedings

1. When preparing a case for judicial proceedings, the judge:

1) summons the parties and (or) their representatives to interview them for the ascertainment of circumstances, concerning the essence of stated claims and objections; offers to disclose the evidence, proving these claims and objections, and to present, where necessary, additional evidence within a definite term; explains to the parties their rights and obligations, the effects of performing or failing to perform procedural actions within the established terms; determines by agreement with the parties the terms for the presentation of the necessary evidence and for holding a preliminary court session;

2) explains to the parties their rights to consideration of the case with the participation of commercial court assessors, the right to refer the dispute for resolution by an arbitration tribunal, the right to apply for assistance of an intermediary, for instance of a mediator, for the purpose of dispute resolution at any stage of the commercial proceedings, in the manner, established by federal law, and the consequences of performing such actions; takes measures for the conclusion of a settlement agreement by the parties, assists them in reconciliation;

3) renders assistance to the parties in obtaining the necessary evidence, orders to present the necessary evidence upon the motion of the parties, and in the instances, provided by this Code, on its own initiative; resolves issues of appointment of an expert examination, summoning of experts and witnesses and drawing of an interpreter, specialist to the participation in the proceedings, issues the necessity to inspect written and real evidence on the spot, takes other measures for the presentation of evidence by the parties;

4) upon the motion of the parties, resolves issues, concerning the securing of the claim, the provision of counter indemnity, as well as the securing of evidence, sends letters of request;

5) resolves issues of entry of other persons into the case, replacement of an improper defendant, joinder or separation of several claims, acceptance of a counterclaim, conduction of a court session out of the court premises;

6) carries out other actions, aimed at ensuring the correct and timely consideration of the case.

2. Actions, preparing a case for judicial proceedings, are carried out by a judge in the manner, provided by this Code.

3. The court issues a ruling on the consideration of the case through summary proceedings if the plaintiff filed a motion for such consideration during the preparation of the case for judicial proceedings and the commercial court has been provided with the defendant's consent for such consideration, or if the court on its own initiative suggests to consider the case through summary proceedings and issues a corresponding ruling with the parties' consent.

Access codes, necessary to access the case materials in digital form, are forwarded to the parties together with the said ruling.

The statement of claim, the application initiating the given case is placed on the official website of the corresponding commercial court in a section, access to which is only granted to persons participating in the case (hereinafter – in restricted access mode) no later than on the day following the issuance of the said ruling.

Article 136. Preliminary Court Session

1. The case is considered in a preliminary court session by a single judge, with the notification of the parties and other persons concerned of the time and place of the session. The said persons have the right to take part in the preliminary court session with the use of videoconferencing systems in accordance with **Article 153¹** of this Code.

If the properly notified plaintiff and (or) defendant, as well as other persons concerned, which may be drawn to the participation in the case, fail to appear before court, the preliminary court session is held in their absence.

2. In a preliminary court session the commercial court:

1) considers the motions of the parties;

2) determines the sufficiency of presented evidence and informs the parties of the evidence in the case materials;

3) considers the issues, resolved in the course of preparing the case for judicial proceedings, and carries out other procedural actions, provided by this Code.

3. In a preliminary court session the parties may present evidence, file motions and state their arguments concerning all matters, arising in the course of the session.

4. A court, upon the motion of persons participating in the case, may declare a break in the preliminary court session for no more than five days for the presentation by them of additional evidence.

5. Upon completing the consideration of all issues, submitted to a preliminary court session, the commercial court decides, with regard to the opinions of the parties and third persons, drawn to participation in the case, the issue of readiness of the case for judicial proceedings.

Article 137. Appointing a Case for Judicial Proceedings

1. A judge, upon finding a case prepared, issues a ruling, appointing the case for judicial proceedings.

2. A ruling appointing the case for judicial proceedings contains indications as to the end of preparation of the case for judicial proceedings and to the resolution of the issue of drawing third persons to participation in the case, to the acceptance of a counterclaim, to the joinder or separation of several claims, drawing of commercial court assessors to participation, as well as to the resolution of other issues, if appropriate rulings have not been issued in respect of them, as well as the time and place of holding a court session in a commercial court of the first instance.

3. Copies of a ruling, appointing the case for judicial proceedings, are forwarded to persons participating in the case.

4. If the preliminary court session is attended by the persons participating in the case or if the persons participating in the case are absent from the preliminary court session, while being properly notified of the time and place of the court session, or of the performance of an individual procedural action and they did not file any objections against the consideration of the case in their absence, the court may complete the preliminary court session and open a court session in the first instance, unless the consideration of the given case in panel is required under this Code.

Chapter 15. Conciliation Procedures. Settlement Agreement

Article 138. Reconciliation of the Parties

1. The commercial court takes measures for the reconciliation of the parties, assists them in settling the dispute.

2. The parties may settle a dispute by concluding a settlement agreement or applying other conciliation procedures, for instance a mediation procedure, unless this contradicts the federal law.

Article 139. Conclusion of a Settlement Agreement

1. A settlement agreement may be concluded by the parties at any stage of the commercial proceedings and in the course of execution of a judicial act.

2. The settlement agreement may be concluded in respect of any case, unless otherwise provided by this Code or another federal law.

3. The settlement agreement may not violate the rights and legitimate interests of other persons and contravene laws.

4. The settlement agreement is validated by the commercial court.

Article 140. Form and Contents of a Settlement Agreement

1. A settlement agreement is concluded in the written form and signed by the parties or by the representatives of the parties, if they are vested with the powers to conclude a settlement agreement, specially provided in the certificate of authority or in another document, confirming the powers of a representative.

2. A settlement agreement must contain data, agreed upon by the parties, on the conditions, amount and time of discharge of their obligations in respect of each other or by one party in respect of the other.

A settlement agreement may contain conditions, concerning the postponement of discharge of the defendant's obligations or discharge by instalments, cession, full or partial debt forgiveness or acknowledgement of debt, distribution of judicial costs and other conditions, which do not contravene federal laws.

3. If a settlement agreement does not contain a condition concerning the distribution of judicial costs, the commercial court resolves this issue when validating the settlement agreement in the general manner, established by this Code.

4. A settlement agreement is drawn up and signed in the number of copies, exceeding the number of the persons, concluding it, by one; one of the copies is attached to case materials by the commercial court, which validated the settlement agreement.

Article 141. Validation of the Settlement Agreement by the Commercial Court

1. The settlement agreement is validated by the commercial court considering the case. If a settlement agreement is concluded in the course of execution of a judicial act, it is referred for validation to a commercial court of the first instance at the place of execution of the judicial act or to the commercial court, which delivered the said judicial act.

2. The issue of validating a settlement agreement is resolved by the commercial court in a court session. Persons participating in the case are notified of the time and place of the court session.

3. If the persons, which concluded a settlement agreement and were properly notified of the time and place of the court session, fail to appear in the court session, the issue of validation of the settlement agreement is not resolved by the commercial court, unless these persons filed an application for the resolution of that issue in their absence.

4. The issue of validating a settlement agreement, concluded in the course of execution of a judicial act, is considered by the commercial court in no more than one month from the date of receipt of the application for its validation by the court.

5. After the consideration of the issue of validation of the settlement agreement, the commercial court issues a ruling.

6. The commercial court does not validate a settlement agreement, if it contravenes laws or violates the rights and legitimate interests of other persons.

7. The commercial court ruling cites:

1) the validation of the settlement agreement or the refusal to validate it;

2) the conditions of the settlement agreement;

3) the return to the plaintiff from the federal budget of a half of the fee paid, save for the instances when the settlement agreement is concluded in the course of execution of a judicial act of a commercial court;

4) the distribution of costs.

A ruling on the validation of a settlement agreement concluded in the course of execution of a judicial act of a commercial court also states that the said judicial act is not to be executed.

8. A ruling validating the settlement agreement is subject to prompt execution and may be appealed against to a cassational commercial court within one month from the date of issuance of the ruling.

9. The commercial court issues a ruling on the refusal to validate a settlement agreement, which may be appealed against.

Article 142. Executing a Settlement Agreement

1. A settlement agreement is voluntarily executed by the persons, which concluded it in the manner and within the terms stipulated in the agreement.

2. A settlement agreement, which has not been voluntarily executed, is enforceable under the rules of **Section VII** of this Code on the basis of a writ of execution, issued by a commercial court upon the motion of a person, which concluded the settlement agreement.

Chapter 16. Suspension of Proceedings

Article 143. Commercial Court's Duty to Suspend Proceedings

1. The commercial court is obliged to suspend proceedings:

1) if it is impossible to consider the given case until another case, under consideration of the Constitutional Court of the Russian Federation, of a constitutional (statutory) court of a constituent unit of the Russian Federation, of a court of general jurisdiction or of a commercial court is resolved;

2) if a defendant-individual is serving in an active military unit of the Armed Forces of the Russian Federation, or if a plaintiff-individual, serving in an active military unit of the Armed Forces of the Russian Federation, files a motion;

3) in case of death of an individual, who is a party to the case or a third person, filing independent claims in respect of the subject matter of the dispute, if the disputed legal relationship allows for legal succession;

4) if an individual, who is a party to the case, loses legal capacity.

2. The commercial court also suspends proceedings in other cases, stipulated in federal law.

Article 144. Commercial Court's Right to Suspend Proceedings

The commercial court may suspend proceedings if:

1) an expert examination is appointed by the commercial court;

2) an organisation, which is a person participating in the case, is undergoing reorganisation;

3) an individual, who is a person participating in the case, is drawn to the performance of a state duty;

4) an individual, who is a person participating in the case, is at a medical treatment facility or

on a long business trip;

5) an international court or a court of a foreign state is examining another case, the judgement on which may be of significance for the consideration of the given case.

Article 145. Terms for the Suspension of Proceedings

The proceedings are suspended:

1) in cases stipulated in **Item 1 of Part 1 of Article 143** and in **Item 5 of Article 144** of this Code, until a judicial act of the corresponding court enters into force;

2) in cases stipulated in **Item 2 of Part 1 of Article 143** and in **Item 4 of Article 144** of this Code, until the circumstances, serving as grounds for the suspension of proceedings, are eliminated;

3) in cases stipulated in **Items 3 and 4 of Part 1 of Article 143** and in **Item 2 of Article 144** of this Code, until the legal successor of a person participating in the case, is identified, or until a representative is appointed for the incapacitated person;

4) in the case, stipulated in **Item 1 of Article 144** of this Code, until the expiry of the term, fixed by the commercial court.

Article 146. Resumption of Proceedings

The commercial court resumes proceedings upon the application of persons participating in the case or on its own initiative after the elimination of circumstances, that caused the suspension, or before their elimination - upon the application of a person, at whose request the proceedings were suspended.

Article 147. Suspension and Resumption of Proceedings

1. The commercial court issues a ruling on the suspension of proceedings, on their resumption, or on the refusal to resume them.

Copies of the ruling are forwarded to the persons participating in the case.

2. A commercial court ruling on the suspension of proceedings or on the refusal to resume them may be appealed against.

Chapter 17. Leaving a Statement of Claim without Consideration

Article 148. Grounds for Leaving a Statement of Claim without Consideration

1. The commercial court leaves a statement of claim without consideration if, after its acceptance for judicial proceedings, it establishes that:

1) there is a case on a dispute between the same persons, on the same subject matter and on the same grounds under consideration of a commercial court, a court of general jurisdiction or of an arbitration tribunal;

2) the plaintiff failed to observe the claim or another alternative dispute resolution procedure, if that is stipulated in federal law or in a contract;

3) during the consideration of the application for the establishment of legally significant facts it turns out, that an issue at law has arisen;

4) a claim is filed, which, in conformity with the federal law, must be considered in a bankruptcy case;

5) there is an agreement between the parties on the consideration of the given case by an arbitration tribunal, if one of the parties, no later than on the day of filing its first application on the merit of the dispute with a commercial court of the first instance, raises an objection on this ground against the consideration of the case in a commercial court, save for the instances, when the commercial court establishes, that this agreement is invalid, has lost effect or cannot be executed;

6) the parties concluded an agreement to refer the dispute for resolution to an arbitration tribunal during judicial proceedings, but before the delivery of the judicial act, finalising the consideration of the case on its merits, if one of the parties raises an objection on this ground against the consideration of the case in a commercial court, save for the instances, when the commercial court establishes, that this agreement is invalid, has lost effect or cannot be executed;

7) the statement of claim is not signed or is signed by a person who has no right to sign it, or by a person whose official capacity is not indicated.

8) a claim for the recovery of judicial costs is filed, which is to be considered in conformity with **Article 112** of this Code;

9) the plaintiff has repeatedly failed to appear in court session, particularly after court summons, and did not file a motion for the consideration of the case in its absence or for the postponement of judicial proceedings, while the defendant does not demand that the case be considered on its merits.

2. The commercial court leaves a statement of claim without consideration for other reasons, provided by this Code.

Article 149. Leaving a Statement of Claim without Consideration and Its Consequences

1. If a statement of claim is left without consideration, the proceedings are terminated with the issuance of a ruling.

The commercial court indicates in the ruling the grounds for leaving the statement of claim without consideration and resolves the issue of returning the fee from the federal budget in the case, stipulated in **Item 2 of Article 148** of this Code.

Copies of the ruling are forwarded to persons participating in the case.

2. The commercial court ruling on leaving the statement of claim without consideration may be appealed against.

3. Leaving a statement of claim without consideration does not deprive the plaintiff of the right to repeatedly file it with the commercial court in the general manner, after the elimination of circumstances that served as grounds for leaving it without consideration.

Chapter 18. Termination of Proceedings

Article 150. Grounds for the Termination of Proceedings

1. The commercial court terminates proceedings, if it establishes that:

1) the case is not subject to consideration by a commercial court;

2) there exists a judicial act of a commercial court, of a court of general jurisdiction or of a competent court of a foreign state, delivered in a dispute between the same persons, on the same subject matter and on the same grounds, with the exception of cases, where the commercial court refuses to recognise and enforce the judgement of the foreign court;

3) there exists an award of an arbitration tribunal rendered in the dispute between the same persons, on the same subject matter and on the same grounds, with the exception of cases, where the commercial court refuses to issue a writ of execution for the enforcement of the arbitration award;

4) the plaintiff has renounced the claim and the renunciation was accepted by the commercial court;

5) an organisation, which is a party to the case, has been liquidated;

6) after the death of an individual, who was a party to the case, the disputed relation does not allow legal succession;

7) there exist grounds, stipulated in **Part 7 of Article 194** of this Code.

2. The commercial court also terminates proceedings if a settlement agreement is validated and in other cases, provided by this Code.

Article 151. Termination of Proceedings and its Consequences

1. The commercial court issues a ruling on the termination of proceedings.

In the ruling, the commercial court indicates the grounds for the termination of proceedings and resolves the issue of returning the fee from the federal budget in the instance, stipulated in **Item 1 of Article 150** of this Code, and of the distribution of judicial costs between the parties.

Copies of the ruling are forwarded to the persons participating in the case.

2. A commercial court ruling on the termination of proceedings may be appealed against.

3. If the proceedings are terminated, the repeated filing of an application on the dispute between the same persons, on the same subject matter and on the same grounds with the commercial court is inadmissible.

Chapter 19. Judicial Proceedings

Article 152. Term for the Consideration of the Case and the Delivery of a Decision

1. A case must be considered by a commercial court of the first instance within a term of no more than three months from the day, on which the commercial court receives an application, including the time for the preparation of the case for judicial proceedings and for the delivery of a decision, unless otherwise established by this Code.

2. The term fixed in Part 1 of this Article may be extended by the president of the commercial court on the basis of a reasoned application of the judge, considering the case, for up to six months due to the complexity of the case and a considerable number of participants of the commercial proceedings.

3. The time for which proceedings may be suspended or judicial proceedings may be postponed, where it is provided by this Code, is not included into the term for the consideration of the case, fixed by Part 1 of this Article, but is taken into account when establishing a reasonable time for proceedings.

Article 153. Session of the Commercial Court

1. A case is considered in a session of the commercial court, with the mandatory notification of the persons participating in the case of the time and place of the session.

2. A judge, and if the case is considered in panel, the judge presiding over the court session:

1) opens the court session and announces, what particular case is subject to consideration;

2) checks the appearance in court session of the persons participating in the case, of their representatives and of other participants of commercial proceedings, determines their identity and verifies their powers; ascertains, whether the persons, who have failed to appear in court session, were properly notified, and what information there is concerning the reasons for their non-appearance;

3) ascertains, whether the hearings may be started;

4) announces the composition of the commercial court and informs, who is going to take the minutes of the court session, who is going to take part in the court session in the capacity of an expert or of an interpreter, explains to the persons participating in the case their right to file recusals;

5) explains to the persons participating in the case and to other participants of the commercial proceedings their procedural rights and duties;

6) removes the witnesses present from the courtroom until their interrogation begins;

7) warns the interpreter of the criminal liability for a deliberately false translation, the expert for stating a deliberately false opinion and the witnesses (directly before their interrogation) for deliberately giving false evidence and for the refusal to testify;

8) determines the sequence of performance of procedural actions, taking into account the opinion of the persons participating in the case;

9) establishes whether the plaintiff supports the claim, whether the defendant acknowledges the

claim and whether the parties wish to resolve the dispute by concluding a settlement agreement or by using a mediation procedure, in regard of which corresponding entries are made in the minutes of the court session;

10) conducts the court session, ensures a comprehensive and full examination of the evidence and the facts of the case, provides the consideration of applications and motions of the persons participating in the case;

11) takes measures to ensure the proper order in the court session.

Article 153¹. Participation in the Court Session through the Use of Videoconferencing Systems

1. Persons participating in the case and other participants of commercial proceedings may take part in the court session through the use of videoconferencing systems on condition that they file a motion, requesting it, and the corresponding commercial court has at its disposal the technical possibility of videoconferencing.

2. If the motion for the participation in the court session through the use of videoconferencing is satisfied, the commercial court considering the case orders the commercial court, with the assistance of which the applicant may take part in such a court session, to organise the videoconference communication for the applicant's participation in the court session, on which a ruling is issued in conformity with **Article 73** of this Code.

3. The commercial court, organising the videoconference communication, checks the attendance and determines the identity of persons that appear, verifies their powers and determines whether they may participate in the court session in conformity with the rules, established in **Part 2 of Article 153** of this Code.

4. Minutes of the court session are taken and the court session is videotaped during the use of videoconferencing systems at the commercial court considering the case, as well as at the commercial court organising the videoconference communication. The material carrier of the video recording of the court session is forwarded to the court considering the case within five days and is attached to the minutes of the court session.

5. The commercial court considering the case rejects the motion for the participation in the court session through the use of videoconferencing systems if:

1) there is no technical possibility for participation in the court session through the use of videoconferencing systems;

2) the case is heard in camera.

Article 154. Order in the Court Session

1. As the judges enter the courtroom, all those present in the courtroom stand up. All persons present in the courtroom hear out the decision of the commercial court while standing.

2. Persons participating in the case, as well as other participants of the commercial proceedings address the commercial court with the words "Honourable Court," [uvazhaemiy sud]. They present their explanations and give evidence to the court, pose questions to other persons participating in the case and provide answers to the questions posed to them, while standing. Any deviation from this rule is admissible only with the permission of the court.

3. The court session is held under conditions that ensure the normal work of the court and the safety of the participants of the commercial proceedings. The actions of persons, present in the courtroom and carrying out video recording or photography, videotaping or broadcasting of the court session on radio or on television, must not interfere with the order in the court session. The time of these actions may be restricted by the court.

4. The persons present in the courtroom are obliged to observe the established order. A person, violating the order in the court session, or not obeying the lawful orders of the presiding judge, may be removed from the courtroom after a warning.

5. The commercial court may impose a court fine in the manner and amount, established in

Chapter 11 of this Code, upon a person violating the order in the court session or not obeying the lawful orders of the presiding judge.

Article 155. Minutes

1. In the course of every court session of a commercial court of the first instance, as well as when individual procedural actions are being performed, minutes are taken with the use of audio recording devices and minutes are compiled in the written form (hereinafter referred to as the minutes).

2. The minutes are an additional means of fixing the following data concerning the progress of the court session:

- 1) the year, month, day, and place of holding the court session;
- 2) the time of start and end of the court session;
- 3) the name of the commercial court, considering the case, and the composition of the court;
- 4) the style and number of the case;
- 5) information on warnings, given to the interpreter about the criminal liability for a deliberately false translation, to the witnesses about giving deliberately false evidence and for the refusal to testify, to the expert for stating a deliberately false opinion;
- 6) oral statements and motions of persons participating in the case, consultations of specialists;
- 7) the parties' agreements on the facts of the case and on the stated claims and objections;
- 8) the rulings issued by the court without leaving the courtroom;
- 9) a note regarding the use of audio recording devices, of videoconferencing communication systems and (or) of other technical devices in the course of the court session;
- 10) the date of compilation of the minutes.

3. Minutes of performance of an individual procedural action also include the information, obtained as a result of the procedural action.

4. A court session secretary or an assistant of a judge takes minutes and ensures the use of audio recording devices and (or) of other technical devices in the course of the court session.

5. The minutes may be hand-written or compiled with the use of technical devices. The minutes are signed by the judge, presiding over the court session, by the court session secretary or by the assistant of a judge, who took minutes of the court session, no later than on the day following the end of the court session, and the minutes of performance of an individual procedural action - immediately after the action has been performed.

6. The recording of the court session with the use of audio recording devices is conducted without interruption in the course of the court session. The material carrier of the audio recording is attached to the minutes.

If the commercial court uses shorthand and conducts video recording of the court session, information provided in Items 5, 6, 8 and 9 of Part 2 of this Article must be included in the written minutes. The material carrier of the video recording is attached to the minutes.

7. Persons participating in the case have the right to access the audio recording of the court session, the minutes of the court session and of performance of individual procedural actions, and to make remarks as to the fullness and correctness of the compilation thereof within three days after the corresponding minutes were signed. Material carriers of audio and (or) video recordings of the court session made by the persons participating in the case may be enclosed with the remarks.

Remarks on the minutes, presented to the commercial court after three days, are not considered by the court and are returned to the person, who presented them.

8. The commercial court issues a ruling on the acceptance or rejection of remarks on the minutes no later than on the day, following the receipt of these remarks by the court. The remarks on the minutes and the court ruling are attached to the minutes.

9. Upon a written motion of a person participating in the case and at its expense, a copy of the minutes and (or) a copy of the audio recording of the court session may be made.

Article 156. Consideration of the Case in the Absence of a Statement of Defence, of Additional

Evidence and in the Absence of Persons Participating in the Case

1. Non-presentation of a statement of defence or of additional evidence, which the commercial court offered the persons participating in the case to present, is not an obstacle for the consideration of the case with the use of the evidence, already contained in the case.

2. The parties have the right to notify the commercial court of the possibility to consider the case in their absence.

3. If the plaintiff and (or) the defendant, properly notified of the time and place of the judicial proceedings, fail to appear in the session of the commercial court, the court may consider the case in their absence.

4. If persons participating in the case fail to appear in the court session, while their appearance was recognised by the commercial court as mandatory in accordance with this Code, the court may impose a court fine on the said persons, in the order and amount, stipulated in **Chapter 11** of this Code.

5. If other persons participating in the case fail to appear in the court session, while being properly notified of the time and place of the judicial proceedings, the court considers the case in their absence.

Article 157. Consequences of the Experts', Witnesses' and Interpreters' Failure to Appear in the Court Session

1. If experts, witnesses or interpreters, properly notified of the time and place of the court session, fail to appear in the court session, the commercial court issues a ruling on the postponement of the judicial proceedings, unless the parties file a motion for the consideration of the case in the absence of the said persons.

2. If an expert, witness or interpreter, summoned to court, fails to appear, for reasons not recognised by the court as good, the court may impose a court fine upon such a person, in the manner and amount, stipulated in **Chapter 11** of this Code.

Article 158. Postponement of Judicial Proceedings

1. The commercial court postpones the judicial proceedings in cases stipulated in this Code, as well as if a person participating in the case fails to appear in the court session and the court has no information as to this person's proper notification of the time and place of the judicial proceedings.

2. The commercial court may postpone the judicial proceedings upon the motion of both parties, if they turn to the court or to an intermediary, for instance to a mediator, for rendering of assistance to them in the resolution of the dispute.

3. If a person participating in the case and properly notified of the time and place of the court session files a motion for the postponement of judicial proceedings with a substantiation of its non-appearance in the court session, the commercial court may postpone the judicial proceedings, if it deems the reasons for the non-appearance good.

4. The commercial court may postpone the judicial proceedings upon the motion of a person participating in the case in connection with the non-appearance of its representative in the court session due to a good reason.

5. The commercial court may postpone the judicial proceedings, if it recognises that the given case cannot be considered in the given court session, among other reasons because of the non-appearance of one of the persons participating in the case, or of other participants of the commercial proceedings, if technical failures occur during the use of technical devices for holding a court session, including the failure of videoconferencing systems, and also if the motion of a party to postpone the judicial proceedings is satisfied due to the need to submit additional evidence, during the performance of other procedural actions.

The judicial proceedings may also be postponed for no more than ten days by decision of the

president of the commercial court, of the deputy president of the commercial court or of the head of a judicial chamber, if a judge falls ill or for other reasons, making it impossible to hold the court session.

6. If the judicial proceedings are postponed, the commercial court may interrogate the witnesses present in the court session, if the parties are also present in that court session. The testimonies of these witnesses are read out in the new court session. The said witnesses are summoned to the new court session only if this is deemed necessary.

7. The judicial proceedings may be postponed for the time, necessary to eliminate the circumstances that served as grounds for the postponement, but no more than for one month. In the instance, stipulated in Part 2 of this Article, judicial proceedings may be postponed for up to 60 days.

8. The commercial court issues a ruling on the postponement of judicial proceedings.

9. The commercial court notifies the persons participating in the case and other participants of the commercial proceedings of the time and place of the new court session. Persons, present in the court session, are notified immediately in that session of the time and place of the new session, against receipt in the minutes of the court session.

10. Judicial proceedings are resumed in a new session from the moment, on which they were postponed. The evidence examined before the postponement of judicial proceedings is not examined repeatedly.

Article 159. Consideration of Applications and Motions of Persons Participating in the Case by the Commercial Court

1. Applications and motions of persons participating in the case, concerning the agreements they reach on the facts of the case, on the merits of the stated claims and objections, on the order for presentation of new evidence and on all other issues in connection with the consideration of the case, are substantiated by the persons participating in the case, and submitted in the written form, sent in electronic form, entered into the minutes of the court session, and are resolved by the commercial court after it has heard the opinions of other persons participating in the case.

2. The commercial court issues rulings after considering the applications and motions.

3. A person, whose motion was rejected during the preparation of the case for judicial proceedings or in the course of a preliminary session, has the right to submit it once again in the course of further judicial proceedings.

4. A motion for the participation in the court session through the use of videoconferencing systems, with an indication of the commercial court, with the assistance of which the applicant may take part in the court session, is filed to the court considering the case, before the case is appointed for judicial proceedings and is considered by a single judge, considering the case, within five days from the receipt of the motion by the commercial court, without notification of the parties. Such a motion may also be filed in the text of the statement of claim or of the statement of defence.

5. The commercial court may reject an application or a motion, if they are not submitted timely by a person participating in the case as a result of abuse of its procedural right, and are clearly aimed at the disruption of the court session, procrastination of court proceedings and impeding the consideration of the case and the delivery of a lawful and substantiated judicial act, unless the applicant had no opportunity to file such an application or such a motion earlier for objective reasons.

Article 160. Consideration of the Case in Separate Sessions of the Commercial Court

1. If one application combines a claim for the establishment of grounds of the defendant's liability and an incident claim for the application of liability measures, the commercial court may, with the parties' consent, examine such claims in separate court sessions.

A ruling is issued on the consideration of the case in separate court sessions.

2. If the claim for the establishment of grounds of the defendant's liability is rejected, the commercial court does not consider the incident claim for the application of liability measures and does not hold another court session.

3. If the claim for the establishment of grounds of the defendant's liability is satisfied, the commercial court may immediately or after a break, which may not last for more than five days, hold another court session, and at that court session examine the claim for the application of liability measures, while determining, among other things, the sum to be recovered. After the consideration, the commercial court issues a ruling on all stated claims.

4. If a break was announced in the court session, during which the parties have reached an agreement or have settled the dispute as to the claims for the application of liability measures, the commercial court does not consider these claims and terminates the proceedings regarding the claims for the application of liability measures, on condition that the plaintiff renounces the claim in the written form or that the parties conclude a settlement agreement regarding these claims, and that the renunciation is accepted or the settlement agreement is validated by the court, in which regard an indication is made in the judicial act of the commercial court.

Article 161. Application Regarding the Falsification of Evidence

1. If a person participating in the case files a written application with the commercial court, saying that the evidence, presented by another person participating in the case, is falsified, the court:

1) explains the consequences, stipulated in criminal law for making a false statement of this kind;

2) excludes the disputed piece of evidence, by consent of the person, which submitted it, from the evidence on the case;

3) verifies the substantiation of the application regarding the falsification of evidence, if the person who submitted this piece of evidence objects against its exclusion from the evidence on the case.

In this case, the commercial court takes measures, stipulated in federal law, to verify the authenticity of the application regarding the falsification of evidence; among other things, it may appoint an expert examination, order the presentation of further evidence or take other measures.

2. The results of the examination of an application regarding the falsification of evidence are reflected by the commercial court in the minutes of the court session.

Article 162. Examination of Evidence

1. When considering a case, the commercial court is obliged to directly examine all evidence on the case: to examine the written and the material evidence, to hear out the explanations of the persons participating in the case, the testimonies of witnesses and the opinions of experts, consultations of specialists, and also to read out such explanations, testimonies and opinions, consultations, submitted in the written form.

2. The reproduction of audio and video recordings is carried out by the commercial court in the courtroom or in other premises, specially equipped for this purpose. The fact of the reproduction of audio and video recordings is reflected in the minutes of the court session.

3. When examining evidence, the commercial court reads out the agreements of the persons participating in the case, regarding the understandings reached on the facts of the case.

4. A person participating in the case may give clarifications to the commercial court regarding the evidence presented by it, the evidence ordered for presentation by the court upon its motion and to pose questions to the experts and witnesses, summoned to the court session. The person, on whose motion the experts and witnesses were summoned, is the first to pose questions.

Article 163. Break in the Court Session

1. The commercial court may announce a break in the court session upon the motion of a person participating in the case or on its own initiative.

2. A break in the court session may be announced for five days at most.

3. If a break is announced within the limits of a day of the court session, a note is made in the minutes on the court session, specifying the time, when the session is to be resumed.

If a break is announced for a longer term, the commercial court issues a ruling, which is entered into the minutes of the court session. The time and place of the resumption of the court session are stated in the ruling.

4. After the end of the break the court session resumes; this is announced by the judge presiding over the court session. The evidence that was examined before the break is not examined de novo, even if the representatives of the persons participating in the case have been replaced.

5. Persons participating in the case and present in the courtroom before the announcement of the break are regarded as properly notified of the time and place of the court session, and their failure to appear in the court session after the break is over, is not an obstacle for its resumption.

Article 164. Judicial Pleadings

1. After all the evidence has been examined, the judge presiding over the court session asks the persons participating in the case, whether they wish to add anything to the case materials. If no such statements are made, the judge presiding over the court session declares the examination of evidence completed, and the court proceeds to judicial pleadings.

2. Judicial pleadings consist of oral arguments made by persons participating in the case and by their representatives. In these arguments they substantiate their position on the case.

3. The plaintiff and (or) its representative is the first to take the floor, followed by a third person, filing individual claims as to the subject matter of the dispute, then the defendant and (or) its representative. A third person, not filing individual claims as to the subject matter of the dispute, takes the floor after the plaintiff or after the defendant, depending on whose side it takes part in the case.

A prosecutor, a representative of a state body, of a local government body or of another body, who applied to the commercial court in conformity with **Articles 52** and **53** of this Code, is the first to take the floor in the judicial pleadings.

4. The participants of judicial pleadings have no right to refer to the circumstances that have not been ascertained by the court or to the evidence that has not been examined during the court session or was recognised by the court as inadmissible.

5. After all participants of the judicial pleadings state their arguments, each of them may make rebuttals. The right to make the last rebuttal always belongs to the defendant and (or) to its representative.

Article 165. Resumption of the Examination of Evidence

1. If during or after the judicial pleadings the commercial court deems it necessary to ascertain additional circumstances or to examine new evidence, the court resumes the examination of evidence, which is indicated in the minutes of the court session.

2. After the additional examination of evidence is completed, the judicial pleadings continue in the general manner, established by this Code.

Article 166. Completing the Consideration of the Case on its Merits

After the examination of evidence and the judicial pleadings are over, the judge presiding over the court session announces the consideration of the case on its merits completed, and the commercial court retires for the delivery of a decision, announcing this to persons present in the courtroom.

Chapter 20. Decision of the Commercial Court

Article 167. Delivery of a Decision

1. When resolving a dispute on its merits, a commercial court of the first instance delivers a decision. The decision is delivered in the name of the Russian Federation.

2. The commercial court may deliver a separate decision on each of the claims, combined in one case.

3. The decision is delivered by the judges participating in the court session, in circumstances that guarantee the secrecy of the judges' conference.

4. Only the persons, included into the composition of the court considering the case may be present on the premises, where the commercial court is holding a conference and delivering a judicial act. Access to these premises by other persons, as well as other ways of communication with the persons, included into the composition of the court, is prohibited.

5. Judges of the commercial court have no right to inform anyone about the contents of discussion during the delivery of the judicial act or about the position of individual judges, included into the composition of the court, or in any other way to divulge the secrecy of the judges' conference. Herewith, the judges of commercial courts are not deprived of the right to express their separate opinion in conformity with **Article 20** of this Code, which cannot be seen as divulgence of the secret of the judges' conference.

Article 168. Issues, Resolved During the Delivery of a Decision

1. When delivering a decision, the commercial court evaluates the evidence and arguments presented by the persons participating in the case in substantiation of their claims and objections; it determines, what circumstances, significant to the case, were and were not established, what laws and other normative legal acts are to be applied in the given case; establishes the rights and duties of the persons participating in the case and decides, whether the claim is subject to satisfaction.

2. When delivering a decision, the commercial court resolves the issues of preservation or cancellation of provisional measures, of ensuring the execution of the decision; if necessary, it establishes the manner and term for the execution of the decision; it resolves issues regarding the future of the material evidence, distributes the judicial costs and resolves other issues that arose during the judicial proceedings.

3. If, while delivering a decision, the commercial court deems it necessary to additionally examine the evidence or to continue the ascertainment of circumstances significant for the case, the commercial court resumes the judicial proceedings, in which regard it issues a ruling.

Article 169. Making of the Decision

1. A decision of the commercial court is made in the form of a separate document and must be either written by hand or completed with the use of technical devices.

2. The grounds for its delivery must be stated in the decision; it must be rendered in a language, comprehensible to the persons participating in the case and to other persons.

3. The decision is signed by the judge, and if the case was considered in panel - by all the judges who took part in the delivery of the decision, including the judge who expressed a separate opinion.

4. Corrections made to the decision must be discussed and certified by the signatures of all judges in the conference room, before the decision is announced.

5. The decision of the commercial court is made in a single copy and is attached to the case.

Article 170. Contents of the Decision

1. A decision of the commercial court consists of an introductory part, a descriptive part, a judgement rationale and an operative part.

2. The introductory part of the decision contains the name of the commercial court, delivering the decision; the composition of the court, the surname of the person, who kept the minutes of the

court session; the number of the case, the date and place of the decision's delivery; the subject matter of the dispute; names of the persons participating in the case, surnames of the persons, present in the court session, with an indication of their powers.

3. The descriptive part of the decision contains a brief description of the stated claims and objections, of explanations, applications and motions, made by the persons participating in the case.

4. The judgement rationale includes:

1) the factual and other circumstances of the case, established by the commercial court;

2) the evidence on which the conclusions of the court, concerning the facts of the case, and the arguments in favour of the delivered decision are based; the grounds on which the court rejected certain pieces of evidence, accepted or declined the arguments, stated by the persons participating in the case in support of their claims and objections;

3) the laws and other normative legal acts, upon which the court relied, while delivering the decision, and the motives, due to which the court did not apply the laws and other normative legal acts, to which the persons participating in the case referred.

The judgement rationale must also contain the reasons behind the decisions, delivered by the court, and the substantiations of other issues, mentioned in Part 5 of this Article.

If the defendant recognises the claim, the judgement rationale may only state the recognition of the claim by the defendant and its acceptance by the court.

The judgement rationale may contain references to the judgements of the Plenary Session of the Supreme Commercial Court of the Russian Federation on issues of judicial interpretation and judgements of the Presidium of the Supreme Commercial Court of the Russian Federation.

5. The operative part of the decision contains conclusions as to the satisfaction or the refusal to satisfy, fully or in part, each of the stated claims, an indication regarding the distribution of judicial costs between the parties, the manner and term for appealing against the decision.

If the initial claim and the counterclaim are satisfied fully or in part, the sum of money, subject to recovery as a result of a set-off, must be fixed in the operative part of the decision.

If the commercial court establishes the manner of execution of the decision or takes measures to ensure the execution, this is indicated in the operative part of the decision.

Article 171. Decision on the Recovery of Money and on the Adjudication of Property

1. If a claim for the recovery of monetary funds is satisfied, the commercial court indicates the total sum of money, subject to recovery, with a separate evaluation of the principal sum, of losses, of the forfeit (fines, penalties) and of the interest in the operative part of the decision.

2. In case of adjudication of property, the commercial court indicates the name of the property, which is to be handed over to the plaintiff, its cost and location.

Article 172. Decision on the Recognition of an Enforcement Document or another Document as Not Subject to Enforcement

If a claim is satisfied in a dispute for the recognition of an enforcement document or another document, under which the recovery is effected in an indisputable (non-acceptance) manner, including a notary's executive inscription, as not subject to enforcement, the commercial court indicates in the operative part of the decision the name, number and date of issuance of the document, not subject to enforcement, as well as the sum of money, not subject to write-off.

Article 173. Decision on the Conclusion or Amendment of a Contract

In a dispute that arose in the course of conclusion or amendment of a contract, the commercial court's conclusions on every disputable term of the agreement are stated in the operative part, and in a dispute concerning the compulsive conclusion of a contract - the terms, on which the parties are obliged to conclude the contract.

Article 174. Decision on Specific Performance

1. If a decision on specific performance is delivered, not regarding the recovery of money from the defendant or the disposal of property by the defendant, the commercial court states in the operative part of its decision the person obliged to perform the specific actions, as well as the place and the term for the performance.

2. If a decision on specific performance, not regarding the recovery of money or the disposal of property, is delivered in respect of an organisation, the commercial court may name in the operative part of its decision the head of the organisation or another person, upon whom the execution of the decision is imposed, as well as the term for the execution.

3. The commercial court may state in the decision that the plaintiff has the right to perform the corresponding actions at the expense of the defendant, with the recovery of the necessary expenses from the latter, if the defendant fails to execute the decision during the fixed term.

Article 175. Decision in Favour of Several Plaintiffs or Against Several Defendants

1. If a decision is delivered in favour of several plaintiffs, the commercial court indicates, in what part (share) it concerns each of them, or states that their right of claim is joint and several.

2. When delivering a decision against several defendants, the commercial court indicates in what part (share) each of the defendants is obliged to execute the decision, or states that their liability is joint and several.

Article 176. Pronouncement of a Decision

1. A decision of the commercial court is pronounced by the judge, presiding over the court session in which the consideration of the case on its merits is completed, after the delivery of the commercial court's decision.

2. Only the operative part of the delivered decision may be pronounced in the court session, in which the consideration of the case on its merits is completed. In this case, the commercial court announces the date, on which the full text of the decision will be drawn up, and explains the manner, in which it will be brought to notice of the persons participating in the case.

The drawing-up of the full text of the decision may be postponed for five days at most. The date of the drawing-up of the full text of the decision is regarded as the date of delivery of the decision.

3. The pronounced operative part of the decision must be signed by all the judges, who took part in the consideration of the case and in the delivery of the decision, and is attached to the case.

4. After the decision is pronounced, the judge, presiding over the court session, explains the manner for appealing against it.

Article 177. Forwarding the Decision to Persons Participating in the Case

1. The commercial court sends copies of the decision to persons participating in the case within five days from the day of delivery of the decision, via registered letter with advice of delivery, or hands it to them against receipt.

2. In the instances and manner stipulated in this Code, the commercial court also sends copies of the decision to other persons.

3. A fee is collected for the repeated issue of copies of the decision and of other judicial acts to persons participating in the case.

Article 178. Additional Decision

1. The commercial court which delivered the decision has the right, before this decision enters

into force, on its own initiative or upon the motion of a person participating in the case, to deliver an additional decision, if:

1) the court did not deliver any decision on one of the claims, for which evidence was presented by persons participating in the case;

2) the court, after resolving the issue of law, did not indicate in the decision the amount of money awarded, the property subject to handover or the actions, which the defendant is obliged to perform;

3) the issue of judicial costs stays unresolved.

2. The issue of delivery of an additional decision by the commercial court is resolved in a court session. Persons participating in the case are notified of the time and place of the court session. Failure of properly notified persons to appear is not an obstacle to resolving the issue of delivery of an additional decision.

3. The additional decision is delivered in accordance with the rules, established in this Chapter.

4. If the court refuses to deliver an additional decision, a ruling is issued.

5. The additional decision of the commercial court and its ruling on the refusal to deliver an additional decision may be appealed against.

Article 179. Clarification of the Decision. Correction of Slips, Misprints and Arithmetical Errors

1. If the decision is unclear, the commercial court which delivered it has the right, upon the application of a person participating in the case, of a bailiff or of another body or organisation, executing the commercial court's decision, to clarify the decision without changing its contents.

2. Clarification of the decision is permitted, if it is not yet executed and if the time for its enforcement has not yet expired.

3. The commercial court which delivered the decision may upon application of a person participating in the case, of a bailiff or of another body or organisation, executing the commercial court's decision, as well as on its own initiative, correct the slips of pen, misprints and arithmetical errors in the decision, without changing its contents.

4. The commercial court issues a ruling, which may be appealed against, on the issues of clarification of the decision and correction of slips, misprints and arithmetical errors within ten days from the receipt of the application.

Article 180. Entry of a Decision into Force

1. A decision of a commercial court of the first instance, except for decisions, mentioned in Parts 2 and 3 of this Article, enters into force in one month from the day of its delivery, unless an appeal is filed against it. If an appeal is filed, the decision, unless reversed or amended, enters into force on the day of delivery of a judgement by an appellate commercial court.

2. Decisions of the Supreme Commercial Court of the Russian Federation, decisions of the Intellectual Property Rights Court and decisions on cases of challenge of normative legal acts enter into force immediately after their delivery.

3. Commercial court decisions in cases on administrative offences, and in other cases, stipulated in this Code or in another federal law, enter into force within the terms and in the manner, established in this Code or in another federal law.

Article 181. Appealing Against a Commercial Court Decision

1. A decision of a commercial court of the first instance with the exception of the decision of the Supreme Commercial Court of the Russian Federation may be appealed against to an appellate commercial court, unless otherwise stipulated in this Code.

2. Unless otherwise stipulated in this Code, a decision of a commercial court of the first

instance may be appealed against to the commercial court of the cassational instance, under the condition that it was under consideration of the commercial court of the appellate instance or that the court of the appellate instance refused to restore the expired term for filing an appeal.

Article 182. Execution of a Decision

1. A decision of a commercial court is executed after it enters into force, with the exception of immediate execution in the manner, provided by this Code and by other federal laws, regulating the issues of the enforcement procedure.

2. Decisions of commercial courts on cases of challenge of non-normative legal acts of state bodies, of local government bodies and of other bodies; decisions on cases of challenge of decisions and actions (failures to act) of the said bodies; decisions on cases, considered through summary proceedings are subject to immediate execution.

3. The commercial court has the right, upon application of the plaintiff, to make the decision subject to immediate execution, if due to special circumstances the delay of its execution may lead to a substantial loss for the recoverer or may make the execution impossible. Immediate execution of the decision is admissible, if the recoverer secures the reversion of execution for the event of the decision's reversal (counter indemnity) by depositing money to the bank account of the commercial court equal to the amount of the adjudicated sum, or by presenting a bank guarantee, a surety or some other kind of financial provision for the same sum.

4. The issue of making the decision subject to immediate execution is resolved in a court session. Persons participating in the case are notified of the time and the place of the court session. Failure of persons, properly notified of the time and place of the court session, to appear is not an obstacle to the resolution of the issue concerning the immediate execution of a commercial court decision.

5. After the resolution of the issue of making the decision subject to immediate execution, the commercial court issues a ruling, which may be appealed against.

Copies of the ruling are forwarded to persons participating in the case no later than on the day following its issuance.

6. The ruling to make the decision subject to immediate execution is subject to immediate execution. Appeals against this ruling do not suspend its execution.

7. The commercial court may, upon application of persons participating in the case, take measures for securing the execution of the decision, not made subject to immediate execution, in accordance with the rules, laid down in **Chapter 8** of this Code.

Article 183. Indexation of Awarded Sums

1. The commercial court of the first instance, which considered the case, performs upon application of the recoverer the indexation of the awarded sums for the day of execution of the court decision in the cases and amount, stipulated in a federal law or in a contract.

2. The application mentioned in Part 1 of this Article is considered in a court session within ten days from the receipt of the application by the court. Persons participating in the case are notified of the time and place of the court session. Failure of properly notified persons participating in the case to appear is not an obstacle to consideration of the application for the indexation of the awarded sums.

A ruling is issued after the consideration of the application.

3. The ruling of a commercial court on the indexation of the awarded sums or on the refusal to perform such an indexation may be appealed against.

Chapter 21. Ruling of the Commercial Court

Article 184. Issuance of Rulings by the Commercial Court

1. Commercial courts issue rulings in cases, stipulated in this Code, and also in other cases, on issues requiring resolution in the course of judicial proceedings.

2. A ruling is issued by the commercial court in writing, as a separate judicial act or as a minutes ruling.

3. The commercial court issues rulings in the form of separate judicial acts in all cases where this Code stipulates the possibility to appeal against the ruling, separately from appealing against the judicial act, finalising the consideration of the case on its merits.

In other cases, the commercial court may issue a ruling either in the form of a separate judicial act or in the form of a minutes ruling.

4. The commercial court issues a ruling in the form of a separate judicial act in conditions, ensuring the secrecy of the judges' conference, and in accordance with the rules, established for the delivery of a decision.

5. A minutes ruling may be issued by the commercial court without retiring from the courtroom. If the case is considered by a panel of judges, they confer on the questions concerning the issuance of such a ruling on the spot, in the courtroom. A minutes ruling is pronounced orally and entered into the minutes of the court session.

Article 185. Contents of a Ruling

1. A ruling must include:

- 1) the date and place of the issuance of the ruling;
- 2) the name of the commercial court and its composition, the surname of the person, keeping the minutes of the court session;
- 3) the style and the number of the case;
- 4) the names of persons participating in the case;
- 5) the issue, on which the ruling is issued;
- 6) the motives behind the court's conclusions and its acceptance or rejection of the arguments of persons participating in the case, with reference to laws and other normative legal acts;
- 7) the conclusion, made by the court after the consideration of the issue;
- 8) the manner and term for appealing against the ruling.

A ruling issued in the form of a separate judicial act, is signed by the judge or by the composition of the commercial court passing the ruling.

2. A minutes ruling includes the issue, on which the ruling is issued, the motives behind the court's conclusions and the conclusion, made after the consideration of the issue.

Article 186. Forwarding a Ruling

1. Copies of a ruling issued in the form of a separate judicial act are forwarded to persons participating in the case and to other persons concerned via registered letter with advice of delivery or are handed to them against receipt.

2. Copies of the ruling are forwarded within five days from its issuance, unless a different term is fixed by this Code.

Article 187. Execution of a Ruling

A ruling issued by the commercial court is executed immediately, unless otherwise established by this Code or by the commercial court.

Article 188. Manner and Terms for Appealing against Rulings

1. A commercial court ruling may be appealed against separately from the appeal against the judicial act, finalising the consideration of the case on its merits, if the filing of an appeal against this

ruling is envisaged in this Code, and also if this ruling impedes the further progress of the case.

2. Objections may be raised against a minutes ruling and against a ruling, appeals against which are not envisaged in this Code, in an appeal, lodged against the judicial act, finalising the consideration of the case on its merits

3. An appeal against a commercial court ruling of the first instance may be filed to the appellate commercial court within a month from the issuance of the ruling, unless a different manner and term are established in this Code.

3¹. The appeal against the ruling of the Intellectual Property Rights Court, issued by it as a court of the first instance, may be filed to the presidium of this court for consideration in the cassational instance within a term, not exceeding one month since the date of issuance of the ruling, unless another manner and terms are provided by this Code.

4. An appeal against a ruling of an appellate commercial court may be filed to a cassational commercial court within a month from the issuance of the ruling, unless a different term is established by this Code.

5. An appeal against the judgement of an appellate commercial court, delivered after the consideration of an appeal against a ruling of a commercial court of the first instance, may be filed to a cassational commercial court within a month after the judgement enters into force, if under this Code such a judgement may be appealed against to a cassational commercial court.

6. An appeal against a ruling of a cassational commercial court may be filed within a month from the issuance of the ruling in the manner, established by **Article 291** of this Code.

Section III. Proceedings in a Commercial Court of the First Instance on Cases, Arising from Administrative and Other Public Relations

Chapter 22. Special Rules for the Consideration of Cases, Arising from Administrative and Other Public Relations

Article 189. Consideration of Cases, Arising from Administrative and Other Public Relations

1. Cases arising from administrative and other public relations are considered in accordance with the general rules of adversarial proceedings, stipulated in this Code, subject to the special rules established in this Section, unless federal law provides other rules of administrative proceedings.

2. Applications on cases, arising from administrative and other public relations, are filed with the commercial court in accordance with the general rules of jurisdiction, established in this Code, unless otherwise provided in this Section.

3. The burden of proving the circumstances which served as grounds for the adoption of the disputed act, the legality of the disputed decisions and actions (failures to act) on the part of state bodies, local government bodies, state officials or other bodies and organisations, vested by federal law with certain state or other public powers, is imposed upon the bodies and persons who adopted the disputed act or decision, or performed the disputed actions (failed to act).

Article 190. Reconciliation of the Parties

Economic disputes, arising from administrative and other public relations, may be settled by the parties in accordance with the rules, established in **Chapter 15** of this Code by conclusion of an agreement or with the use of other conciliation procedures, unless otherwise established by federal law.

Chapter 23. Consideration of Cases of Challenge of Normative Legal Acts

Article 191. Consideration of Cases of Challenge of Normative Legal Acts

1. Cases of challenge of normative legal acts, infringing upon the rights and lawful interests of persons in the sphere of entrepreneurial and other economic activities, are considered by commercial courts in accordance with the general rules of adversarial proceedings stipulated in this Code, subject to the special rules, established in this Chapter.

2. Proceedings in cases of challenge of normative legal acts are initiated upon applications of persons concerned, who file claims for the recognition of such acts as invalid.

3. *Abrogated.*

4. Cases of challenge of normative legal acts are considered by a commercial court, should federal laws refer the consideration of such cases to the competence of a commercial court

Article 192. Right to File an Application for the Recognition of a Legal Act as Invalid with the Commercial Court

1. Individuals, organisations and other persons have the right to file with the commercial court an application for the recognition as invalid of a normative legal act, passed by a state body, a local government body, another body or state official, if they believe that the disputed normative legal act or its individual provisions do not conform to a law or to another normative legal act of greater legal force and infringe upon their rights and lawful interests in the sphere of entrepreneurial and other economic activity, illegally impose upon them any duties or create other obstacles for the performance of entrepreneurial and other economic activity.

2. A prosecutor, as well as state bodies, local government bodies and other bodies, has the right to address the commercial court in cases stipulated in this Code with applications for the recognition of normative legal acts as invalid, if they believe that such a disputed act or its individual provisions do not conform to a law or to another normative legal act of greater legal force and infringe upon the rights and lawful interests of individuals, organisations or other persons in the sphere of entrepreneurial and other economic activities.

3. Unless otherwise provided by federal law, the application of a person concerned to a superior body or state official is not an obligatory condition for filing an application with the commercial court.

Article 193. Requirements to an Application for the Recognition of a Normative Legal Act as Invalid

1. An application for the recognition of a normative legal act as invalid must meet the requirements, stipulated in **Part 1, Items 1, 2 and 10 of Part 2 and Part 3 of Article 125** of this Code.

The application must also contain:

1) the name of the state body, of the local government body, of another body or state official, which adopted the disputed normative legal act;

2) the name, number and date of adoption, the name of the publication source and other data on the disputed normative legal act;

3) the rights and lawful interests of the applicant, which, in the applicant's opinion, are violated by the disputed act or by its individual provisions;

4) the name of the normative legal act of greater legal force, for the conformity to which the disputed act or its individual provisions are to be checked;

5) the applicant's demand to recognise the disputed act as invalid;

6) a list of attached documents.

2. Documents, indicated in **Items 1 - 5 of Article 126** of this Code, as well as the text of the disputed normative legal act, are attached to the application.

3. The filing of an application with the commercial court does not suspend the validity of the disputed normative legal act.

Article 194. Judicial Proceedings in Cases of Challenge of Normative Legal Acts

1. A case of challenge of a normative legal act is considered by a panel of judges within three months from the receipt of the application by the court, including the time for the preparation of the case for judicial proceedings and for the delivery of a decision.

2. The commercial court notifies the applicant, the body which adopted the disputed normative legal act and other persons concerned of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the case, unless the court deems their appearance obligatory.

3. The commercial court may deem the appearance of representatives of state bodies, of local government bodies, of other bodies or state officials who passed the disputed act in the court session obligatory, and summon them to the court session for explanations.

Failure of these persons, summoned to the court session, to appear constitutes grounds for the imposition of a fine in the manner and amount, established in **Chapter 11** of this Code.

4. When considering cases of challenge of normative legal acts, the commercial court checks the disputed act or its individual provision in a court session, establishes its conformity to a federal constitutional law, to a federal law and to other normative legal acts of greater legal force, as well as the powers of the body or person, which adopted the disputed normative legal act.

5. The commercial court is not bound by the arguments, stated in the application, challenging the normative legal act, and checks the disputed provisions fully.

6. The burden of proving the conformity of the disputed act to a federal constitutional law, to a federal law and to another normative legal act of greater legal force, the possession of proper powers for the adoption of the disputed act by the body or state official, as well as of proving the circumstances, which served as grounds for its adoption, are imposed upon the body or state official, which adopted the act.

7. If there is an effective decision of a commercial court or a court of general jurisdiction, delivered in a case, in which the conformity of the disputed act to a normative legal act of greater force was checked, the commercial court terminates proceedings in the case.

8. If a person concerned, who filed an application challenging a normative legal act with the commercial court, renounces its claim, or the body or state official, who adopted the disputed act, acknowledges the claim, this does not prevent the commercial court from considering the case on its merits.

Article 195. Court Decision in a Case of Challenge of a Normative Legal Act

1. The commercial court delivers a decision in a case of challenge of a normative legal act in accordance with the rules, established in **Chapter 20** of this Code.

2. After considering the case of challenge of a normative legal act, the commercial court delivers one of the following decisions:

1) to recognise the disputed act or its individual provisions as conforming to another normative legal act of greater legal force;

2) to recognise the disputed act or its individual provisions as not conforming to another normative legal act of greater legal force and as invalid fully or in part.

3. The operative part of the decision in a case of challenge of a normative legal act must contain:

1) the name of the body or person who adopted the disputed act, the name, number and date of adoption of the act;

2) the name of the normative legal act of greater legal force, for the conformity to which the disputed act was checked;

3) an indication as to the recognition of the disputed act's conformity to the normative legal act of greater legal force and to the refusal to satisfy the stated claim, or as to the recognition of the

disputed act's non-conformity to the normative legal act of greater legal force and to its full or partial invalidation.

4. The commercial court decision in a case of challenge of a normative legal act enters into force immediately after it is delivered.

5. A normative legal act or its individual provisions, recognised by the commercial court as invalid, are not subject to application from the moment of entry of the court decision into force and are to be adjusted by the body or person, which adopted the disputed act, to conform to the law or to another normative legal act of greater legal force.

6. Copies of the commercial court decision are forwarded to persons participating in the case within ten days from the day of its delivery.

7. A commercial court decision in a case of challenge of a normative legal act, with the exception of a decision of the Supreme Commercial Court of the Russian Federation may be appealed against to a cassational commercial court within one month from the day of its entry into force.

Article 196. Publication of a Commercial Court Decision on a Case of Challenge of a Normative Legal Act

1. An effective decision of the commercial court on a case of challenge of a normative legal act is forwarded by the commercial court to the official publications of the state bodies, local government bodies and of other bodies, in which the disputed act was published, and is subject to immediate publication in the said sources.

2. A commercial court decision on a case of challenge of a normative legal act is published in the Bulletin of the Supreme Commercial Court of the Russian Federation and, if necessary, in other publications.

Chapter 24. Consideration of Cases of Challenge of Non-Normative Legal Acts, Decisions and Actions (Failures to Act) of State Bodies, Local Government Bodies, of State Officials and Other Bodies, Organisations Vested by Federal Law with Individual State or Other Public Powers

Article 197. Consideration of Cases of Challenge of Non-Normative Legal Acts, Decisions and Actions (Failures to Act) of State Bodies, Local Government Bodies, of State Officials and Other Bodies, Organisations Vested by Federal Law with Individual State or Other Public Powers

1. Cases of challenge of non-normative legal acts, decisions and actions (failures to act) of state bodies, local government bodies, of bodies, organisations vested by federal law with individual state or other public powers (hereinafter – bodies, exercising public powers), of state officials, including bailiffs, infringing the rights and lawful interests of persons in the sphere of entrepreneurial and other economic activities, are considered by commercial courts according to the general rules of adversarial proceedings, stipulated in this Code, with regard to the special rules, established in this Chapter.

2. Proceedings in cases of challenge of non-normative legal acts, decisions and actions (failures to act) of bodies exercising public powers and of state officials are initiated upon an application of a person concerned, who applies to the commercial court with a claim for the recognition of non-normative legal acts as invalid or for the recognition of decisions and actions (failures to act) of the said bodies and persons as unlawful.

Article 198. The Right to File an Application for the Recognition of Non-Normative Legal Acts as Invalid and of Decisions and Actions (Failures to Act) as Unlawful with the Commercial Court

1. Individuals, organisations and other persons may file applications with the commercial court for the recognition of non-normative legal acts as invalid or for the recognition of decisions and actions (failures to act) of bodies, exercising public powers, and of state officials as unlawful, if they believe that the disputed non-normative legal act, the decision and the action (failure to act) do not conform to a law or to another normative legal act and infringe their rights and lawful interests in the sphere of entrepreneurial and other economic activities, unlawfully impose any duties upon them, create other obstacles to the exercise of entrepreneurial and other economic activities.

2. Prosecutors, as well as bodies, exercising public powers, may file applications with the commercial court for the recognition of non-normative legal acts as invalid or for the recognition of decisions and actions (failures to act) of bodies, exercising public powers, and of state officials as unlawful, if they believe that the disputed non-normative legal act, the decision and the action (failure to act) do not conform to a law or to another normative legal act and infringe the rights and lawful interests of individuals, organisations and other persons in the sphere of entrepreneurial and other economic activities, unlawfully impose any duties upon them and create other obstacles to the exercise of entrepreneurial and other economic activities.

3. Applications for the recognition of non-normative legal acts as invalid, of decisions and actions (failures to act) as unlawful are considered by the commercial court, unless their consideration is referred to the jurisdiction of other courts by federal law.

4. An application may be filed with the commercial court within three months from the day on which an individual or an organisation learned of the violation of their rights and lawful interests, unless otherwise provided by federal law. The term for filing an application, missed for a good reason, may be restored by the court.

Article 199. Requirements for an Application for the Recognition of a Non-Normative Legal Act as Invalid and of Decisions and Actions (Failures to Act) as Unlawful

1. An application for the recognition of a non-normative legal act as invalid and of decisions and actions (failures to act) as unlawful must meet the requirements stipulated in **Part 1, Items 1, 2 and 10 of Part 2** and in **Part 3 of Article 125** of this Code.

The application must also indicate:

- 1) the name of the body or person, which adopted the disputed act or decision or performed the disputed actions (failed to act);
- 2) the name, number and date of adoption of the disputed act or decision, and the time of performance of actions;
- 3) the rights and lawful interests, which, in the applicant's opinion, are infringed by the disputed act, decision or action (failure to act);
- 4) the laws and other normative legal acts, to which, in the applicant's opinion, the disputed act, decision or action (failure to act) do not conform;
- 5) the applicant's demand for the non-normative legal act to be recognised as invalid, and the decision and action (failure to act) as unlawful.

The application, challenging the decisions and actions (failures to act) of officials of the bailiff service, must also indicate the enforcement document, in connection with the execution of which the decisions and actions (failures to act) of the said state official are being disputed.

2. Documents specified in **Article 126** of this Code, as well as the text of the disputed act or decision, are attached to the application.

An advice of delivery or other documents, proving that copies of the application and of other necessary documents have been forwarded to the stated state official and to the other party of the enforcement procedure, must be attached to the application, challenging the decisions and actions (failures to act) of officials of the bailiff service.

3. The commercial court may suspend the validity of the disputed act or decision upon the motion of the applicant.

Article 200. Judicial Proceedings in Cases of Challenge of Non-Normative Legal Acts, Decisions and Actions (Failures to Act) of Bodies, Exercising Public Powers, or of State Officials

1. Cases of challenge of non-normative legal acts, decisions and actions (failures to act) of bodies, exercising public powers, or of state officials are considered by a single judge within three months from the receipt of the appropriate application by the commercial court, including the term for the preparation of the case for judicial proceedings and for the delivery of a decision on the case, unless a different term is fixed by federal law. The term cited in this Paragraph may be extended for up to six months by the president of the commercial court on the basis of a reasoned application of the judge, considering the case, due to the complexity of the case and a considerable number of participants of commercial proceedings.

Cases of challenge of decisions and actions (failures to act) of officials of the bailiff service are considered within ten days from the receipt of the application by the commercial court, including the time for the preparation of the case for judicial proceedings and for the delivery of a decision on the case.

2. The commercial court notifies the applicant, as well as the body or state official who adopted the disputed act or decision, or which performed the disputed actions (failed to act), and other persons concerned, of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle to the consideration of the case, unless the court deems their appearance obligatory.

3. The commercial court may deem the appearance of representatives of the bodies exercising public powers, and of state officials who adopted the disputed act or decision or performed the disputed actions (failed to act), in the court session as obligatory and summon them to the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear constitutes grounds for the imposition of a fine in the manner and amount, established in **Chapter 11** of this Code.

4. When considering cases of challenge of non-normative legal acts, decisions and actions (failures to act) of bodies, exercising public powers, or of state officials, the commercial court checks the disputed act or its individual provisions, the disputed decisions and actions (failures to act) in a court session and establishes their conformity to the law or to another normative legal act; establishes the possession of powers by the body or by the person, which adopted the disputed act or decision or which performed the disputed actions (failed to act); establishes whether the disputed act, decision and actions (failures to act) infringe the applicant's rights and lawful interests in the sphere of the entrepreneurial and other economic activities.

5. The burden of proving the conformity of the disputed non-normative legal act to the law or to another normative legal act, the legality of the adoption of the disputed decision or of performance of the disputed actions (failure to act), the possession of proper powers for the adoption of the disputed act or decision or for the performance of disputed actions (failure to act) by a body or by a person, as well as the circumstances, which served as grounds for the adoption of the disputed act or for the performance of disputed actions (failures to act), is imposed upon the body or upon the person who adopted the act and the decision or which performed the actions (failed to act).

6. If the body or the person who adopted the disputed act or decision or who performed the disputed actions (failed to act), fails to present the evidence necessary for the consideration of the case and for the delivery of the decision, the commercial court may order the presentation of such evidence on its own initiative.

Article 201. Commercial Court Decision on a Case of Challenge of Non-Normative Legal Acts, Decisions or Actions (Failures to Act) of Bodies, Exercising Public Powers, or of State Officials

1. The decision on a case of challenge of non-normative legal acts, decisions or actions

(failures to act) of bodies exercising public powers, or of state officials is delivered by the commercial court in accordance with the rules, established in **Chapter 20** of this Code.

2. Upon establishing, that a disputed non-normative legal act, decision or actions (failures to act) of bodies, exercising public powers, and of state officials do not conform to the law or to another normative legal act and infringe upon the rights and lawful interests of the applicant in the sphere of entrepreneurial and other economic activities, the commercial court delivers a decision on the recognition of the non-normative legal act as invalid, and of the decisions and actions (failures to act) as unlawful.

3. If the commercial court establishes, that the disputed non-normative legal act, the decisions and actions (failures to act) of bodies, exercising public powers, and of state officials conform to the law or to another normative legal act and do not infringe the applicant's rights and lawful interests, the court delivers a decision on the refusal to satisfy the stated claim.

4. The operative part of the decision on a case of challenge of non-normative legal acts and decisions of bodies, exercising public powers, and of state officials must contain:

1) the name of the body or person who adopted the disputed act, decision; the name of the act or decision, the number and date of its adoption;

2) the name of the law or of another normative legal act, for the conformity to which the disputed act or decision was checked;

3) an indication as to the recognition of the disputed act as invalid or of the decision as unlawful, fully or in part, and the duty to eliminate the committed violations of the applicant's rights and lawful interests, or as to the refusal to satisfy the applicant's claims, fully or in part.

5. The operative part of the decision on a case of challenge of actions (failures to act) of bodies, exercising public powers, and of state officials, and on challenge of refusals to perform actions or to adopt decisions, must contain:

1) the name of the body or person who performed the disputed actions (failed to act) and refused to perform actions and adopt decisions; information regarding the actions (failures to act) and the decisions;

2) the name of the law or of another normative legal act, on the conformity to which the disputed actions (failures to act) and decisions were checked;

3) an indication as to the recognition of the disputed actions (failures to act) as unlawful and the duty of the appropriate bodies exercising public powers and of state officials to perform certain actions, to adopt decisions, or in another way to eliminate the committed violations of the applicant's rights and lawful interests within the term, fixed by the court, or as to the refusal to satisfy the applicant's claims, fully or in part.

6. In the operative part of its decision, the commercial court may point out the necessity of notification of the court about the execution of the court decision by the appropriate body or person.

7. Commercial court decisions on the cases of challenge of non-normative legal acts, decisions and actions (failures to act) of bodies, exercising public powers, and of state officials are subject to immediate execution, unless other terms are fixed in the court decision.

8. From the day of delivery of the commercial court decision on the recognition of a non-normative legal act as invalid fully or in part, the said act or its individual provisions are not subject to application.

9. A copy of the commercial court decision is forwarded to the applicant, to bodies, exercising public powers, or to state officials, which adopted the disputed act or decision or which performed the disputed actions (failed to act) within five days from its delivery. The court may also forward a copy of the decision to a superior body or state official, to a prosecutor or to other persons concerned.

Chapter 25. Consideration of Cases Concerning Administrative Offences

§1. Consideration of Cases on Holding a Person Administratively Liable

Article 202. Consideration of Cases on Holding a Person Administratively Liable

1. Cases on holding legal entities and individual entrepreneurs administratively liable in connection with their performance of entrepreneurial and other economic activities, referred by federal law to the scope of competence of commercial courts, are considered in accordance with the general rules of adversarial proceedings, stipulated in this Code, with regard to the special rules, established in this Chapter and in the federal law on administrative offences.

2. Court proceedings in cases on holding a person administratively liable are initiated upon applications from bodies and state officials, authorised, in conformity with the federal law, to draw up administrative offence protocols (hereinafter in Paragraph 1 of Chapter 25 of this Code - administrative bodies), which file claims to hold the persons mentioned in Part 1 of this Article, engaged in entrepreneurial and other economic activities, administratively liable.

Article 203. Filing an Application for Holding a Person Administratively Liable

An application for holding a person administratively liable is filed with the commercial court at the location or place of residence of the person, in whose respect an administrative offence protocol is drawn up. If the person, in whose respect an administrative offence protocol is drawn up, is held liable for an administrative offence, committed outside of its location or place of residence, the given application may be filed with the commercial court at the location of perpetration of the administrative offence.

Article 204. Requirements to an Application for Holding a Person Administratively Liable

1. An application for holding a person, engaged in entrepreneurial and other economic activities, administratively liable must meet the requirements, stipulated in **Part 1, Items 1, 2 and 10 of Part 2** and in **Part 3 of Article 125** of this Code.

The application must also contain:

- 1) the date and place of performance of actions, which served as grounds for the drawing up of an administrative offence protocol;
- 2) the official status, surname and initials of the person, who drew up the administrative offence protocol;
- 3) information on the person, in whose respect the administrative offence protocol was drawn up;
- 4) provisions of law, stating administrative liability for the actions, which served as grounds for drawing up the administrative offence protocol;
- 5) the applicant's claim for holding the person administratively liable.

2. An administrative offence protocol and documents attached to the protocol, as well as an advice of delivery or another document confirming that a copy of the application has been forwarded to the person, in whose respect the administrative offence protocol was drawn up, are attached to the application.

Article 205. Judicial Proceedings in Cases on Holding a Person Administratively Liable

1. The cases on holding persons, engaged in entrepreneurial and other economic activities, administratively liable are considered in a court session by a single judge, within two months from the receipt of the corresponding application by the commercial court, including the terms for the preparation of the case for judicial proceedings and for the delivery of a decision on the case, unless a different term is fixed in the federal law on administrative law offences.

2. The commercial court may extend the term for the consideration of the case on holding a person administratively liable for one month at most, upon the motion of the persons participating in

the case, or if there is a need for the additional ascertainment of the facts of the case. The commercial court issues a ruling on the extension of the term for the consideration of the case.

3. The commercial court notifies the persons participating in the case of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle to the consideration of the case, unless the court deems their appearance obligatory.

4. The commercial court may deem the appearance of a representative of the administrative body, as well as of the person, in whose respect the administrative offence protocol was drawn up, in a court session obligatory, and summon them to the court session for explanations. Failure of the said persons, summoned to the court session, to appear constitutes grounds for the imposition of a fine on them in the manner and amount, established in **Chapter 11** of this Code.

5. The burden of proving the circumstances that served as grounds for drawing up an administrative offence protocol cannot be imposed upon the person being held administratively liable.

If the administrative body, which drew up the protocol, does not present the evidence necessary for the consideration of the case and for the delivery of a decision, the commercial court may order the presentation of evidence from the said body on its own initiative.

6. When considering a case on holding a person administratively liable, the commercial court establishes in a court session whether the event of an administrative law offence actually took place and whether it was actually committed by the person, in whose respect the administrative offence protocol was drawn up, whether there existed grounds for drawing up the administrative offence protocol, as well as the powers of the administrative body, which drew up the protocol, whether the law stipulates administrative liability for committing the given offence and whether there are grounds for holding the person, in whose respect the administrative offence protocol was drawn up, administratively liable and determines the administrative liability measures.

Article 206. Commercial Court Decision on a Case on Holding a Person Administratively Liable

1. The commercial court delivers a decision on a case on holding a person administratively liable in accordance with the rules, established in **Chapter 20** of this Code.

2. After considering the application for holding a person administratively liable, the commercial court delivers a decision to hold a person administratively liable or on the refusal to satisfy the demand of the administrative body to hold a person administratively liable.

3. The operative part of the decision to hold a person administratively liable must contain:

1) the name of the person held administratively liable, its location or place of residence, information on their state registration in the capacity of a legal entity or of an individual entrepreneur;
2) provisions of law, on the basis of which the given person is held administratively liable;
3) the form of administrative punishment and sanctions, imposed upon the person held administratively liable.

4. The decision to hold a person administratively liable enters into force within ten days from its delivery, unless it is appealed against.

If an appeal is filed, the decision, unless amended or reversed, enters into force on the day of the delivery of a judgement by an appellate commercial court.

4¹. The decision in a case on holding a person administratively liable may be appealed against to an appellate commercial court, if the administrative punishment for committing the administrative offence is envisaged in the law only in the form of a notice and (or) an administrative fine, not exceeding one hundred thousand roubles for legal entities and five thousand roubles for real persons. Such a decision, if it has been under the consideration of an appellate commercial court, and the judgement of the appellate commercial court on this case may be appealed against to a cassational commercial court only on the grounds, stipulated in **Part 4 of Article 288** of this Code.

In other cases, decisions in cases on holding persons administratively liable are appealed against in the manner, established in **Article 181** of this Code.

4². No writ of execution is issued on the ground of a judicial act of a commercial court in a case on holding a person administratively liable, the enforcement is carried out directly on the basis of this judicial act.

5. A copy of the commercial court decision in a case on holding a person administratively liable is forwarded by the commercial court to persons participating in the case within three days from its delivery. The commercial court may also forward a copy of the decision to a superior administrative body.

§ 2. Consideration of Cases of Challenge of an Administrative Body's Decision to Hold a Person Administratively Liable

Article 207. Consideration of Cases of Challenge of an Administrative Body's Decision to Hold a Person Administratively Liable

1. Cases of challenge of decisions of state bodies, of other bodies and state officials, authorised, in conformity with the federal law, to consider cases of administrative offences (hereinafter in Paragraph 2 of Chapter 25, Item 4 of Part 1 of Article 227 of this Code - administrative bodies), and to hold persons, engaged in entrepreneurial and other economic activities, administratively liable are considered by the commercial court in accordance with the general rules of adversarial proceedings, stipulated in this Code, with regard to the special rules, established in this Chapter, and in the federal law on administrative offences.

2. Proceedings in cases of challenge of decisions of administrative bodies are initiated upon applications of legal entities and individual entrepreneurs, held administratively liable in connection with the exercise of entrepreneurial and other economic activities, disputing the decisions of administrative bodies to hold them administratively liable, as well as upon the applications of the aggrieved persons.

Article 208. Filing an Application, Challenging an Administrative Body's Decision to Hold a Person Administratively Liable

1. An application, disputing an administrative body's decision to hold a person administratively liable, is filed with the commercial court at the applicant's location or place of residence or at the location of the administrative body, which adopted the disputed decision to hold a person administratively liable.

2. The application may be filed with the commercial court within ten days from the receipt of a copy of the disputed decision, unless a different term is established by federal law.

If the said term has expired, it may be restored by the court upon the applicant's motion.

3. The commercial court may upon the applicant's motion suspend the execution of the disputed decision.

4. There is no fee imposed for filing an application, disputing an administrative body's decision to hold a person administratively liable.

Article 209. Requirements for an Application, Challenging an Administrative Body's Decision to Hold a Person Administratively Liable

1. An application, challenging an administrative body's decision to hold a person administratively liable, must meet the requirements, stipulated in **Part 1, Items 1, 2 and 10 of Part 2 and Part 3 of Article 125** of this Code.

The application must also contain:

- 1) the name of the administrative body, which adopted the disputed decision;
- 2) the name, number and date of adoption of the disputed decision and other information regarding it;

3) the applicant's rights and lawful interests, which in the applicant's opinion are violated by the disputed decision;

4) the applicant's claim and the grounds, on which the applicant is disputing the decision of the administrative body.

2. The text of the disputed decision, as well as the advice of delivery or another document, confirming that copies of the application, challenging the decision, have been forwarded to the administrative body that adopted it, must be attached to the application.

Article 210. Judicial Proceedings in Cases of Challenge of an Administrative Body's Decision

1. Cases of challenge of an administrative body's decision are considered by a single judge within two months at most from the receipt of the application by the commercial court, including the time for the preparation of the case for judicial proceedings and for the delivery of a decision on the case, unless different terms are fixed by federal law.

2. The commercial court notifies the persons participating in the case and other persons concerned of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the case, unless the court deems their appearance obligatory.

3. The commercial court may deem the appearance of a representative of the administrative body, which adopted the disputed decision, and of the person, who filed the application to the court, obligatory and summon them to the court session for explanations. Failure of the said persons, summoned to the court session, to appear constitutes grounds for the imposition of a fine in the manner and amount, established in **Chapter 11** of this Code.

4. In cases of challenge of an administrative body's decision to hold a person administratively liable, the burden of proving the circumstances that served as grounds to hold a person administratively liable is imposed upon the administrative body, which adopted the disputed decision.

5. If the administrative bodies do not present the evidence necessary for the consideration of the case and for the delivery of a decision, the commercial court may order the presentation of evidence by the said bodies on its own initiative.

6. During the consideration of a case of challenge of an administrative body's decision to hold a person administratively liable the commercial court checks in a court session the legality and the substantiation of the disputed decision, establishes the possession of appropriate powers by the administrative body, which adopted the disputed decision, establishes, whether there existed legal grounds to hold a person administratively liable, whether the established manner for holding a person administratively liable has been observed, whether the limitation period for holding a person administratively liable has not expired, as well as other circumstances significant to the case.

7. During the consideration of the case of challenge of an administrative body's decision the commercial court is not bound by the arguments stated in the application and checks the disputed decision in full.

Article 211. Commercial Court Decision on a Case of Challenge of an Administrative Body's Decision to Hold a Person Administratively Liable

1. The decision on a case of challenge of an administrative body's decision to hold a person administratively liable is delivered by the commercial court in accordance with the rules, established in **Chapter 20** of this Code.

2. If during the consideration of an application, challenging an administrative body's decision to hold a person administratively liable, the commercial court establishes that the disputed decision or the manner of its adoption does not conform to the law or that the grounds for holding a person administratively liable or for the application of a specific administrative measure are absent, or that the disputed decision was adopted by a body or a state official ultra vires, the court delivers a decision on the recognition of the disputed decision as illegal and on its full or partial cancellation, or on its

amendment.

3. If during the consideration of an application, disputing an administrative body's decision to hold a person administratively liable the commercial court establishes that the administrative body's decision to hold a person administratively liable is legal and well substantiated, the court delivers a decision on the refusal to satisfy the applicant's claim.

4. The operative part of the decision in a case of challenge of an administrative body's decision must contain:

1) the name, number and date of adoption, other necessary information regarding the disputed decision;

2) the name of the person held administratively liable, its location or place of residence, information on its state registration in the capacity of a legal entity or of an individual entrepreneur;

3) an indication as to the recognition of the decision as illegal and its full or partial cancellation, or the refusal to satisfy the applicant's claim, fully or in part, or as to the administrative measure, in case it is amended by the court.

5. The commercial court decision enters into force within ten days from its delivery, unless it is appealed against.

If an appeal is filed, the decision, unless amended or reversed, enters into force on the day of delivery of a judgement by an appellate commercial court.

5¹. The decision in a case on holding a person administratively liable may be appealed against to an appellate commercial court, if the administrative punishment for committing the administrative offence is envisaged in the law only in the form of a notice and (or) an administrative fine, not exceeding one hundred thousand roubles for legal entities and five thousand roubles for individual entrepreneurs. Such a decision, if it has been under the consideration of an appellate commercial court, and the judgement of the appellate commercial court on this case, may be appealed against to a cassational commercial court only on the grounds, stipulated in **Part 4 of Article 288** of this Code.

In other cases, decisions in cases of challenge of an administrative body's decision to hold a person administratively liable are appealed against in the manner, established in **Article 181** of this Code.

5². No writ of execution is issued on the ground of a judicial act of a commercial court in a case of challenge of an administrative body's decision to hold a person administratively liable, the enforcement is carried out on the basis of this judicial act.

6. The commercial court sends a copy of the decision to persons participating in the case within three days from its delivery. The commercial court may also forward a copy of the decision to a superior administrative body.

Chapter 26. Consideration of Cases Concerning the Recovery of Compulsory Payments and Sanctions

Article 212. Consideration of Cases Concerning the Recovery of Compulsory Payments and Sanctions

1. Cases concerning the recovery of compulsory statutory payments and sanctions from persons, exercising entrepreneurial and other economic activities, are considered by commercial courts in accordance with the general rules of adversarial proceedings, stipulated in this Code, subject to the special rules, established in this Chapter.

2. Proceedings in cases concerning the recovery of compulsory payments and sanctions are initiated in commercial courts upon applications of state bodies, local government bodies and other bodies, exercising supervisory functions, with claims for the recovery of money from persons who owe compulsory payments, in the off-set of their payment and sanctions.

Article 213. Right to File an Application for the Recovery of Compulsory Payments and Sanctions with the Commercial Court

1. State bodies, local government bodies and other bodies vested with supervisory functions in conformity with the federal law (hereinafter - "supervisory bodies"), have the right to apply to the commercial court with an application for the recovery of compulsory statutory payments and sanctions from persons, engaged in entrepreneurial and other economic activities, unless the federal law provides another manner of recovery.

2. An application for recovery is filed with the commercial court if the applicant's demand for the voluntary payment of the sum being recovered is not satisfied, or if the term fixed in such a claim is missed.

Article 214. Requirements for an Application for the Recovery of Compulsory Payments and Sanctions

1. An application for the recovery of compulsory payments and sanctions must meet the requirements, stipulated in **Part 1, Items 1, 2 and 10 of Part 2 and Part 3 of Article 125** of this Code.

The application must also contain:

- 1) the name of the payment, subject to recovery, its amount and the calculation of its sum;
- 2) the norms of the federal law and of other normative legal acts, stipulating such a payment;
- 3) information regarding the forwarding of a demand for voluntary payment.

2. Documents mentioned in **Items 1 - 5 of Article 126** of this Code, as well as a document, confirming the forwarding by the plaintiff of a demand for the voluntary payment of the sum being recovered, must be attached to the application for the recovery of compulsory payments and sanctions.

Article 215. Judicial Proceedings in Cases Concerning the Recovery of Compulsory Payments and Sanctions

1. Cases concerning the recovery of compulsory payments and sanctions are considered by a single judge within three months at most from the receipt of the appropriate application by the commercial court, including the time for the preparation of the case for judicial proceedings and for the delivery of a decision on the case.

2. The commercial court notifies the persons participating in the case of the time and place of the court session.

Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the case, unless the court deems their appearance obligatory.

3. The commercial court may deem the appearance of persons participating in the case in the court session obligatory and summon them to the court session for explanations.

Failure of the said persons, summoned to the court session, to appear constitutes grounds for the imposition of a fine in the manner and amount, established in **Chapter 11** of this Code.

4. The burden of proving the circumstances, which served as grounds for the recovery of compulsory payments and sanctions, is imposed upon the applicant.

5. If the applicant does not present the evidence necessary for the consideration of the case and for the delivery of a decision, the commercial court may order its presentation on its own initiative.

6. During the consideration of cases concerning the recovery of compulsory payments and sanctions, the commercial court establishes in a court session, whether there are grounds for the recovery of the amount of indebtedness, establishes the powers of the body, which filed the recovery claim, verifies the correctness of the amount of the sum being recovered and of its calculation.

Article 216. Commercial Court Decision on a Case Concerning the Recovery of Compulsory Payments and Sanctions

1. The commercial court decision on a case concerning the recovery of compulsory payments

and sanctions is delivered in accordance with the rules, established in **Chapter 20** of this Code.

2. If the claim for the recovery of compulsory payments and sanctions is satisfied, the operative part of the decision must contain:

- 1) the name of the person, obliged to pay the amount of indebtedness, its location or place of residence, information regarding its state registration;
- 2) the total amount of money, subject to recovery, with a separate definition of the principal debt and of the sanctions.

Section IV. Special Rules for Proceedings in Certain Categories of Cases in Commercial Courts

Chapter 27. Consideration of Cases Concerning the Establishment of Legally Significant Facts

Article 217. Consideration of Cases Concerning the Establishment of Legally Significant Facts

1. Cases concerning the establishment of legally significant facts are considered by the commercial court in accordance with the general rules of adversarial proceedings, established in this Code, with regard to the special rules, stipulated in this Chapter.

2. Proceedings in cases concerning the establishment of legally significant facts are initiated in the commercial court upon applications for the establishment of legally significant facts.

3. If during the consideration of a case concerning the establishment of legally significant facts it is found that an issue at law has arisen, the commercial court leaves the application for the establishment of legally significant facts without consideration, in which regard it issues a ruling. In the ruling, the right to resolve the dispute through adversarial proceedings is explained to the applicant and other persons concerned.

Article 218. Cases Concerning the Establishment of Legally Significant Facts

1. Commercial courts establish facts, legally significant for the emergence, amendment or termination of rights of legal entities and of individual entrepreneurs in the sphere of entrepreneurial and other economic activities.

2. Commercial courts consider cases concerning the establishment of:

- 1) the fact of possession and use by a legal entity or by an individual entrepreneur of immovable property as its own;
- 2) the fact of state registration of a legal entity or of an individual entrepreneur on a specific time and at a specific place;
- 3) the fact of belonging of a right-establishing document, acting in the sphere of entrepreneurial and other economic activities, to a legal entity or to an individual entrepreneur, if the name of the legal entity or the surname, name and patronymic of the individual entrepreneur, stated in the document, do not coincide with the name of the legal entity, stated in its constituent document, or with the surname, name and patronymic of the individual entrepreneur, stated in the entrepreneur's passport or birth certificate;
- 4) other facts, giving rise to legal consequences in the sphere of entrepreneurial and other economic activities.

Article 219. Right to File an Application for the Establishment of Legally Significant Facts with the Commercial Court

1. A legal entity or an individual entrepreneur may file an application for the establishment of legally significant facts with the commercial court only if the applicant has no opportunity to receive

or restore the appropriate documents, certifying these facts, and unless a federal law or another normative legal act stipulates a different extra-judicial procedure for the establishment of those facts.

2. An application for the establishment of legally significant facts is filed with the commercial court at the applicant's location or place of residence. An exception is made for applications for the establishment of facts of possession, use and disposal of immovable property, and of other facts, legally significant for the emergence, amendment or termination of rights to immovable property, which are to be filed with the commercial court at the location of the immovable property.

Article 220. Requirements for an Application for the Establishment of Legally Significant Facts

1. An application for the establishment of legally significant facts must meet the requirements stipulated in **Part 1, Items 1, 2 and 10 of Part 2 and Part 3 of Article 125** of this Code.

The application must also indicate:

- 1) the fact, for the establishment of which the applicant applies;
- 2) provisions of law, stipulating that this fact gives rise to legal consequences in the sphere of entrepreneurial and other economic activities;
- 3) the substantiation of the need for the establishment of the given fact;
- 4) evidence confirming that it is impossible for the applicant to receive the appropriate evidence or to restore the lost documents.

2. Documents, mentioned in **Items 2 - 5 of Article 126** of this Code, are attached to the application for the establishment of legally significant facts.

Article 221. Judicial Proceedings in Cases Concerning the Establishment of Legally Significant Facts

1. Cases concerning the establishment of legally significant facts are considered by a single judge in a court session, with the participation of the applicant and of other persons concerned. Commercial court assessors cannot be drawn to the consideration of such cases.

2. During the preparation of the case for judicial proceedings, the judge establishes the circle of persons concerned, whose rights may be infringed by a decision on the establishment of legally significant facts; the judge informs these persons about the proceedings, resolves the issue of drawing them to participation in the case and notifies them of the time and place of the court session.

3. During the consideration of the case concerning the establishment of a legally significant fact, the commercial court checks in a court session whether a law or another normative legal act provides a different extra-judicial procedure for the establishment of the given fact, whether the applicant had another opportunity to receive or restore the necessary documents; establishes, whether the given fact gives rise to consequences of legal significance for the applicant in connection with the exercise of entrepreneurial and other economic activities by the applicant, whether the establishment of the fact infringes the rights of other persons, and whether an issue at law has arisen.

4. If during judicial proceedings in a case concerning the establishment of a legally significant fact it is found that an issue at law has arisen, the commercial court leaves the application for the establishment of a legally significant fact without consideration and issues a ruling in this regard.

In the ruling, the right to resolve the dispute through adversarial proceedings is explained to the applicant and other persons concerned.

Article 222. Commercial Court Decision on a Case Concerning the Establishment of a Legally Significant Fact

1. The decision on a case concerning the establishment of a legally significant fact is delivered by the commercial court in accordance with the rules, established in **Chapter 20** of this Code.

2. If the court satisfies an application for the establishment of a legally significant fact, the

existence of the legally significant fact is indicated and the established fact is described in the operative part of the decision.

3. A commercial court decision, establishing a legally significant fact, constitutes grounds for the registration of such a fact or for the registration of rights, arising in connection with the established fact, by the corresponding bodies, and is not a substitute for the documents, issued by such bodies.

Chapter 27¹. Consideration of Compensation Claims for the Violation of Rights to a Fair Trial within a Reasonable Time or to the Enforcement of a Judicial Act within a Reasonable Time

Article 222¹. The Right to Address the Commercial Court with a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to Enforcement of a Judicial Act within a Reasonable Time

1. A person believing that a state body, a local government body, another body, organisation or state official have violated their right to a fair trial within a reasonable time or the right to enforcement of a judicial act within a reasonable time, may file a compensation claim with the commercial court.

2. A compensation claim for the violation of right to a fair trial within a reasonable time may be filed by a person concerned within six months from the entry into force of the last judicial act, delivered in the given case.

A compensation claim for the violation of right to a fair trial within a reasonable time may also be filed prior to the end of proceedings in the case, if the duration of the case consideration exceeds three years, and the person concerned has previously applied for the speeding up of the case consideration in the manner, established by this Code.

3. A compensation claim for the violation of right to enforcement of a judicial act within a reasonable time may be filed with the commercial court by a person concerned before the enforcement of the judicial act is over, but no earlier than six months after the expiry of the term, fixed by federal law for the enforcement of a judicial act and no later than six months after the enforcement of the judicial act is over.

4. A compensation claim for the violation of right to a fair trial within a reasonable time may not be considered by a judge, if earlier this judge participated in the consideration of the case in connection to which grounds for the compensation claim have arisen.

Article 222². Filing of a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

1. A compensation claim for the violation of right to a fair trial within a reasonable time or the right to enforcement of a judgement within a reasonable time is filed with the commercial court, competent to consider such claims, through the commercial court that delivered the decision.

2. The commercial court that delivered the decision is obliged to send the compensation claim, cited in Part 1 of this Article, together with the case, to the appropriate court within three days from the receipt of the claim by the commercial court.

Article 222³. Requirements for a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

A compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time must include:

- 1) the name of the commercial court, to which the claim is filed;
- 2) the name of the person filing the claim, its procedural status, location or place of residence,

names of other persons participating in the case, their location or place of residence;

3) information regarding the judicial act, delivered on the case, the subject matter of the dispute, the name of the commercial court that considered the case, information regarding the acts and actions of the body, organisation or state official, charged with the duty of enforcing the judicial act;

4) total duration of proceedings on of the case, starting from the date, when the statement of claim or an application was received by a commercial court of the first instance, to the date, when the last judicial act on the case was delivered, or the total duration of the enforcement of the judicial act;

5) circumstances, known to the person filing the claim, that affected the duration of proceedings or the duration of the judicial act's enforcement;

6) arguments of the person filing the claim, citing the grounds for the award of compensation and its amount;

7) effects of the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time and their significance for the applicant;

8) requisites of a bank account of the person filing the application, to which the recoverable sums are to be transferred;

9) a list of documents, attached to the application.

Article 222⁴. Acceptance of a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time by the Commercial Court

1. The issue of acceptance of a compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time is resolved by a single judge within five days from the receipt of the claim by the court.

2. The commercial court is obliged to accept a compensation claim, cited in Part 1 of this Article, if all requirements regarding its form and contents, established by this Code, are fulfilled.

3. The commercial court issues a ruling on the acceptance of the compensation claim, cited in Part 1 of this Article, in which the time and place of the court session for the consideration of the claim are specified.

4. Copies of the ruling on the acceptance of the compensation claim, cited in Part 1 of this Article, are forwarded to the applicant, the body, organisation or state official, charged with the duty of enforcing the corresponding judicial act, and in connection with the failure to enforce which within a reasonable time the applicant filed the compensation claim to the court, as well as to other persons concerned.

Article 222⁵. Shelving a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

1. If while resolving the issue of acceptance of a compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time the court finds, that the application is filed in violation of requirements, established in **Article 222³** of this Code, or that the fee has not been paid, it issues a ruling on the shelving of the claim.

2. In the ruling the commercial court states the grounds for shelving the compensation claim, cited in Part 1 of this Article, and fixes a reasonable term, during which the circumstances, serving as grounds for shelving the claim, must be eliminated.

3. A copy of the ruling on shelving the compensation claim, cited in Part 1 of this Article, is forwarded to the person that filed the application no later than on the day following its issuance.

4. If the circumstances, serving as grounds for shelving the compensation claim, cited in Part 1 of this Article, are eliminated within the term, fixed in the commercial court ruling, the claim is regarded as filed on the date of its initial receipt by the court. Otherwise, the claim is regarded as not

filed and is returned jointly with the documents in the manner, established in **Article 222⁶** of this Code.

Article 222⁶. Return of a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

1. The commercial court returns the compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of judicial act within a reasonable time if, while resolving the issue of its acceptance, it finds that:

- 1) the claim has been filed by a person that had no right to do that;
- 2) the claim has been filed in violation of the manner and terms, established in **Part 2 of Article 222¹** and **Part 1 of Article 222²** of this Code. Herewith, a motion to restore the expired term for filing a claim was not received or the restoration thereof was denied;
- 3) a motion for the return of the claim is received from the person who filed it, before a ruling to accept it is issued by the commercial court;
- 4) circumstances, serving as grounds for shelving the claim, were not eliminated within the term, fixed in the commercial court ruling;
- 5) by the duration of proceedings in respect of the case or the duration of enforcement of the judicial act it is clearly evident, that the right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time was not violated.

2. The commercial court issues a ruling on the return of the compensation claim, cited in Part 1 of this Article.

3. A copy of the ruling on the return of the compensation claim, cited in Part 1 of this Article, is forwarded to the applicant jointly with the claim and the documents, attached thereto, no later than on the day following its issuance or upon the expiry of the term, fixed by the commercial court for the elimination of circumstances, serving as grounds for shelving the claim.

4. A ruling on the return of the compensation claim, cited in Part 1 of this Article, may be appealed against in the manner and within the term, fixed in **Article 291** of this Code.

In the event of cancellation of the ruling the claim is regarded as filed on the date of its initial receipt by the commercial court.

5. If the compensation claim, cited in Part 1 of this Article, is returned, it is not an obstacle for a repeated filing of the claim with the commercial court by a person concerned in the general manner after the elimination of circumstances, serving as grounds for leaving the claim without consideration.

Article 222⁷. Term for the Consideration of a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

The compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time is considered by the commercial court within two months from the day, on which the court receives the claim jointly with the case, including the time for the preparation of the case for judicial proceedings and for the delivery of a judicial act.

Article 222⁸. Special Rules for the Consideration of a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

1. The commercial court considers a compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time in a court session, in panel, and in accordance with the general rules for adversarial proceedings, provided

by this Code, subject to the special rules, established by this Chapter and in compliance with the Federal Law “On Compensation for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time”. The applicant, body, organisation or state official, charged with the duty of enforcing the judicial act, and in connection with the failure to execute which within a reasonable time the applicant filed the compensation claim to the court, as well as other persons concerned, are notified of the time and place of the court session.

2. When considering the compensation claim, cited in Part 1 of this Article, the commercial court establishes the fact of violation of the applicant's right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time on the basis of the arguments stated in the claim, the contents of the judicial acts delivered on the case, of the case materials and with regard to the following circumstances:

- 1) the legal and factual complexity of the case;
- 2) the behaviour of the applicant and of other participants of commercial proceedings;
- 3) the sufficiency and effectiveness of actions, performed for the purpose of the consideration of the case in due time by the court and the judge;

- 4) the sufficiency and effectiveness of actions, performed for the purpose of enforcement of the judicial act in due time by the bodies, organisations or state officials, charged with the duty of its enforcement;

- 5) the total duration of proceedings in the case and of non-enforcement of the judicial act.

3. During the preparation of the case for judicial proceedings the judge determines the circle of persons concerned, including the body, organisation or state official, that failed to enforce a judicial act within a reasonable time and fixes a term for them to present explanations, objections and (or) arguments in respect of the compensation claim cited in Part 1 of this Article. The body, organisation or state official are obliged to present explanations, objections and (or) arguments within the term, fixed by the commercial court. Failure to present explanations, objections and (or) arguments or to present them in due time constitutes grounds for the imposition of a court fine in the manner and amount, established in **Chapter 11** of this Code.

Article 222⁹. Commercial Court Decision on a Compensation Claim for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time

1. After considering a compensation claim for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time, the commercial court issues a ruling which must contain:

- 1) the name of the commercial court, the composition of the court that delivered the decision;
- 2) the number of the case, on which the decision is delivered, the date and place of the delivery;
- 3) the name of the person that filed the claim and its procedural status;
- 4) the names of persons participating in the case, in particular the name of the body, organisation or state official, charged with the duty of enforcing the judicial act;

- 5) the subject matter of the claim;

- 6) family names of the persons present in the court session, their scope of authority;

- 7) information regarding the judicial acts, delivered on the case, the subject matter of the dispute, the name of the commercial court that considered the case;

- 8) arguments, stated in the claim;

- 9) explanations of the persons present in the court session;

- 10) total duration of proceedings on the case or of the judicial act's enforcement;

- 11) reasons for awarding the compensation or reasons for the refusal to award it;

- 12) directions regarding the award of compensation and its amount or the refusal to award it;

- 13) directions regarding the actions, which must be performed by the body, organisation or state official, charged with the duty of enforcing the judicial act.

2. The commercial court decision specifies the distribution of judicial costs borne in connection

with the consideration of the compensation claim cited in Part 1 of this Article.

3. Copies of the commercial court decision are forwarded to the applicant and to the body, organisation or state official, charged with the duty of enforcing the judicial act, within five days from the decision's delivery.

4. A commercial court decision regarding the award of compensation cited in Part 1 of this Article enters into force immediately after its delivery, is subject to enforcement in the manner, established by the budget legislation of the Russian Federation and may be appealed against to the cassational instance.

Chapter 28. Consideration of Insolvency Cases (Bankruptcy Cases)

Article 223. Consideration of Insolvency Cases (Bankruptcy Cases)

1. Insolvency cases (bankruptcy cases) are considered by commercial courts in accordance with the rules, provided by this Code, subject to the special rules, established in federal laws, regulating the issues of insolvency (bankruptcy).

2. Cases on insolvency (bankruptcy) are considered by a single judge, unless otherwise stipulated by Article 17 of this Code. Commercial court assessors may not be drawn to participation in the consideration of such cases.

3. Rulings issued by the commercial court during the consideration of insolvency cases (bankruptcy cases), appeals against which (according to this Code or other federal laws, regulating the issues of insolvency (bankruptcy) are filed separately from the judicial act, finalising the consideration of the case on its merits, may be appealed against to the appellate commercial court within ten days from their issuance.

Article 224. Right to Apply to the Commercial Court in Insolvency Cases (Bankruptcy Cases)

The debtor, the creditors and other persons concerned in conformity with the federal law regulating the issues of insolvency (bankruptcy), have the right to file an application for the recognition of the debtor as bankrupt, with the commercial court at the debtor's location.

Article 225. Reconciliation in Insolvency Cases (Bankruptcy Cases)

A settlement agreement may be concluded in insolvency cases (bankruptcy cases) in conformity with the federal law; other kinds of conciliation procedures, established in **Chapter 15** of this Code and in other federal laws, regulating the issues of insolvency (bankruptcy) are also admissible.

Chapter 28¹. Consideration of Corporate Disputes

Article 225¹. Corporate Disputes

Commercial courts consider cases concerning the creation of a legal entity, its management, or participation in a legal entity, which is a commercial organisation, as well as in a non-commercial partnership, association (union) of commercial organisations, another non-commercial organisation, uniting commercial organisations and (or) individual entrepreneurs, a non-commercial organisation with the status of a self-regulating organisation in compliance with the federal law (hereinafter - corporate disputes), in particular the following corporate disputes:

- 1) disputes concerning the creation, re-organisation and liquidation of a legal entity;
- 2) disputes concerning the ownership of stocks, shares in the charter capital (contributed

capital) of business companies and partnerships, production cooperative members' share contributions, their burdening and the exercise of rights, arising from them, except for the disputes, arising from the activities of the depositaries, connected with the registration of rights to stocks and other securities, disputes arising in connection with the division of inherited property or division of the spouses' common property, comprising stocks, shares in the charter capital (contributed capital) of business companies and partnerships, cooperative members' share contributions;

3) disputes regarding claims, raised by founders, participants and members of a legal entity (hereinafter - participants of a legal entity) for the reimbursement of damages, caused to a legal entity, for the invalidation of transactions, made by legal entities and (or) the application of the effects of invalidity of such transactions;

4) disputes concerning the appointment or election, termination or suspension of powers and the liability of persons, who are or were members of management bodies and control bodies of a legal entity, as well as disputes, arising from civil relations between the said persons and the legal entity in connection with the exercise, termination or suspension of the said persons' powers;

5) disputes concerning the issue of securities, in particular the challenge of non-normative acts, decisions and actions (failures to act) of state bodies, local government bodies, of other bodies and state officials, of decisions of the issuer's management bodies, concerning the challenge of transactions, made in the course of distribution of securities, reports (notices) on the results of an issue (additional issue) of issued securities;

6) disputes arising from the activities of registrars of placement owners, regarding the registration of rights to stocks and other securities, the exercise of other rights and discharge of other obligations, provided by federal law in connection with the distribution and (or) circulation of securities, by the registrar of placement owners;

7) disputes concerning the convocation of a general meeting of a legal entity's participants;

8) disputes concerning appeals against decisions of a legal entity's management bodies;

9) disputes arising from the activity of notaries regarding the certification of transactions involving shares in the charter capital of limited liability companies.

Article 225². Consideration of Corporate Disputes

1. Corporate disputes are considered by the commercial court according to the general rules for adversarial proceedings, provided by this Code, subject to the special rules, established by this Chapter.

2. When cases provided by **Item 5 of Article 225¹** of this Code, regarding the challenge of non-normative legal acts, decisions and actions (failures to act) of state bodies, local government bodies, other bodies and state officials are considered, the special rules, established in **Chapter 24** of this Code likewise apply.

Article 225³. Requirements for a Statement of Claim, for an Application Concerning a Corporate Dispute

1. A statement of claim, an application concerning a corporate dispute must meet the requirements of **Article 125** of this Code. A statement of claim, an application must also indicate:

1) the state registration number of the legal entity, cited in **Article 225¹** of this Code;

2) the address (location) of the legal entity, cited in **Article 225¹** of this Code, contained in the Unified State Register of Legal Entities.

2. Documents, cited in **Article 126** of this Code, as well as an extract from the Unified State Register of Legal Entities or another document, proving the state registration of a legal entity and containing data on its address (location) and state registration number, must be attached to the statement of claim, the application.

Article 225⁴. Securing the Access to Information Regarding a Corporate Dispute and the Right

to Participation in the Case

1. The commercial court considering a corporate dispute places information regarding the acceptance of the statement of claim or application, as well as regarding the progress of the case on the dispute and the corresponding judicial acts on its official website. This includes documents concerning the entry of new persons into the case, the change of grounds or subject matter of a claim previously stated, taking of provisional measures, renunciation of a claim, acknowledgement of a claim, conclusion of a settlement agreement, delivery of a judicial act, finalising the consideration of the case by the commercial court.

2. Persons participating in the case are notified by the commercial court, considering the case, according to the rules established in **Article 121** of this Code. The commercial court likewise notifies the legal entity, cited in **Article 225¹** of this Code, of the acceptance of the statement of claim, of the application concerning a corporate dispute, of change of grounds or the subject matter of the claim by forwarding copies of the corresponding judicial acts to this legal entity, to the address stated in the Unified State Register of Legal Entities, no later than on the day following the issuance of those judicial acts.

3. The court in its ruling on the acceptance of the statement of claim or application may point out the obligation of the legal entity, specified in Part 2 of this Article, to notify the participants of this legal entity, the persons, who are members of its management bodies and control bodies, as well as this legal entity's registrar of placement owners and (or) the depositary, engaged in the registration of rights to issued securities of this legal entity of the commencement of proceedings, of the subject matter and grounds of the claim, stated before the commercial court, of other circumstances of the dispute.

4. In the event of failure to discharge the duty, stated in Part 3 of this Article, the commercial court may impose a fine upon the person, exercising the functions of a sole executive body or heading the collective executive body of the legal entity, cited in **Article 225¹** of this Code in the manner and amount, established in **Chapter 11** of this Code.

5. The legal entity, cited in **Article 225¹** of this Code, has the right to access the case materials, make extracts from them, copy them and acquire information about the progress of the case, using any public communication means.

Article 225⁵. Reconciliation of the Parties to Corporate Disputes

1. Corporate disputes may be settled by the parties thereto, according to the rules, established in **Chapter 15** of this Code, by conclusion of a settlement agreement or by application of other conciliation procedures, in particular with the assistance of an intermediary, unless otherwise established by federal law.

2. The commercial court does not accept the plaintiff's renunciation of the claim, the defendant's acknowledgement of the claim and does not validate a settlement agreement, if it contradicts the law or breaches the rights and (or) legitimate interests of other persons, in particular of the legal entity, cited in **Article 225¹** of this Code.

Article 225⁶. Provisional Measures, Taken by the Commercial Court in Corporate Disputes

1. Provisional measures are taken by the commercial court in a corporate dispute if there are grounds for their application, provided by **Article 90** of this Code. Herewith, provisional measures must not lead to the actual impossibility for the legal entity, cited in **Article 225¹** of this Code, to exercise its activities or to major difficulties in the exercise thereof, as well as to the breach of legislation of the Russian Federation by this legal entity.

2. Provisional measures are taken by commercial courts in corporate disputes in the manner, provided by **Chapter 8** of this Code, subject to the special rules, provided by this Article.

3. Provisional measures in corporate disputes may in particular include:

1) arrest of stocks, shares in the charter (contributed) capital of business companies and partnerships, of cooperative members' share contributions;

2) ban on performing by the defendant and other persons of transactions and other actions regarding stocks, shares in the charter (contributed) capital of business companies and partnerships, cooperative members' share contributions;

3) ban on making decisions by the legal entity's bodies or performance of other actions regarding the matters, related to the subject matter of the dispute, or directly connected with it;

4) ban on the execution by a legal entity, its bodies or participants, as well as by other persons, of decisions, adopted by this legal entity's bodies;

5) ban on making of entries concerning the registration or transfer of rights to stocks and securities by the registrar of placement owners and (or) by a depositary, as well as on the performance of other actions regarding the distribution and (or) circulation of securities.

4. The commercial court may take other provisional measures in corporate disputes, in particular several provisional measures simultaneously.

5. When counter indemnity is provided, its amount is determined in compliance with **Part 1 of Article 94** of this Code.

6. If the claim filed by the plaintiff is of non-property nature, the amount of counter indemnity is determined by the commercial court on the basis of the sum of the defendant's possible losses, caused by provisional measures, but it may not be less than fifty thousand roubles for natural persons and one hundred roubles for legal entities.

7. If, when considering a provisional measures application, the commercial court needs to hear explanations of the persons participating in the case, and the person that filed the provisional measures application has not provided the counter indemnity, cited in Part 4 of this Article, the judge may appoint the consideration of the provisional measures application in a court session, which is to be held within fifteen days from the receipt of such an application by the commercial court.

8. The commercial court, no later than on the day following the receipt of the provisional measures application by the commercial court, issues a ruling on the acceptance of the application by the commercial court, in which it specifies the time and place of the court session. Such a ruling is forwarded to persons participating in the case in the manner established in **Part 3 of Article 121** of this Code, no later than on the day following its issuance.

9. The commercial court may likewise specify in the ruling on the acceptance of the provisional measures application the duty of the person that filed the provisional measures application to notify the persons participating in the case and the legal entity, cited in **Article 225¹** of this Code, of the time and place of that application's consideration.

10. If the duty of notification, cited in Part 9 of this Article, is not discharged, the commercial court may impose a court fine in the manner and amount, established in **Chapter 11** of this Code, on the person that filed the provisional measures application. If a legal entity filed the provisional measures application, a court fine is imposed upon the person, exercising the functions of a sole executive body or heading the collective executive body of this legal entity.

11. The commercial court may consider the provisional measures application in the absence of persons, cited in Part 7 of this Article, if, by the beginning of the court session, it has information, that they have been notified of the time and place of consideration of the provisional measures application, and if the person filing the provisional measures application has presented evidence that it took all the necessary measures, aimed at such notification.

Article 225⁷. Consideration of Cases on Compulsion of a Legal Entity to Convene a General Meeting of its Participants

1. Where provided by federal law, a legal entity's bodies or participants may file a claim with the commercial court for the compulsion of the legal entity to convene a general meeting of its participants.

2. Cases on the compulsion of a legal entity to convene a general meeting of its participants are

considered within one month from the receipt of the statement of claim by the commercial court, including the time period for the preparation of the case for judicial proceedings and the delivery of a decision on the case.

3. The decision of a commercial court to compel a legal entity to convene a general meeting of its participants is subject to immediate execution, unless a different term is fixed in the court decision.

4. The decision of a commercial court to compel a legal entity to convene a general meeting of its participants may be appealed against to an appellate commercial court within ten days from the decision's delivery.

5. A judgement of an appellate commercial court, delivered after the consideration of an appeal against the decision to compel a legal entity to convene a general meeting of its participants, may be appealed against to a cassational commercial court within ten days from the delivery of the judgement.

Article 225⁸. Consideration of Cases Regarding the Reimbursement of Damages, Caused to a Legal Entity

1. Where provided by federal law, a legal entity's participants may apply to the commercial court with a claim for the reimbursement of damages, caused to this legal entity. Such participants enjoy the procedural rights and discharge the procedural duties of the plaintiff, as well as enjoy the right to demand the enforcement of a commercial court decision in favour of this legal entity.

2. The decision to satisfy the demands, stated in the claim for the reimbursement of damages, is delivered in favour of the legal entity, in the interests of which the claim was made. Upon the motion of the person that filed the claim for the reimbursement of damages, a writ of execution is forwarded for enforcement directly by the commercial court.

3. Judicial costs, related to the consideration of the claim of a legal entity's participants for the reimbursement of damages, caused to the legal entity, are borne by such participants in equal proportions.

4. Judicial costs are reimbursed according to the rules, established in **Article 110** of this Code.

Article 225⁹. Special Rules for Appealing against Commercial Court Rulings in Corporate Disputes

1. Commercial court rulings issued during the consideration of corporate disputes are appealed against according to the rules, established in **Article 188** of this Code. Appeals against such rulings, except for rulings on the termination of proceedings and on leaving the application without consideration are filed to an appellate commercial court within ten days from their issuance.

2. Appeals against rulings, cited in Part 1 of this Article, do not impede the commercial court's consideration of the case and the performance of certain procedural actions in the case.

Chapter 28². Consideration of Cases on the Protection of Rights and Legitimate Interests of a Group of Persons

Article 225¹⁰. Right to Apply to the Commercial Court for the Protection of Rights and Legitimate Interests of a Group of Persons

1. A legal entity or a natural person, participating in a legal relation, from which a dispute or claim arises, may apply to the commercial court for the protection of violated or disputed rights and legitimate interests of other persons, participating in the same legal relation (hereinafter - a group of persons). Bodies, organisations and individuals may likewise apply for the protection of rights and legitimate interests of a group of persons, where it is provided by federal law.

2. Cases on the protection of violated or disputed rights and legitimate interests of a group of persons are considered by the commercial court according to the rules, established by this Chapter, if by the day, on which the person, cited in Part 1 of this Article, applies to the commercial court, at least five persons have joined its claim.

3. Joining a claim for the protection of rights and legitimate interests of a group of persons is effected by filing a written application by a person or a decision of several persons, participating in the legal relation, from which such a claim arose.

Article 225¹¹. Cases on the Protection of Rights and Legitimate Interests of a Group of Persons

The following cases may be considered in the manner, established by this Chapter:

- 1) corporate disputes;
- 2) cases concerning the exercise of activities of professional participants of the securities market;
- 3) other claims, where conditions, provided by **Article 225¹⁰** of this Code, apply.

Article 225¹². Powers of the Person Applying for the Protection of Rights and Legitimate Interests of a Group of Persons

1. The person, applying to the commercial court for the protection of rights and legitimate interests of a group of persons, acts without a certificate of authority on the basis of documents on joining the claim, cited in **Part 3 of Article 225¹⁰** of this Code.

2. The person applying to the commercial court for the protection of rights and legitimate interests of a group of persons enjoys the procedural rights and discharges the procedural duties of the plaintiff. Such a person is obliged to represent the rights and legitimate interests of the group of persons in good faith.

3. The commercial court may impose a court fine on the person applying for the protection of rights and legitimate interests of a group of persons, if such a person abuses its procedural rights or fails to discharge its procedural duties.

4. The powers of the person, applying for the protection of rights and legitimate interests of a group of persons, may be terminated by the commercial court:

- 1) if this person renounces the claim;
- 2) upon demand of the majority of persons that have joined the claim of such a group, when there are solid grounds for the termination of this person's powers, in particular a gross failure of this person to discharge its duties, or if such a person manifests inability to reasonably conduct the case on the protection of rights and legitimate interests of a group of persons.

Article 225¹³. Requirements for the Statement of Claim or the Application, Filed for the Protection of Rights and Legitimate Interests of a Group of Persons

1. The statement of claim or the application, filed for the protection of rights and legitimate interests of a group of persons, must meet the requirements, provided by **Article 125** of this Code, as well as other requirements of form and contents for such applications, established by this Code for individual categories of cases. The statement of claim or application must also indicate:

- 1) the rights and legitimate interests of the group of persons, for the protection of which the claim is stated;
- 2) the circle of persons participating in the legal relation, from which a dispute or a claim arose;
- 3) names of persons, that have joined the claim, their location or, if an individual has joined the claim, the individual's place of residence, date and place of birth, place of employment or date and place of state registration in the capacity of an individual entrepreneur.

2. Documents, indicated in **Article 126** of this Code, and other documents, established in compliance with the requirements of this Code for applications regarding specific categories of cases, are attached to the statement of claim or the application. Documents, which prove that persons, cited in Item 3 of Part 1 of this Article, have joined the claim and their pertinence to the group of persons are likewise attached to the statement of claim or to the application.

Article 225¹⁴. Preparing a Case on the Protection of Rights and Legitimate Interests of a Group of Persons for Judicial Proceedings

1. When preparing a case on the protection of rights and legitimate interests of a group of persons for judicial proceedings, the judge:

- 1) defines the nature of the disputable legal relation and the applicable law;
- 2) specifies the claims of the person, applying for the protection of rights and legitimate interests of the group of persons, and the grounds for these claims;
- 3) resolves the issue regarding the composition of the group of persons and the possibility to identify other persons, participating in the disputable legal relation;
- 4) suggests that evidence, proving the pertinence of a specific person to the group of persons, is provided;
- 5) performs other actions, provided by **Article 135** of this Code.

2. The commercial court states in the ruling on the preparation of the case for judicial proceedings that the case may be considered in compliance with the rules, established by this Chapter, and fixes the term, within which the person, applying for the protection of rights and legitimate interests of a group of persons, must offer the other persons in the group to join the claim for the protection of rights and legitimate interests of a group of persons. In such a ruling the commercial court also fixes the term, within which the persons in the group may join the claim for the protection of their rights and legitimate interests, considered by the commercial court, by forwarding a document on joining the claim to the person that applies for the protection of rights and legitimate interests of the group of persons.

3. An offer to join the claim for the protection of rights and legitimate interests of a group of persons may be made publicly, through the publication of a message in mass media or in the form of a message, sent via registered letter with advice of delivery, or in some other form. The form of the offer to join the given claim is determined by the commercial court.

4. The offer to join the claim for the protection of rights and legitimate interests of a group of persons must contain the following:

- 1) the name and address of the defendant;
- 2) the name of the person, applying for the protection of rights and legitimate interests of a group of persons;
- 3) the claim of the person, applying for the protection of rights and legitimate interests of a group of persons;
- 4) the name of the commercial court, considering the case;
- 5) the term, fixed by the commercial court, within which other persons, participating in the disputable legal relation, may join the claim for the protection of their rights and legitimate interests, considered by the commercial court, by forwarding a document on joining the claim to the person, applying for the protection of rights and legitimate interests of a group of persons;
- 6) other information, determined by the commercial court.

5. The person applying for the protection of rights and legitimate interests of a group of persons, until the preparation of the case for judicial proceedings is over, reports to the commercial court the information, stated in **Item 3 of Part 1 of Article 225¹³** of this Code, concerning other persons that join the claim, and presents documents, proving the joining of the said persons to the claim and their pertinence to the group of persons.

Article 225¹⁵. Replacement of the Person, Applying for the Protection of Rights and Legitimate Interests of a Group of Persons

1. The replacement of the person, applying for the protection of rights and legitimate interests of a group of persons, is allowed if its authority is terminated for reasons, provided by **Part 4 of Article 225¹²** of this Code.

2. If the commercial court receives the application on renunciation of the claim from the

person, applying for the protection of rights and legitimate interests of a group of persons, it issues a ruling, postponing the judicial proceedings, and fixes a term not exceeding two months from the day of issuance of the ruling, within which the said person is to be replaced by another person from the group.

3. The commercial court in its ruling on the postponement of judicial proceedings cites the duty of the person, applying for the protection of rights and legitimate interests of a group of persons, to notify the persons, that have joined the claim for the protection of rights and legitimate interests of a group of persons, of the renunciation of the claim and determines the form of notification with regard to the provisions of **Article 225¹⁴** of this Code. The notification must likewise state the need for the replacement of the person, applying for the protection of rights and legitimate interests of a group of persons, by another person and information about the consequences, provided by **Part 7** of this Article. The proof of notification of the renunciation of the claim is forwarded by the person that applies for the protection of rights and legitimate interests of a group of persons to the commercial court.

4. The proof of replacement of the person, applying for the protection of rights and legitimate interests of a group of persons, must be presented to the commercial court within the term, fixed in the ruling.

5. The commercial court does not allow the renunciation of the claim, if at the time of expiry of the term, fixed in the commercial court ruling, it does not have information on the notification of persons that have joined the claim for the protection of rights and legitimate interests of a group of persons and on the replacement of the person, applying for the protection of rights and legitimate interests of a group of persons.

6. The commercial court issues a ruling on the termination of proceedings in the case in respect of the person, applying for the protection of rights and legitimate interests of a group of persons, and on the replacement thereof by another person.

7. If the person, applying for the protection of rights and legitimate interests of a group of persons, that has filed the application for the renunciation of the claim, carries out all the necessary actions regarding the notification of persons, that have joined the claim for the protection of rights and legitimate interests of a group of persons, but the said persons do not replace such a person by another one within the term, fixed by the commercial court, the commercial court accepts the renunciation of the claim and terminates the proceedings in the case on the protection of rights and legitimate interests of a group of persons in the manner, established by **Article 151** of this Code. The termination of proceedings in the case on the protection of rights and legitimate interests of a group of persons does not deprive the persons in this group of the right to apply to the commercial court for protection of their breached or disputed rights and legitimate interests in the manner, established by this Code.

8. If the majority of persons, that have joined the claim for the protection of rights and legitimate interests of a group of persons, files a motion for the replacement of the person, applying for the protection of rights and legitimate interests of a group of persons, by another one for the reason, stated in **Item 2 of Part 4 of Article 225¹²** of this Code, a candidate for the replacement of the person, applying for the protection of rights and legitimate interests of the group of persons, must be suggested in the motion. If such a motion is satisfied, the commercial court replaces the person, applying for the protection of rights and legitimate interests of a group of persons, and issues a corresponding ruling.

Article 225¹⁶. Consideration of Cases on the Protection of Rights and Legitimate Interests of a Group of Persons

1. Cases on the protection of rights and legitimate interests of a group of persons are considered by the commercial court according to the rules, provided by this Chapter.

2. Cases on the protection of rights and legitimate interests of a group of persons are considered by the commercial court within no more than five months from the day of issuance of the ruling on the acceptance of the statement of claim or application by the commercial court, including the time for the preparation of the case for judicial proceedings and the delivery of a decision on the case.

3. Persons that have joined the claim for the protection of rights and legitimate interests of a group of persons may access the case materials, make extracts from them and copy them.

4. The commercial court leaves the statement of claim or application without consideration if after accepting it, it finds that the statement of claim or application have been filed by a person that did not exercise their right to join the claim for the protection of rights and legitimate interests of a group of persons, being considered by the commercial court with the same defendant and the same subject matter. The right to join the claim for the protection of rights and legitimate interests of a group of persons in the manner, established by **Article 225¹⁰** of this Code, is explained to the said person.

5. The commercial court terminates proceedings in the case if it finds that there is an effective commercial court decision, delivered in respect of a claim for the protection of rights and legitimate interests of a group of persons, and that the statement of claim or the application are filed by a person that did not exercise its right to join that claim with the same defendant and the same subject matter.

Article 225¹⁷. The Decision of the Commercial Court on a Case on the Protection of Rights and Legitimate Interests of a Group of Persons

1. The commercial court decision on the case on the protection of rights and legitimate interests of a group of persons is delivered according to the rules, established by **Chapter 20** of this Code.

2. The facts, established by an effective commercial court decision, delivered on a case on the protection of rights and legitimate interests of a group of persons considered before, are not examined de novo, when the commercial court considers another case, based on the application of a participant of the same group against the same defendant.

3. In the decision to satisfy the claim for the protection of rights and legitimate interests of a group of persons the commercial court may cite the defendant's duty to bring information about the delivered decision to the knowledge of all the persons participating in the legal relation, from which this claim arose, within the term, fixed by the commercial court, through mass media or in another way.

Chapter 29. Consideration of Cases through Summary Proceedings

Article 226. Summary Proceedings

1. Commercial courts consider cases through summary proceedings in accordance with the general rules of adversarial proceedings, stipulated in this Code, subject to the special rules established in this Chapter.

When cases, arising from administrative and other public relations, and cases with the participation of foreign persons are considered through summary proceedings, special rules, established in Sections III and V of this Code are also respectively applied, unless otherwise stipulated in this Chapter.

2. Cases are considered through summary proceedings by a single judge within two months at most since the receipt of the statement of claim or application by the commercial court.

The term for the consideration of a case through summary proceedings may not be extended, except in the case, envisaged in Part 3 of Article 253 of this Code.

Article 227. Cases Considered through Summary Proceedings

1. The following cases are subject to consideration through summary proceedings:

1) on the recovery of money, if the amount of claim is no more than three hundred thousand roubles for legal persons or one hundred thousand roubles for individual entrepreneurs;

2) on challenge of non-normative legal acts, decisions of bodies, exercising public powers and of officials, if the said non-normative act or decision contains an order for the payment of money or envisages the recovery of the applicant's money or other property, on condition that the said acts or decisions are challenged by the applicant in the part of the order for the payment of money or recovery of the applicant's money or other property, and the challenged sum is no more than one hundred

thousand roubles;

3) on holding a person administratively liable if the administrative punishment for committing the administrative offence is envisaged only in the form of an administrative fine not exceeding one hundred thousand roubles;

4) on challenge of decisions of administrative organs on holding a person administratively liable, if the administrative punishment was imposed in the form of an administrative fine, not exceeding one hundred thousand roubles;

5) on recovery of compulsory payments and penalties, if the overall recoverable sum of money, mentioned in the application, does not exceed one hundred thousand roubles.

2. The following cases are subject to consideration through summary proceedings, independent from the amount of claims:

1) on claims, based on documents provided by the claimant and constituting the defendant's monetary liabilities, which the latter acknowledges, but does not fulfil, and (or) based on documents, confirming indebtedness according to contract;

2) on claims, based on a protest of a bill for non-payment, non-acceptance or failure to date acceptance, performed by a notary.

3. Other cases may as well be considered through summary proceedings upon the claimant's motion and by consent of the plaintiff or upon the court's initiative and by consent of the parties, unless there are circumstances stipulated in Part 5 of this Article.

4. Corporate disputes and cases on the protection of rights and legitimate interests of a group of persons are not subject to consideration through summary proceedings.

5. The court issues a ruling on consideration of the case in accordance with the general rules of adversarial or administrative proceedings, if during the consideration of the case through summary proceedings a motion of a third party to enter the case is satisfied; if a counterclaim is accepted, which cannot be considered in accordance with the rules stipulated in this Chapter; or if the court, particularly but not exclusively upon the motion of one of the parties, concludes that:

1) consideration of the case through summary proceedings may lead to the divulgence of a state secret;

2) it is necessary to conduct the inspection and examination of evidence at its location, to appoint an expert examination or hear testimonial evidence;

3) the stated claim concerns other claims, including claims against other persons, or concerns a judicial act adopted in the given case, and the rights and lawful interests of other persons may be violated;

4) the consideration of the case through summary proceedings does not comply with the aims of efficient justice, including cases in which the court deems it necessary to clarify additional circumstances or examine additional evidence.

6. The ruling on the consideration of the case in accordance with the general rules of adversarial or administrative proceedings envisages actions, which the persons participating in the case are to perform, as well as terms for the performance. After the ruling is issued the case is considered de novo, except for cases in which the transfer to the general rules of adversarial or administrative proceedings is caused by the necessity to conduct an inspection and examination of evidence at its location, to appoint an expert examination or to hear testimonial evidence.

7. If two claims are stated, arising from civil relations, where one of the claims is of property nature and concerns claims stipulated in Part 1 or 2 of this Article, while the other is of non-property nature, and the court does not single out this claim for consideration in separate procedure, based on Part 3 of Article 130 of this Code, both claims are considered through summary proceedings.

Article 228. Consideration of Cases through Summary Proceedings

1. Statements of claim or applications regarding cases, stipulated in Parts 1 or 2 of Article 227 of this Code, as well as documents attached to such statements of claim or applications may be submitted to the commercial court on paper or in digital form. Such a statement of claim or application

is placed on the official website of the commercial court in restricted access mode within five days from the day of acceptance of the statement of claim.

2. The court issues a ruling on the acceptance of the statement of claim or application and sets a term, which cannot be less than 15 days from the day of issuance of the said ruling, during which evidence and the statement of defence may be submitted by the defendant or other interested persons. Access codes, necessary to access the case materials in digital form, are forwarded to the parties together with the said ruling.

In the ruling the court may offer the parties to settle the dispute on their own, by stipulating the possibility of reconciliation.

A ruling issued by the commercial court after the resolution of issue of acceptance of the statement of claim or application is placed on the official website of the commercial court no later than on the day following the issuance of the ruling.

3. The parties may submit to the commercial court considering the case and to forward to each other evidence, which they refer to in substantiation of their claims and objections, within a term set by the commercial court in the ruling on the acceptance of the statement of claim or application or in the ruling on the consideration of the case through summary proceedings. This term cannot be less than 15 days since the day of issuance of the corresponding ruling.

The parties may submit to the commercial court considering the case and to forward additionally to each other documents containing clarifications as to the nature of the claims and objections in substantiation of their positions, within a term set by the commercial court. This term can not be less than 30 days since the issuance of the ruling on the acceptance of the statement of claim or application or in the ruling on the consideration of the case through summary proceedings. Such documents must not contain reference to evidence, which has not been disclosed within the term set by the court.

4. If the statement of defence, evidence or other documents were submitted to the court upon the expiry of the set term, they are not examined by the commercial court and are returned to the persons who submitted them, unless these persons prove they were unable to submit the documents within the set term due to circumstances beyond their control.

Statement of defence, evidence and other documents submitted to court are placed on the official website of the commercial court in restricted access mode within three days at most since the receipt of the documents by the commercial court.

5. The judge considers the case through summary proceedings without summoning the parties after the expiration of terms, set by the court for submission of evidence and other documents in accordance with Part 3 of this Article.

No preliminary court session is held in cases considered through summary proceedings.

The court examines the clarifications, objections and (or) arguments of persons participating in the case, stated in the submitted documents, and makes a decision based on the evidence, submitted within the set terms.

6. Rules stipulated in Articles 155 and 158 of this Code are not applied during the consideration of a case through summary proceedings.

Article 229. Decision on a Case Considered through Summary Proceedings

1. Decision on a case considered through summary proceedings is made according to rules, stipulated in Chapter 20 of this Code, unless otherwise stipulated in this Chapter.

Decisions on cases arising from administrative and other public relations and considered through summary proceedings are made according to rules stipulated in Articles 201, 206, 211 or 216 of this Code.

2. Decision on a case considered through summary proceedings is subject to immediate execution.

The said decision enters into force ten days after its delivery, unless an appeal is filed against it.

If an appeal is filed, the decision, unless reversed or amended, enters into force on the day of

delivery of judgement by an appellate commercial court.

3. Decision on a case considered through summary proceedings may be appealed against to an appellate commercial court within ten days after its delivery.

This decision, if it has been subject to consideration by an appellate commercial court, or if the appellate commercial court refused to restore the missed term for filing an appeal, along with the judgement of the appellate commercial court delivered on the given case, may be appealed against to the cassational commercial court only on the grounds, stipulated in Part 4 of Article 288 of this Code.

Chapter 30. Consideration of Cases on Challenge of Arbitration Tribunals' Awards and on the Issue of Writs of Execution for the Enforcement of Arbitration Tribunals' Awards

§ 1. Proceedings in Cases on Challenge of Arbitration Tribunals' Awards

Article 230. Challenging the Awards of Arbitration Tribunals

1. The rules, established in this Paragraph, are applied by the commercial court during the consideration of applications for the challenge of awards of arbitration tribunals and of international commercial arbitration courts, adopted on the territory of the Russian Federation (arbitration tribunals).

2. Persons participating in arbitration proceedings may challenge the awards of arbitration tribunals in disputes, arising from civil relations in the course of entrepreneurial and other economic activities, by filing an application for the reversal of an award of an arbitration tribunal in accordance with **Article 233** of this Code, with the commercial court.

3. The application for the reversal of an arbitration tribunal award is filed with the commercial court of the constituent unit of the Russian Federation, on the territory of which the arbitration tribunal award was adopted, within a term, not exceeding three months from the day of receipt of the disputed award by the party, filing the application, unless otherwise established by an international treaty of the Russian Federation or by federal law.

4. A fee is to be paid for the application for the reversal of an arbitration tribunal award, in the amount, fixed by federal law for an application for the issue of a writ of execution for the enforcement of an arbitration tribunal award.

5. In cases, envisaged in an international treaty of the Russian Federation, a foreign arbitration award, during the adoption of which norms of the Russian Federation legislation were applied, may be challenged in conformity with this Paragraph, by filing an application for the reversal of such a decision with the commercial court of the constituent unit of the Russian Federation at the debtor's location or place of residence or, if the debtor's location or place of residence is unknown, at the location of the debtor's property, if the debtor is a party to arbitration proceedings.

Article 231. Requirements for an Application for the Reversal of an Arbitration Tribunal Award

1. An application for the reversal of an arbitration tribunal award is filed in the written form and signed by the person, challenging the award, or by its representative. The application may also be filed by filling out the form on the commercial court's official website.

2. An application for the reversal of an arbitration tribunal award must indicate:

- 1) the name of the commercial court, to which the application is filed;
- 2) the name and composition of the arbitration tribunal, which adopted the award, its location;
- 3) the names of the parties to arbitration proceedings, their location or place of residence;
- 4) the date and place of adoption of the arbitration tribunal award, its number;
- 5) the date of receipt of the disputed arbitration tribunal award by the party filing the

application for the reversal of the said award;

6) the applicant's demand for the award of the arbitration tribunal to be reversed, the grounds on which it is challenged.

The application may contain phone and fax numbers, e-mail addresses and other information.

3. The following are attached to an application for the reversal of an arbitration tribunal award:

1) a properly certified original of the arbitration tribunal award or its properly certified copy. A copy of the award of an institutional arbitration tribunal may be certified by the chairman of the arbitration tribunal; a copy of the award of an ad hoc arbitration tribunal must be certified by a notary;

2) the original arbitration agreement or its properly certified copy;

3) documents, submitted in substantiation of the demand to reverse the arbitration tribunal award;

4) a document confirming the payment of the fee in the manner and amount, established by federal law;

5) the advice of delivery or another document, confirming that a copy of the application for the reversal of the arbitration tribunal award has been forwarded to the other party of the arbitration proceedings;

6) a certificate of authority or another document, confirming the powers of the person to sign the application.

3¹. Documents, attached to the application for the reversal of the arbitration tribunal award, may be submitted to the commercial court in electronic form.

4. An application to reverse the arbitration tribunal award, filed in violation of requirements, envisaged in **Article 230** of this Code or in this Article, is shelved or returned to the person, who filed it, in accordance with the rules, established in **Articles 128** and **129** of this Code.

Article 232. Consideration of an Application for the Reversal of an Arbitration Tribunal Award

1. An application for the reversal of an arbitration tribunal award is considered by a single judge within three months at most from the day of its receipt by the commercial court, including the term for the preparation of the case for judicial proceedings and for the issuance of a ruling, in accordance with the rules, stipulated in this Code.

2. When preparing a case for judicial proceedings, the judge may, upon the motion of both parties of the arbitration proceedings, order the presentation of materials of the case, the award in which is being challenged in the commercial court, from the arbitration tribunal, in accordance with the rules, this Code stipulates for the order for presentation of evidence.

3. The parties to arbitration tribunal proceedings are notified by the commercial court of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the case.

4. When considering the case, the commercial court establishes in court session the existence or the absence of grounds, stipulated in **Article 233** of this Code for the reversal of the arbitration tribunal award, by examining the evidence, presented to the court as proof of the stated claims or objections.

Article 233. Grounds for the Reversal of an Arbitration Tribunal Award

1. An arbitration tribunal award may be reversed by the commercial court only in cases, stipulated in this Article.

2. An arbitration tribunal award may be reversed if the party, filing the application for the reversal of the arbitration tribunal award with the commercial court, presents to the commercial court the evidence that:

1) the arbitration agreement is invalid on the grounds, envisaged in federal law;

2) the party was not properly notified of the election (appointment) of arbitrators, or of the arbitration proceedings, including the information regarding the time and place of the tribunal session, or that it could not present its explanations to the tribunal for other good reasons;

3) the arbitration tribunal award was adopted on a dispute, not stipulated in the arbitration agreement or not falling under its terms, or contains judgements on issues, not covered by the agreement. If the judgements on issues, covered by the arbitration agreement, can be separated from those not covered by it, the commercial court may reverse only that part of the arbitration tribunal award, which contains the judgements on issues, not covered by the arbitration agreement;

4) the composition of the arbitration tribunal or the arbitration procedure did not conform to the parties' agreement or to federal law.

3. The commercial court reverses the arbitration tribunal award if it establishes that:

1) the dispute, considered by the tribunal, may not be the subject matter of arbitration proceedings, according to federal law;

2) the arbitration tribunal award violates the fundamental principles of Russian law.

4. An award of an international commercial arbitration court may be reversed by the commercial court on the grounds, stipulated in an international treaty of the Russian Federation and in the federal law on international commercial arbitration.

Article 234. Commercial Court Ruling on a Case of Challenge of an Arbitration Tribunal Award

1. After the consideration of an application for the reversal of an arbitration tribunal award, the commercial court issues a ruling, according to the rules, established in **Chapter 20** of this Code for the delivery of a decision.

2. The commercial court ruling in a case on challenge of an arbitration tribunal award must contain:

1) information regarding the challenged arbitration tribunal award and the place of its adoption;

2) information about the name and composition of the arbitration tribunal, which adopted the disputed award;

3) the names of the parties to arbitration proceedings;

4) an indication as to the full or partial reversal of the arbitration tribunal award or as to the refusal to satisfy the applicant's claim, fully or in part.

3. The reversal of an arbitration tribunal award is not an obstacle for the parties of the arbitration proceedings to apply to an arbitration tribunal repeatedly, if such a possibility is not exhausted, or to the commercial court, in accordance with the general rules, stipulated in this Code.

4. If the arbitration tribunal award is reversed by the commercial court fully or in part because of the invalidity of the arbitration agreement, or if it was adopted on a dispute, not envisaged in the arbitration agreement, or if it does not fall under its terms or contains judgements on issues, not covered by the arbitration agreement, the parties to the arbitration proceedings may apply to the commercial court for the resolution of such a dispute in accordance with the general rules, stipulated in this Code.

5. A commercial court ruling on a case of challenge of an arbitration tribunal agreement may be appealed against to a cassational commercial court within one month from the date of issuance of the ruling.

Article 235. Consideration of an Application Concerning the Competence of an Arbitration Tribunal

1. In cases, stipulated in an international treaty of the Russian Federation or in federal law, any party to the arbitration proceedings may file with the commercial court an application for the reversal of the arbitration tribunal's preliminary judgement on its competence.

2. An application concerning the competence of an arbitration tribunal may be filed within one month from the party's receipt of notification of the arbitration tribunal judgement, mentioned in Part 1 of this Article.

3. The commercial court considers an application concerning the competence of an arbitration

tribunal in accordance with the rules, stipulated in this Paragraph.

4. After the consideration of the application, the commercial court issues a ruling on the reversal of the arbitration tribunal judgement, concerning its competence, or on the refusal to satisfy the applicant's claim.

§ 2. Proceedings in Cases on the Issuance of a Writ of Execution for the Enforcement of an Arbitration Tribunal Award

Article 236. Issuance of a Writ of Execution for the Enforcement of an Arbitration Tribunal Award

1. The rules, laid down in this Paragraph, are applied by commercial courts during the consideration of applications for the issuance of writs of execution for the enforcement of arbitration tribunal awards and of awards of international commercial arbitration courts (arbitration tribunals), adopted on the territory of the Russian Federation.

2. The matter of issuance of a writ of execution for the enforcement of an arbitration tribunal award in a dispute, that arose from civil relations in the course of entrepreneurial and other economic activity, is examined by the commercial court upon an application, filed by a party to the arbitration proceedings, in whose favour the arbitration tribunal award was adopted.

3. An application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award is filed with the commercial court of the constituent unit of the Russian Federation at the debtor's location or place of residence or, if the location or place of residence is unknown - at the location of the property of the debtor, who is a party to arbitration proceedings.

Article 237. Requirements for an Application for the Issuance of a Writ of Execution for the Enforcement of an Arbitration Tribunal Award

1. An application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award is filed in the written form and signed by the person, in whose favour the award was adopted, or by its representative. The application may also be filed by filling out the form on the commercial court's official website.

2. The application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award must indicate:

- 1) the name of the commercial court, with which the application is filed;
- 2) the name and composition of the arbitration tribunal, which adopted the award, and its location;
- 3) the names of the parties to the arbitration proceedings, their location or place of residence;
- 4) the date and place of adoption of the arbitration tribunal award;
- 5) the applicant's demand for the issuance of a writ of execution for the enforcement of the arbitration tribunal award.

The application may contain phone and fax numbers, e-mail addresses and other information.

3. The following are attached to the application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award:

- 1) a properly certified original of the arbitration tribunal award or its properly certified copy. A copy of an award of an institutional arbitration tribunal may be certified by the chairman of the arbitration tribunal; a copy of an ad hoc arbitration tribunal award must be certified by a notary;
- 2) the original arbitration agreement or its properly certified copy;
- 3) a document, confirming the payment of the fee in the manner and amount, established by federal law;
- 4) an advice of delivery or another document, confirming that a copy of the application for the issuance of a writ of execution for the enforcement of the arbitration tribunal award has been forwarded to the other party of the arbitration proceedings;

5) a certificate of authority or another document, confirming the powers of the person to sign the application.

3¹. Documents, attached to the application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award, may be presented to the commercial court in electronic form.

4. An application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award, filed in violation of requirements, stipulated in **Article 236** of this Code or in this Article, is shelved or returned to the person, who filed it, in accordance with the rules, established in **Articles 128** and **129** of this Code.

Article 238. Consideration of an Application for the Issuance of a Writ of Execution for the Enforcement of an Arbitration Tribunal Award

1. An application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award is considered by a single judge within three months at most from the day of its receipt by the commercial court, including the term for the preparation of the case for judicial proceedings and for the issuance of a ruling, in accordance with the rules, stipulated in this Code.

2. When preparing a case for judicial proceedings, the judge may, upon the motion of persons participating in the case, request the materials of the case, in which the issuance of a writ of execution is claimed, in accordance with the rules, established in this Code for the order for the presentation of evidence.

3. The parties to arbitration proceedings are notified by the commercial court of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the case.

4. When considering the case, the commercial court establishes in court session the existence or absence of the grounds, stipulated in **Article 239** of this Code for the issuance of a writ of execution for the enforcement of an arbitration tribunal award, by examining the evidence, presented to the court as proof of the stated claims and objections.

5. If the court, indicated in **Item 5 of Part 2 of Article 239** of this Code, is considering an application for the reversal or suspension of enforcement of an arbitration tribunal award, the commercial court, considering the application for the issuance of a writ of execution for the enforcement of this award may, if it finds it reasonable, postpone the consideration of the application for the issuance of a writ of execution and, upon the motion of the party, which filed the application for the issuance of a writ of execution, may also oblige the other party to provide the proper security in accordance with the rules, provided by this Code.

Article 239. Grounds for the Refusal to Issue a Writ of Execution for the Enforcement of an Arbitration Tribunal Award

1. The commercial court may refuse to issue a writ of execution for the enforcement of the arbitration tribunal award only in cases, stipulated in this Article.

2. The commercial court may refuse to issue a writ of execution, if the party to arbitration proceedings, against which the arbitration tribunal award was adopted, presents evidence, that:

1) the arbitration agreement is invalid on the grounds, stipulated in federal law;

2) the party was not properly notified of the election (appointment) of arbitrators or of the arbitration proceedings, including information regarding the time and place of the arbitration tribunal's session, or that it could not provide its explanations to the arbitration tribunal for other good reasons;

3) the arbitration tribunal award is adopted in a dispute, not stipulated in the arbitration agreement or not falling under its terms, or contains judgements on issues, not covered by the arbitration agreement. If the judgements of the arbitration tribunal award on the issues, covered by the arbitration agreement, can be separated from those not covered by the agreement, the commercial court may issue a writ of execution only for the part of the arbitration tribunal award, which contains

judgements on issues, covered by the arbitration agreement;

4) the composition of the arbitration tribunal or the arbitration procedure did not conform to the parties' agreement or to federal law;

5) the award has not yet become obligatory for the parties to arbitration proceedings or has been reversed, or its execution has been suspended by the commercial court or by another court in the Russian Federation, or by a court of another state, on the territory of which this award was adopted, or of the state, the law of which was applied.

3. The commercial court refuses to issue a writ of execution for the enforcement of an arbitration tribunal award, if it establishes that:

1) the dispute resolved by the arbitration tribunal may not be the subject matter of arbitration proceedings, according to federal law;

2) the arbitration tribunal award violates the fundamental principles of Russian law.

4. The commercial court may refuse to issue a writ of execution for the enforcement of an award of an international commercial arbitration court on the grounds, stipulated in an international treaty of the Russian Federation, or in the federal law on international commercial arbitration.

Article 240. Commercial Court Ruling in a Case on the Issuance of a Writ of Execution for the Enforcement of an Arbitration Tribunal Award

1. After the consideration of the application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award, the commercial court issues a ruling, according to the rules, established in **Chapter 20** of this Code for the delivery of a decision.

2. The ruling in a case on the issuance of a writ of execution for the enforcement of an arbitration tribunal award must contain:

1) the name and composition of the arbitration tribunal;

2) the names of the parties to arbitration proceedings;

3) information about the arbitration tribunal award, for the enforcement of which the applicant demands the issuance of a writ of execution;

4) an indication regarding the issuance of a writ of execution for the enforcement of an arbitration tribunal award, or the refusal to issue a writ of execution.

3. The refusal to issue a writ of execution for the enforcement of an arbitration tribunal award is not an obstacle for a repeated application to an arbitration tribunal, if this possibility is not exhausted, or to the commercial court, in accordance with the rules, stipulated in this Code.

4. If the commercial court denies to issue a writ of execution for the enforcement of the arbitration tribunal award fully or in part, because of the invalidity of the arbitration agreement or if the award was adopted in a dispute, not stipulated in the arbitration agreement, or if the award does not fall under the terms of the arbitration agreement or contains judgements on issues, not covered by the arbitration agreement, the parties to arbitration proceedings may apply to the commercial court for the resolution of the dispute, in accordance with the general rules, provided by this Code.

5. A commercial court ruling in the case on the issuance of a writ of execution for the enforcement of an arbitration tribunal award may be appealed against to a cassational commercial court within one month from the day of issuance of the ruling.

Chapter 31. Proceedings in Cases on Recognition and Enforcement of Foreign Court Judgements or of Foreign Arbitration Awards

Article 241. Recognition and Enforcement of Foreign Court Decisions and of Foreign Arbitration Awards

1. Decisions of foreign courts, rendered in disputes and other cases arising in the course of entrepreneurial and other economic activity (foreign courts), awards of arbitration tribunals or of

international commercial arbitration courts, adopted on the territory of foreign states in disputes and other cases, arising in the course of entrepreneurial and other economic activity (foreign arbitration awards), are recognised and enforced in the Russian Federation by commercial courts, if the recognition and enforcement of such judgements is stipulated in an international treaty of the Russian Federation and in federal law.

2. Issues of recognition and enforcement of foreign court judgements and of foreign arbitration awards are resolved by the commercial court upon the application of a party to the dispute, considered by a foreign court, or of a party to arbitration proceedings.

Article 242. Application for the Recognition and Enforcement of a Foreign Court Judgement and of a Foreign Arbitration Award

1. An application for the recognition and enforcement of a foreign court judgement and of a foreign arbitration award is filed by the party to the dispute, in favour of which the judgement was adopted (hereinafter – the recoverer), with the commercial court of the constituent unit of the Russian Federation at the debtor's location or place of residence or, if the debtor's location or place of residence is unknown, at the location of the debtor's property.

2. An application for the recognition and enforcement of a foreign court judgement and of a foreign arbitration award is filed in the written form and must be signed by the recoverer or by their representative. The application may also be filed by filling out the form on the commercial court's official website.

The application must indicate:

- 1) the name of the commercial court, with which the application is filed;
- 2) the name and location of the foreign court, or the name and composition of the arbitration tribunal or of the international commercial arbitration court and its location;
- 3) the name of the recoverer, their location or place of residence;
- 4) the name of the debtor, their location or place of residence;
- 5) information regarding the foreign court judgement or the foreign arbitration award, for the recognition and enforcement of which the recoverer applies;
- 6) the recoverer's application for the recognition and enforcement of a foreign court judgement or of a foreign arbitration award;
- 7) a list of attached documents.

An application for the recognition and enforcement of a foreign court judgement and of a foreign arbitration award may also contain phone and fax numbers, e-mail addresses of the recoverer, debtor or of their representatives, as well as other information.

3. The following are attached to an application for the recognition and enforcement of a foreign court judgement:

- 1) a properly certified copy of the foreign court judgement or of the foreign arbitration award, for the recognition and enforcement of which the recoverer applies;
- 2) a properly certified document, confirming the entry of the foreign court judgement into force, unless this is indicated in the text of the decision itself;
- 3) a properly certified document, confirming that the debtor was duly and in the proper form notified of the proceedings in the foreign court, for the recognition and enforcement of whose judgement the recoverer applies;
- 4) a certificate of authority or another document, properly certified and confirming the powers of the person, who signed the application to the commercial court;
- 5) a document, confirming that a copy of the application for the recognition and enforcement of the foreign court judgement has been forwarded to the debtor;
- 6) a properly certified translation of documents, mentioned in Items 1 - 5 of this Part into the Russian language.

4. The following are attached to the application for the recognition and enforcement of a foreign arbitration award, unless otherwise stipulated in an international treaty of the Russian

Federation:

- 1) a properly certified original of the foreign arbitration award or its properly certified copy;
- 2) the original of the arbitration agreement or its properly certified copy;
- 3) a properly certified translation of documents, mentioned in Items 1 and 2 of this Part into the

Russian language.

5. A document, confirming the payment of the fee in the manner and amount, established by federal law for filing an application for the issuance of a writ of execution for the enforcement of an arbitration tribunal award with the commercial court, is also attached to the application for the recognition and enforcement of a foreign court judgement and of a foreign arbitration award.

6. Documents, mentioned in this Article, are recognised as properly certified, if they meet the requirements of **Article 255** of this Code.

7. Documents, attached to the application for the recognition and enforcement of a foreign court judgement and a foreign arbitration award, may be submitted to the commercial court in electronic form.

Article 243. Consideration of an Application for the Recognition and Enforcement of a Foreign Court Judgement and of a Foreign Arbitration Award

1. An application for the recognition and enforcement of a foreign court judgement and of a foreign arbitration award is considered in court session by a single judge within a term, not exceeding three months from the day of its receipt by the commercial court in accordance with the rules of this Code and subject to the special rules established in this Chapter, unless otherwise stipulated in an international treaty of the Russian Federation.

2. The commercial court notifies the persons participating in the case of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the case.

3. When considering a case, the commercial court establishes in court session the existence or the absence of grounds for the recognition and enforcement of the foreign court judgement and of the foreign arbitration award, stipulated in **Article 244** of this Code, by examining the evidence, submitted to the commercial court and the substantiation of stated claims and objections.

4. When considering a case, the commercial court has no right to review the judgement of the foreign court on its merits.

Article 244. Grounds for the Refusal to Recognise and Enforce a Foreign Court Judgement and a Foreign Arbitration Award

1. The commercial court refuses to recognise and enforce a foreign court judgement fully or in part, if:

1) the judgement has not entered into force, according to the law of the state, on the territory of which it was adopted;

2) the party, against which the decision was adopted, was not timely and properly notified of the time and place of the case consideration, or could not give its explanations to the court for other reasons;

3) according to an international treaty of the Russian Federation or a federal law, the consideration of the case falls under the exclusive competence of a court in the Russian Federation;

4) in the Russian Federation there exists an effective court decision, delivered in a dispute between the same persons on the same subject matter and on the same grounds;

5) there is a case concerning a dispute between the same persons, on the same subject matter and on the same grounds under consideration of a court in the Russian Federation, which commenced prior to the institution of proceedings in a foreign court, or if a court in the Russian Federation was the first to accept an application concerning the dispute between the same persons, on the same subject matter and on the same grounds for its consideration;

6) the term for the enforcement of the foreign court judgement has expired, and this term was not restored by the commercial court;

7) the enforcement of the foreign court judgement would contradict the public policy of the Russian Federation.

2. The commercial court refuses to recognise and enforce, fully or in part, the foreign arbitration award on the grounds, stipulated in Item 7 of Part 1 of this Article and in **Part 4 of Article 239** of this Code for the refusal to issue a writ of execution for the enforcement of an award of an international commercial arbitration court, unless otherwise stipulated in an international treaty of the Russian Federation.

Article 245. Commercial Court Ruling in a Case on the Recognition and Enforcement of a Foreign Court Judgement and of a Foreign Arbitration Award

1. After the consideration of the application for the recognition and enforcement of a foreign court judgement and of a foreign arbitration award, the commercial court issues a ruling, according to the rules, provided in **Chapter 20** of this Code for the delivery of a decision.

2. The ruling in a case on the recognition and enforcement of a foreign court judgement and of a foreign arbitration award must contain:

1) the name and location of the foreign court, or the name and composition of the arbitration tribunal or of the international commercial arbitration court, which adopted the judgement (award);

2) the names of the recoverer and of the debtor;

3) information regarding the foreign court judgement or the foreign arbitration award, for the recognition and enforcement of which the recoverer applies;

4) an indication as to the recognition and enforcement of the foreign court judgement or the foreign arbitration award, or the refusal to recognise and enforce the foreign court judgement or the foreign arbitration award.

3. The commercial court ruling on the recognition and enforcement of a foreign court judgement or of a foreign arbitration award may be appealed against to a cassational commercial court within one month from the day of issuance of the ruling.

Article 246. Enforcement of a Foreign Court Judgement or of a Foreign Arbitration Award

1. The enforcement of a foreign court judgement or of a foreign arbitration award is carried out on the basis of a writ of execution issued by the commercial court, which issues the ruling on the recognition and enforcement of the foreign court judgement or of the foreign arbitration award, in the manner provided by this Code and by the federal law on the enforcement procedure.

2. A foreign court judgement or a foreign arbitration award may be presented for enforcement within a term not exceeding three years from the day of its entry into force. If this term is missed, it may be restored by the commercial court upon the recoverer's motion in accordance with the rules, stipulated in **Chapter 10** of this Code.

Section V. Proceedings in Cases with the Participation of Foreign Persons

Chapter 32. Competence of Commercial Courts in the Russian Federation to Consider Cases with the Participation of Foreign Persons

Article 247. Competence of Commercial Courts in the Russian Federation in Cases with the Participation of Foreign Persons

1. Commercial courts in the Russian Federation consider economic disputes and other cases, related to the exercise of entrepreneurial and other economic activities with the participation of foreign

organisations, of international organisations, of foreign citizens or of stateless persons, engaged in entrepreneurial and other economic activities (hereinafter - foreign persons), if:

1) the defendant is present or resides on the territory of the Russian Federation, or the defendant's property is located on the territory of the Russian Federation;

2) the managing body, a representative or branch office of the foreign person is located on the territory of the Russian Federation;

3) the dispute arises from a contract, according to which the performance is to take place or took place on the territory of the Russian Federation;

4) the claim arises from the infliction of damage to property by an action or another circumstance, which took place on the territory of the Russian Federation, or if damage occurred on the territory of the Russian Federation;

5) the dispute arises from unjust enrichment, which took place on the territory of the Russian Federation;

6) in a case on the protection of business reputation, the plaintiff is located on the territory of the Russian Federation;

7) the dispute arises from relations concerning the circulation of securities, issued on the territory of the Russian Federation;

8) the applicant in a case on the establishment of a legally significant fact indicates the existence of the fact on the territory of the Russian Federation;

9) the dispute arises from relations concerning the state registration of domain names and other objects, and the rendering of services in the World Wide Web - the Internet - on the territory of the Russian Federation;

10) in other cases, where there exists a close link between the disputed legal relation and the territory of the Russian Federation.

2. Commercial courts in the Russian Federation also consider economic disputes and other cases, related to entrepreneurial and other economic activities with the participation of foreign persons, referred to their exclusive competence in accordance with **Article 248** of this Code.

3. Commercial courts in the Russian Federation also consider cases in conformity with the agreement of the parties, concluded in accordance with the rules, established in **Article 249** of this Code.

4. A case, accepted by the commercial court for consideration, with the observation of the rules established in this Article, must be considered on its merits by the court, even if in the course of proceedings it is referred to the competence of a foreign court in connection with the change of location or place of residence of the persons participating in the case or with other circumstances.

Article 248. Exclusive Competence of Commercial Courts in the Russian Federation in Cases with the Participation of Foreign Persons

1. The following cases with the participation of foreign persons are referred to the exclusive competence of commercial courts in the Russian Federation:

1) cases concerning state property of the Russian Federation, including disputes concerning the privatisation of state property and eminent domain;

2) cases, the subject matter in which is immovable property or the rights to it, if this property is located on the territory of the Russian Federation;

3) cases concerning the registration or issuance of patents, the registration and issuance of certificates to trademarks, industrial designs and utility models, or the registration of other rights to results of intellectual activity, which require the registration or the issuance of a patent or of a certificate in the Russian Federation;

4) cases regarding the invalidation of entries in public registers (books of records, cadastres), made by a competent body of the Russian Federation, keeping such a public register (book of records, cadastre);

5) cases concerning the creation, liquidation or registration of legal entities and individual

entrepreneurs on the territory of the Russian Federation, as well as the challenge of decisions of these legal entities' bodies.

2. Cases with the participation of foreign persons, stipulated in **Section III** of this Code, arising from administrative or other public relations, are also referred to the exclusive competence of commercial courts in the Russian Federation.

Article 249. Choice of Court Agreement

1. If the parties, of which at least one is a foreign person, conclude an agreement, in which it is stated that a commercial court in the Russian Federation possesses the competence to consider a dispute that arises or may arise, concerning the performance by them of entrepreneurial and other economic activity, the commercial court in the Russian Federation possesses the exclusive competence to consider the given dispute on condition that such an agreement does not interfere with the exclusive competence of a foreign court.

2. The choice of court agreement must be concluded in the written form.

Article 250. Competence of Commercial Courts in the Russian Federation for the Application of Provisional Measures in Cases with the Participation of Foreign Persons

In cases with the participation of foreign persons, referred to the competence of commercial courts in the Russian Federation in conformity with Chapter 32 of this Code, the commercial court may apply provisional measures in accordance with the rules, provided in **Chapter 8** of this Code.

Article 251. Jurisdictional Immunity

1. A foreign state as a holder of power enjoys jurisdictional immunity regarding claims filed against it with commercial courts in the Russian Federation, its drawing to participation in the case in the capacity of a third person, arrest of property belonging to the foreign state and located on the territory of the Russian Federation, measures taken against it to secure the claim and property interests. Recovery of this property in the course of enforcement of a commercial court's judicial act is only admissible with the consent of the competent bodies of the corresponding state, unless otherwise stipulated in an international treaty of the Russian Federation or in federal law.

2. The jurisdictional immunity of international organisations is determined by an international treaty of the Russian Federation and by federal law.

3. Jurisdictional immunity may only be waived in the manner, stipulated in the law of the foreign state or in the rules of the international organisation. In this instance, the commercial court considers the case in the manner, established in this Code.

Article 252. Procedural Consequences of Consideration of a Case on a Dispute between the Same Persons, on the Same Subject Matter and on the Same Grounds by a Foreign Court

1. A commercial court in the Russian Federation leaves a claim without consideration in accordance with the rules of **Chapter 27** of this Code, if a case between the same persons, on the same subject matter and on the same grounds is being considered by a foreign court, on condition that the consideration of the given case is not referred to the exclusive competence of a commercial court in the Russian Federation in conformity with **Article 248** of this Code.

2. A commercial court in the Russian Federation terminates proceedings in the case in conformity with the rules of **Chapter 18** of this Code, if there exists an effective foreign court judgement, adopted on the dispute between the same persons, on the same subject matter and on the same grounds, on condition that the consideration of the given case is not referred to the exclusive competence of a commercial court in the Russian Federation or that the said judgement is not subject

to recognition and enforcement in conformity with **Article 244** of this Code.

Chapter 33. Special Rules for the Consideration of Cases with the Participation of Foreign Persons

Article 253. Consideration of Cases with the Participation of Foreign Persons

1. Cases with the participation of foreign persons are considered by commercial courts in accordance with the rules of this Code and subject to the special rules, stated in this Chapter, unless otherwise provided by an international treaty of the Russian Federation.

2. Cases with the participation of foreign persons are considered within the terms fixed in this Code, if these persons or their managing bodies, representative or branch offices or representatives, authorised to conduct business, are located or reside on the territory of the Russian Federation.

3. If foreign persons, participating in a case, considered by a commercial court in the Russian Federation, are located or reside outside the territory of the Russian Federation, such persons are notified of the judicial proceedings by a commercial court ruling forwarded in a letter of request to a juridical institution or to another competent body of a foreign state. In these cases, the commercial court extends the term for the consideration of the case by the term, established in the mutual legal assistance treaty for the forwarding of letters of request to a juridical institution or to another competent body of the foreign state, and if such a term is not fixed in the treaty or such a treaty does not exist – by no more than six months.

Article 254. Procedural Rights and Duties of Foreign Persons

1. Foreign persons enjoy procedural rights and discharge procedural duties on a par with Russian organisations and citizens. Procedural privileges are granted to foreign persons if they are stipulated in an international treaty of the Russian Federation.

2. Foreign persons have the right to apply to commercial courts in the Russian Federation for the protection of their violated or disputed rights and lawful interests in the sphere of entrepreneurial and other economic activities, in accordance with the rules of competence and jurisdiction, established in this Code.

3. Foreign persons participating in the case are obliged to present to the commercial court the proof of their legal status and their right to perform entrepreneurial and other economic activity.

If such proof is not supplied, the commercial court may order to present it on its own initiative.

4. The Government of the Russian Federation may establish reciprocal restrictions (retortions) against persons of those foreign states, in which restrictions against Russian organisations or citizens are introduced.

Article 255. Requirements to Documents of Foreign Origin

1. Documents regarding Russian organisations and citizens or foreign persons that are issued, compiled or certified in accordance with the established form by the competent bodies of foreign states outside the territory of the Russian Federation in conformity with the norms of foreign law are accepted by commercial courts in the Russian Federation, if the said documents are legalised, or if an apostille is placed on them, unless otherwise stipulated in an international treaty of the Russian Federation.

2. When submitted to a commercial court in the Russian Federation, documents compiled in a foreign language must be accompanied by a properly certified translation into the Russian language.

Article 256. Letters of Request for the Performance of Individual Procedural Actions

1. The commercial court executes letters of request of foreign courts and of competent bodies

of foreign states for the performance of individual procedural actions (handing of summons and of other documents, request of written evidence, conduction of expert examinations or examinations on the spot, etc.) forwarded to it in the manner, stipulated in an international treaty of the Russian Federation or in federal law.

2. A letter of request of a foreign court or of a competent body of a foreign state is not subject to execution, if:

1) the execution of the letter of request violates the fundamental principles of Russian law or in any other way contradicts the public policy of the Russian Federation;

2) the execution of the letter of request is not referred to the competence of the commercial court in the Russian Federation;

3) the authenticity of the document, containing the request to perform individual procedural actions is not established.

3. The commercial court executes letters of request for the performance of individual procedural actions in the manner, provided by this Code, unless otherwise stipulated in an international treaty of the Russian Federation.

4. Commercial courts may, in the manner, established by an international treaty of the Russian Federation or by federal law, forward letters of request for the performance of individual procedural actions to foreign courts or to competent bodies of foreign states.

Section VI. Proceedings for the Review of Judicial Acts of Commercial Courts

Chapter 34. Proceedings in an Appellate Commercial Court

Article 257. Right to File an Appeal

1. Persons participating in the case, as well as other persons in the instances, stipulated in this Code, have the right to dispute in appellate proceedings a decision of a commercial court of the first instance, which has not yet entered into force.

2. The appeal is filed through the commercial court, which delivered the decision in the first instance; this court is obliged to forward the appeal along with the case to the appropriate appellate commercial court within three days from the appeal's receipt by the court.

3. The appeal may not contain new claims, which have not been considered by the commercial court of the first instance.

Article 258. Appellate Commercial Court

Appeals are considered in appellate proceedings by appellate commercial courts, formed in conformity with the Federal Constitutional Law on Commercial Courts in the Russian Federation.

Article 259. Term for Filing an Appeal

1. An appeal may be filed within one month after the delivery of the disputed decision by a commercial court of the first instance, unless a different term is fixed in this Code.

2. The term for filing an appeal, missed for reasons beyond control of the person filing the appeal, including when such a person does not possess any information regarding the disputed judicial act, may be restored by the appellate commercial court upon this person's motion, on condition that the motion is filed no later than within six months from the day of the decision's delivery or, if the motion is filed by the person, indicated in **Article 42** of this Code, from the day, on which this person learned or must have learned about the violation of its rights and lawful interests by the disputed judicial act.

3. The request for the restoration of the missed term for filing an appeal is considered by an appellate commercial court in the manner, provided by **Article 117** of this Code.

4. The restoration of the term for filing an appeal is stated in the commercial court ruling on the

acceptance of the appeal for proceedings, the refusal to restore the missed term for filing an appeal - in the ruling on the return of the appeal.

5. The case may not be requested from the commercial court until the expiry of the term, fixed in this Code for filing an appeal.

Article 260. Form and Contents of an Appeal

1. An appeal is filed with the commercial court in the written form. An appeal is signed by the person filing it or by its representative, authorised to sign appeals. An appeal may also be filed by filling out the form on the commercial court's official website.

2. An appeal must contain:

- 1) the name of the commercial court, to which the appeal is filed;
- 2) the name of the person filing the appeal and of the other persons participating in the case;
- 3) the name of the commercial court, which delivered the disputed decision, the number of the case and the date of the decision's delivery, the subject matter of the dispute;
- 4) the claims of the person filing the appeal and the grounds, on which this person disputes the decision, with references to laws and other normative legal acts, to the circumstances of the case and to the evidence contained in the case;

5) a list of documents, attached to the appeal.

An appeal may also contain phone and fax numbers, e-mail addresses and other information necessary for the consideration of case; motions may be stated in the text of the appeal.

3. The person filing the appeal is obliged to forward to other persons participating in the case copies of the appeal and of the documents attached to it, which they do not possess, via registered letter with advice of delivery, or to hand the copies in person and against receipt to other persons participating in the case or to their representatives.

4. The following are attached to an appeal:

- 1) a copy of the disputed decision;
- 2) documents confirming the payment of the fee in the established manner and amount, or confirming the right to a privilege in the payment of the fee, or a motion to grant a delay, to reduce the amount of the fee or to allow its payment by instalments;
- 3) a document, confirming that copies of the appeal have been forwarded or handed to other persons participating in the case along with the copies of the documents they did not possess;
- 4) a certificate of authority or another document, confirming the power to sign the appeal.

The returned statement of claim and the documents, attached to it at the time it was filed with the commercial court, must be attached to the appeal against the commercial court ruling on the return of the statement of claim. Documents, attached to the appeal, may be submitted to the commercial court in electronic form.

Article 261. Acceptance of an Appeal for Commercial Court Proceedings

1. An appeal, filed with the observation of requirements, stipulated in this Code to its form and contents, is accepted for proceedings of the appellate commercial court. If the said requirements are not met, the commercial court shelve the appeal or returns it in the manner, provided by **Articles 263 and 264** of this Code.

2. The issue of acceptance of an appeal for proceedings is resolved by a single judge of the appellate commercial court within five days from the day of the appeal's receipt by the appellate commercial court.

The appellate commercial court issues a ruling on the acceptance of the appeal, which commences the proceedings on the appeal.

The ruling specifies the time and place of the court session for the consideration of the appeal. The time of the first court session for the consideration of the appeal is fixed taking into account that it cannot be appointed until the term, provided by this Code for filing appeals against the commercial

court decision, expires.

3. Copies of the ruling are forwarded to persons participating in the case within five days from the day of the appeal's receipt by the appellate commercial court.

Article 262. Statement of Defence on the Appeal

1. A person participating in the case forwards a statement of defence on the appeal, enclosing the documents, confirming the objections against the appeal, to other persons participating in the case and to the commercial court.

A document confirming the forwarding of the statement of defence to other persons participating in the case, is attached to the statement of defence, forwarded to the commercial court.

2. The statement of defence is forwarded via registered letter with advice of delivery, within a term, ensuring the possibility to access it before the beginning of the court session.

3. The statement of defence is signed by the person participating in the case or by its representative. A certificate of authority or another document, confirming the power to sign the statement of defence is attached to the opinion, signed by the representative.

4. The statement of defence may be submitted to the commercial court by filling out the form on the official website of the commercial court, considering the case. Documents, attached to the statement of defence, may be submitted to the commercial court in electronic form.

Article 263. Shelving an Appeal

1. If, when resolving the issue of acceptance of an appeal for consideration, the appellate commercial court finds that it was filed in violation of requirements, provided by **Article 260** of this Code, it issues a ruling on shelving the appeal.

This ruling may be appealed against.

2. In the ruling, the commercial court indicates the grounds for shelving the appeal and the term within which the person filing the appeal must eliminate the circumstances, serving as grounds for shelving the appeal.

3. A copy of the ruling on shelving the appeal is forwarded to the person, who filed it, no later than on the day following its issuance.

4. If the circumstances that served as grounds for shelving the appeal are eliminated within the term fixed in the court ruling, the appeal is regarded as filed on the day of its initial receipt by the court and is accepted for proceedings of the appellate commercial court.

5. If the said circumstances are not eliminated within the term, indicated in the ruling, the commercial court returns the appeal and the documents, attached to it, to the person who filed it, in the manner, established in Article 264 of this Code.

Article 264. Return of an Appeal

1. The appellate commercial court returns the appeal, if, when resolving the issue of the appeal's acceptance for proceedings it establishes that:

1) the appeal is filed by a person, not entitled to dispute a judicial act in appellate proceedings;
2) the appeal is filed against a judicial act, which, according to this Code, may not be appealed against in appellate proceedings;

3) the appeal is filed after the expiry of the term, fixed in this Code for filing an appeal, and does not contain a motion for its restoration, or the restoration of the missed term for filing the appeal is denied;

4) the person who filed the appeal files a motion for its return before a ruling on the appeal's acceptance for proceedings is issued;

5) Circumstances that served as grounds for shelving the appeal have not been eliminated within the term, fixed in the court ruling.

The appellate commercial court also returns the appeal if the motion to grant a delay of payment of the fee, to reduce its amount or to allow payment by instalments is rejected.

2. The commercial court issues a ruling on the return of the appeal.

3. The ruling indicates the grounds for the return of the appeal and resolves the issue of the return of the fee from the federal budget.

A copy of the ruling on the return of the appeal is forwarded to the person who filed the appeal along with the appeal and the attached documents no later than on the day following its issuance, or after the expiration of the term, fixed by the court for the elimination of circumstances, that serve as grounds for the shelving of the appeal.

4. The commercial court ruling on the return of an appeal may be appealed against.

If the ruling is cancelled, the appeal is regarded as filed on the day of the initial application to the commercial court.

5. The return of an appeal is not an obstacle to a repeated filing of an appeal to the commercial court in the general manner, after the circumstances that served as grounds for its return have been eliminated.

Article 265. Termination of Proceedings on an Appeal

1. If a person who filed the appeal files a motion on its renunciation after the appeal is accepted for commercial court proceedings, and the renunciation is accepted by the commercial court in conformity with **Article 49** of this Code, the commercial court terminates proceedings on the appeal.

2. If the appeal contains new claims, which were not subject matter of consideration in the commercial court of the first instance that delivered the disputed decision, the appellate commercial court terminates proceedings on the appeal as to these claims.

3. The commercial court issues a ruling on the termination of proceedings on the appeal.

Copies of the ruling on the termination of proceedings on an appeal are forwarded to persons participating in the case no later than on the day following its issuance.

4. The commercial court ruling on the termination of proceedings on an appeal may be appealed against.

5. If proceedings on an appeal are terminated, a repeated appeal by the same person on the same grounds to the appellate commercial court is inadmissible.

Article 265.1. Stay of Execution of Judicial Acts by an Appellate Commercial Court

1. An appellate commercial court may, upon motion of persons participating in the case, stay the execution of judicial acts, delivered by a commercial court of the first instance, if the applicant substantiates the fact that the reversion of execution is impossible or difficult, or if the applicant provides the security, envisaged in Part 2 of this Article.

2. The execution of a decision of a commercial court is stayed by the appellate commercial court, if the person requesting such a stay provides the compensation of possible losses to the other party in the case (counter indemnity), by depositing money to the bank account of the appellate commercial court in the amount of the disputed sum or by providing a bank guarantee, a surety or another financial provision in the same amount.

3. The appellate commercial court issues a ruling on the stay of execution of a judicial act or on the refusal to stay the execution within three days after the receipt of the corresponding motion by the court. The ruling may be appealed against to a cassational commercial court. The contents of the said ruling may be stated in the ruling on the acceptance of the appeal for proceedings.

A copy of the ruling is forwarded to persons participating in the case.

4. The stay of the judicial act's execution lasts until the appellate commercial court issues a judgement after the consideration of the appeal, unless a different term for the stay is fixed by the court.

Article 266. Consideration of a Case by an Appellate Commercial Court

1. A case is considered in an appellate commercial court by a panel of judges, in a court session, in accordance with the rules for the consideration of a case in a commercial court of the first instance, subject to the special rules, provided by this Chapter. Commercial court assessors are not drawn to the consideration of cases in appellate proceedings.

2. Minutes are kept in the course of every court session of the appellate commercial court, as well as during the performance of individual procedural actions out of the court session, in accordance with the rules, provided by **Article 155** of this Code.

3. Rules for joining and separating several claims, for changing the subject matter or the grounds of the claim, for changing the amount of the claims, for filing a counterclaim, for replacing an improper defendant or for drawing third persons to participation in the case, as well as other rules, established in this Code solely for the consideration of the case in a commercial court of the first instance, are not applied in an appellate commercial court.

Article 267. Term for the Consideration of an Appeal

1. An appellate commercial court considers an appeal against the decision of a commercial court of the first instance within two months at most, from the day of the receipt of the appeal and the case by the appellate commercial court, including the time for the preparation of the case for judicial proceedings and for the delivery of a judicial act, unless otherwise stipulated in this Code. If the appeal is received by the appellate commercial court before the term for filing it expires, the term for the consideration of the appeal is counted beginning on the day of expiry of the term, fixed for filing it.

2. The president of the commercial court may extend the term, fixed in Part 1 of this Article, for up to six months, on the basis of a reasoned application of the judge, considering the case, due to the special complexity of the case or a considerable number of participants to the proceedings.

Article 268. Limits for the Consideration of the Case by an Appellate Commercial Court

1. When considering a case in appellate proceedings, the commercial court repeatedly considers the case, based on the evidence, already contained in the case and additionally presented.

2. Additional evidence is accepted by the appellate commercial court, if a person participating in the case substantiates the impossibility to submit it to the court of the first instance for reasons beyond its control, including when the court of the first instance rejected the motion for the order to present evidence, and if the court recognises these reasons as good.

Documents, submitted in substantiation of objections against an appeal, in conformity with **Article 262** of this Code, are accepted and examined by the appellate commercial court on their merits.

3. When a case is considered by the appellate commercial court, persons participating in the case may file motions for the summons of new witnesses, for the conduct of expert examinations, for the inclusion of written and material evidence to the case or for the order to present evidence, the examination or order for the presentation of which was denied by the court of the first instance. The appellate commercial court may not refuse to satisfy the said motions on the ground that they were rejected by the court of the first instance.

4. Circumstances of the case, which were acknowledged and certified by persons participating in the case in the manner, established in **Article 70** of this Code and accepted by the commercial court of the first instance, are not checked by the appellate commercial court.

5. If only a part of the decision is appealed against in appellate proceedings, the appellate commercial court only checks the legality and substantiation of the decision in this part, unless the persons participating in the case object to that.

6. Regardless of the arguments contained in the appeal, the appellate commercial court ascertains that the court of the first instance did not violate the norms of procedural law, which in accordance with **Part 4 of Article 270** of this Code constitute grounds for the reversal of the decision

of the commercial court of the first instance.

6¹. If there exist grounds, provided by **Part 4 of Article 270** of this Code, the appellate commercial court considers the case according to the rules, established for the consideration of the case by a commercial court of the first instance, within no more than three months from the date of receipt of the appeal and the case by the appellate commercial court. A ruling is issued on the transfer to the consideration of the case according to the rules for a court of the first instance, specifying the actions of persons participating in the case and the terms for the performance of those actions.

The reversal of the decision of the commercial court of the first instance is indicated in the ruling, issued by the appellate commercial court upon the consideration of the appeal.

7. New claims, which were not subject matter of consideration in the commercial court of the first instance, are not accepted and considered by the appellate commercial court.

Article 269. Powers of an Appellate Commercial Court

After considering the appeal, the appellate commercial court is entitled:

- 1) to leave the decision of the commercial court of the first instance without amendment and the appeal - without satisfaction;
- 2) to reverse or amend the decision of the court of the first instance fully or in part and to deliver a new judicial act on the case;
- 3) to reverse the decision fully or in part and to terminate proceedings on the case or to leave the statement of claim without consideration fully or in part.

Article 270. Grounds for the Amendment or Reversal of a Decision of a Commercial Court of the First Instance

1. Grounds for the amendment or reversal of a decision of a commercial court of the first instance are as follows:

- 1) incomplete ascertainment of the circumstances significant for the case;
- 2) failure to prove the circumstances, significant for the case, which the court believed to be established;
- 3) contradiction of the conclusions presented in the decision to the facts of the case;
- 4) violation or incorrect application of the norms of substantive or procedural law.

2. The following are regarded as incorrect application of the norms of substantive law:

- 1) non-application of the law, subject to application;
- 2) application of the law, not subject to application;
- 3) erroneous interpretation of the law.

3. Violation or incorrect application of the norms of procedural law constitutes grounds for the amendment or reversal of the decision of a commercial court of the first instance, if this violation caused or could have caused the delivery of an incorrect decision.

4. In any case, the following are the grounds for the reversal of a decision of the commercial court of the first instance:

- 1) consideration of the case by an illegal composition of the commercial court;
- 2) consideration of the case in the absence of any of the persons participating in the case, not properly notified of the time and place of the court session;
- 3) violation of the rules regarding the language of proceedings during the consideration of the case;
- 4) the court's delivery of a decision regarding the rights and duties of persons, not drawn to the participation in the case;
- 5) non-signing of the decision by the judge or by one of the judges, if the case was considered in panel, or signing of the decision by judges, other than those named in the decision;
- 6) absence of the minutes of the court session in the case or its signing by the persons, other than those named in **Article 155** of this Code;

- 7) violation of the rule of secrecy of the judges' conference during the delivery of the decision.
5. Abrogated.

Article 271. Judgement of an Appellate Commercial Court

- 1.** After the consideration of the appeal, the appellate commercial court delivers a judicial act, called a judgement, which is signed by the judges, who considered the case.
- 2.** The judgement of an appellate commercial court must contain:
 - 1) the name of the appellate commercial court, the composition of the court, which delivered the judgement; the surname of the person who kept the minutes of the court session;
 - 2) the number, date, and place of delivery of the judgement;
 - 3) the name of the person, who filed the appeal and its procedural status;
 - 4) the names of persons participating in the case;
 - 5) the subject matter of the dispute;
 - 6) the surnames of persons, who attended the court session, with an indication of their powers;
 - 7) the date of delivery of the disputed decision by the commercial court of the first instance and the surnames of the judges, who delivered it;
 - 8) a brief statement of contents of the delivered decision;
 - 9) grounds in the appeal, substantiating the claim to verify the legality and the substantiation of the decision;
 - 10) arguments, stated in the statement of defence on the appeal;
 - 11) explanations of persons participating in the case and attending the court session;
 - 12) facts of the case, established by the appellate commercial court; evidence, proving the conclusions of the court regarding these facts; laws and other normative legal acts, on which the court relied, when delivering the judgement; motives, according to which the court rejected certain evidence and did not apply the laws and normative legal acts, to which the persons participating in the case referred;
 - 13) motives, according to which the appellate court did not agree with the conclusions of the court of the first instance in case the latter's decision is reversed, fully or in part;
 - 14) conclusions as to the results of consideration of the appeal.
- 3.** The judgement of the appellate commercial court specifies the distribution of judicial costs between the parties, including the judicial costs, borne in connection with the filing of the appeal.
- 4.** Copies of the commercial court judgement are forwarded to the persons participating in the case within five days from the day of the judgement's delivery.
- 5.** The judgement of the appellate commercial court enters into force on the day of its delivery.
- 6.** The judgement of the appellate commercial court may be appealed against to the cassational commercial court, unless otherwise stipulated in this Code.

Article 272. Appeals against Rulings of the Commercial Court of the First Instance

- 1.** Rulings of the commercial court of the first instance are appealed against to the appellate commercial court in conformity with **Article 188** of this Code.
- 2.** Appeals against the rulings of the commercial court of the first instance are filed to the appellate commercial court and are examined by it in accordance with the rules, stipulated for the filing and consideration of appeals against decisions of the commercial court of the first instance, subject to the special rules, stipulated in **Part 3 of Article 39** of this Code and in Part 3 of this Article.
- 3.** Appeals against rulings of the commercial court of the first instance, appealing against which is provided by **Articles 46, 50, 51** and **130** of this Code, as well as against rulings on the return of a statement of claim and against other rulings, which impede the further progress of the case, are considered by an appellate commercial court within no more than fifteen days since the receipt of the appeal by the appellate commercial court.
- 4.** After the consideration of the appeal against the ruling of a commercial court of the first

instance, the commercial court is entitled:

- 1) to leave the ruling without amendment and the appeal - without satisfaction;
- 2) to reverse the ruling of the commercial court of the first instance and to forward the issue to the commercial court of the first instance for a new consideration;
- 3) to reverse the ruling fully or in part and to resolve the issue on its merits.

Article 272.1. Appeals against Decisions of the Commercial Court of the First Instance on Cases Considered through Summary Proceedings

1. Appeals against decisions of the commercial court of the first instance on cases considered through summary proceedings are considered by a single judge of an appellate commercial court, based on the evidence in the case.

2. Additional evidence is not accepted by an appellate commercial court in cases considered through summary proceedings, unless, in accordance with Part 6.1 of Article 268 of this Code, the appellate commercial court is considering the case according to rules provided for the consideration of cases in a commercial court of the first instance.

Chapter 35. Proceedings in a Cassational Commercial Court

Article 273. Right to File a Cassational Appeal

1. A decision of a commercial court of the first instance, which entered into force, if such a decision was the subject matter of consideration of an appellate commercial court, or if an appellate commercial court refused to restore the missed term for filing an appeal (with the exception of decisions of the Supreme Commercial Court of the Russian Federation), and a judgement of an appellate commercial court may be appealed against in cassational proceedings fully or in part, unless otherwise stipulated in this Code, by persons participating in the case as well as by other persons in cases, stipulated in this Code.

2. Decisions of the Intellectual Property Rights Court, which were rendered by it as a court of the first instance and entered into force, may be appealed against in cassational procedure fully or in part by persons participating in the case as well as by other persons in cases, provided by this Code.

Article 274. Cassational Commercial Court

1. Cassational appeals are examined in cassational proceedings by cassational commercial courts, formed in conformity with the Federal Constitutional Law on Commercial courts in the Russian Federation.

2. Cassational appeals against decisions, delivered on compensation claims for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time are considered in cassational proceedings by the same court in different composition.

3. The Intellectual Property Rights Court considers as a court of the cassational instance:

- 1) cases, considered by it as a court of the first instance;
- 2) cases on the protection of intellectual property rights, considered by commercial courts of the constituent units of the Russian Federation as courts of the first instance, by appellate commercial courts.

Article 275. Filing of a Cassational Appeal

1. A cassational appeal is filed to the cassational commercial court, entitled to consider it, through the commercial court, which delivered the decision.

2. The commercial court which delivered the decision is obliged to forward the cassational appeal together with the case to the corresponding cassational commercial court within three days from

the appeal's receipt by the court.

Article 276. Term for Filing a Cassational Appeal

1. A cassational appeal may be filed within two months at most from the day of entry of the disputed decision or judgement of the commercial court into force, unless otherwise provided by this Code.

2. The term for filing a cassational appeal, missed for reasons beyond control of the person filing the appeal, including when this person did not possess any information regarding the disputed judicial act, may be restored by the cassational commercial court upon this person's motion, on condition that the motion is filed no later than within six months from the day of entry of the disputed judicial act into force or, if the motion is filed by the person, indicated in **Article 42** of this Code, from the day, on which this person learned or must have learned about the violation of its rights and lawful interests by the disputed judicial act.

3. A motion for the restoration of a missed term for filing a cassational appeal is considered by the cassational commercial court in the manner, provided by **Article 117** of this Code.

4. The commercial court cites the restoration of the missed term for filing a cassational appeal in a ruling on the acceptance of the cassational appeal for proceedings, the refusal to restore the missed term for filing a cassation appeal - in the ruling on the return of the cassation appeal.

5. The case may not be requested from the commercial court until the expiry of the term, fixed by this Code for filing a cassational appeal.

Article 277. Form and Contents of a Cassational Appeal

1. A cassational appeal is filed with the commercial court in the written form. The cassational appeal is signed by the person filing the appeal or by their representative, authorised to sign the appeal. A cassational appeal may also be filed by filling out the form on the commercial court's official website.

2. A cassational appeal must contain:

- 1) the name of the commercial court, with which the cassational appeal is filed;
- 2) the name of the person filing the appeal with an indication of its procedural status, and the names of the other persons participating in the case, their location or place of residence;
- 3) the name of the commercial court, which delivered the disputed decision or judgement, the number of the case and the date of delivery of the decision or judgement, the subject matter of the dispute;
- 4) the claims of the person filing the appeal for the verification of the legality of the disputed judicial act and the grounds, on which the person filing the appeal appeals against the decision or judgement, with reference to laws and other normative legal acts, to the facts of the case and to the evidence, contained in the case;
- 5) a list of documents, attached to the appeal.

A cassational appeal may also contain phone and fax numbers, e-mail addresses and other information, necessary for the consideration of the case; motions may be stated in the text of the cassational appeal.

3. The person filing a cassational appeal is obliged to forward to other persons participating in the case copies of the cassational appeal and of the documents, attached to it, which they do not possess, via registered letter with advice of delivery, or to hand them in person and against receipt to other persons participating in the case or to their representatives.

4. The following are attached to a cassational appeal:

- 1) a copy of the disputed judicial act;
- 2) documents, confirming the payment of the fee in the established manner and amount, or confirming the right to a privilege in the payment of the fee, or a motion to grant a delay, to reduce the amount of the fee or to allow its payment by instalments;

3) documents confirming that copies of the cassational appeal have been forwarded or handed to other persons participating in the case along with the copies of documents which they did not possess;

4) a certificate of authority or another document confirming the power to sign a cassational appeal.

5. Documents, attached to the cassational appeal, may be submitted to the commercial court in electronic form.

Article 278. Acceptance of a Cassational Appeal for Commercial Court Proceedings

1. A cassational appeal, filed in compliance with the requirements regarding its form and contents, stipulated in this Code, is accepted for proceedings of the cassational commercial court. If these requirements are not met, the cassational commercial court shelves the cassational appeal or returns it in the manner, provided by **Articles 280** and **281** of this Code.

2. The issue of acceptance of the cassational appeal for commercial court proceedings is resolved by a single judge within five days from the day of the cassational appeal's receipt by the cassational commercial court.

3. The commercial court issues a ruling on the acceptance of the cassational appeal for proceedings, which commences the proceedings on the cassational appeal.

The ruling specifies the time and place of a court session for the consideration of the cassational appeal. The time of the first court session for the consideration of the cassational appeal is fixed taking into account that it may not be appointed until the expiry of the term, provided by this Code for filing a cassational appeal.

Copies of the ruling on the acceptance of the cassational appeal are forwarded to persons participating in the case no later than on the day following its issuance.

Article 279. Statement of Defence on the Cassational Appeal

1. A person participating in the case forwards a statement of defence on the cassational appeal, enclosing documents, confirming the objections regarding the appeal, to other persons participating in the case and to the commercial court.

A document, confirming that the statement of defence has also been forwarded to other persons participating in the case, is attached to the statement of defence, forwarded to the commercial court.

2. The statement of defence is forwarded via registered letter with advice of delivery within a term, ensuring the possibility to access it before the beginning of the court session.

3. The statement of defence is signed by the person participating in the case or by its representative. A certificate of authority or another document, confirming the power to sign the statement of defence, is attached to the opinion, signed by a representative.

4. The statement of defence may be submitted to the commercial court by filling out the form on the official website of the commercial court, considering the case. Documents, attached to the statement of defence, may be submitted to the commercial court in electronic form.

Article 280. Shelving a Cassational Appeal

1. If, when resolving the issue of acceptance of the cassational appeal for proceedings, the commercial court establishes that it was filed in violation of requirements, stipulated in **Article 277** of this Code, it issues a ruling on shelving the cassational appeal.

2. In the ruling, the commercial court cites the grounds for shelving the cassational appeal and the term, in the course of which the person that filed the cassational appeal is obliged to eliminate the circumstances, serving as grounds for its shelving.

3. A copy of the ruling on shelving the cassational appeal is forwarded to the person, who filed the cassational appeal, no later than on the day following its issuance.

4. If the circumstances that served as grounds for shelving the cassational appeal are eliminated within the term, indicated in the court ruling, the cassational appeal is regarded as filed on the day of its initial receipt by the court and is accepted for proceedings of the cassational commercial court.

5. If the said circumstances are not eliminated within the term fixed in the ruling, the commercial court returns the cassational appeal and the documents, attached to it, to the person, who filed the appeal, in the manner, established in Article 281 of this Code.

Article 281. Return of a Cassational Appeal

1. The cassational commercial court returns the cassational appeal if, while resolving the issue of acceptance of the cassational appeal, it establishes that:

1) the cassational appeal was filed by a person, not entitled to appeal against a judicial act in cassational proceedings, or that it was filed against a judicial act, which may not be appealed against in cassational proceedings according to this Code;

2) the cassational appeal was filed after the expiry of the term for filing a cassational appeal, fixed in this Code, and does not contain a motion for its restoration, or that the restoration of the missed term was denied;

3) the person, who filed the cassational appeal, filed a motion for its return before a ruling on the cassational appeal's acceptance for proceedings of the cassational commercial court was issued;

4) circumstances that constituted grounds for the shelving of the cassational appeal were not eliminated within the term, established in the court ruling.

5) the cassational appeal is filed against a judicial act, which was not appealed against in the appellate commercial court, unless otherwise stipulated in this Code.

The cassational commercial court also returns the cassational appeal, if the motion to grant a delay of payment of the fee, to decrease its amount or to allow payment by instalments is rejected.

2. The cassational commercial court issues a ruling on the return of a cassational appeal.

A copy of the ruling on the return of a cassational appeal is forwarded to the person, who filed it, together with the cassational appeal and with the documents, attached to it, no later than on the day following its issuance or after the expiry of the term, fixed by the court for the elimination of circumstances, serving as grounds for shelving the cassational appeal.

3. A ruling on the return of a cassational appeal may be appealed against to the cassational commercial court in the manner, established in **Article 291** of this Code.

If the ruling is reversed, the cassational appeal is seen as filed on the day of the initial application to the commercial court.

4. The return of the cassational appeal is not an obstacle for a repeated filing of the cassational appeal with the commercial court in the general manner after the elimination of the circumstances that served as grounds for its return.

Article 282. Termination of Proceedings on a Cassational Appeal

1. If a person, who filed the cassational appeal, files a motion on its renunciation after the cassational appeal is accepted for proceedings, and the renunciation is accepted by the commercial court in conformity with **Article 49** of this Code, the cassational commercial court terminates proceedings on the appeal.

2. The commercial court issues a ruling on the termination of proceedings on a cassational appeal.

Issues concerning the distribution of judicial costs between the parties and the return of the fee from the federal budget may be resolved in the ruling.

Copies of the ruling on the termination of proceedings on the cassational appeal are forwarded to persons participating in the case.

3. If the proceedings on a cassational appeal are terminated, a repeated filing of a cassational appeal with the commercial court by the same person on the same grounds is inadmissible.

4. The commercial court ruling on the termination of proceedings on a cassational appeal may be appealed against to the cassational commercial court in the manner, provided by **Article 291** of this Code.

Article 283. Stay of Execution of Judicial Acts by a Cassational Commercial Court

1. A cassational commercial court has the right to stay the execution of judicial acts, delivered by a commercial court of the first or appellate instances, upon the motion of persons participating in the case, on condition that the applicant substantiates the fact that the reversion of execution is impossible or difficult, or if the applicant provides the security, envisaged in Part 2 of this Article.

2. The execution of a decision or a judgement of a commercial court is stayed by the cassational commercial court, if the person requesting such a stay provides the compensation of possible losses to the other party in the case (counter indemnity), by depositing money to the bank account of the cassational commercial court in the amount of the disputed sum or by providing a bank guarantee, a surety or another financial provision in the same amount.

3. The cassational commercial court issues a ruling on the stay of execution of a judicial act or on the refusal to stay the execution within three days from the day of the motion's receipt by the court. The ruling may be appealed against to the cassational commercial court. The contents of this ruling may be stated in the ruling on the acceptance of the cassational appeal for proceedings.

A copy of the ruling is forwarded to the persons participating in the case.

4. The stay of the judicial act's execution lasts until the cassational commercial court issues a judgement after the consideration of the cassational appeal, unless a different term for the stay is fixed by the court.

Article 284. Consideration of a Case by a Cassational Commercial Court

1. A case is considered by a cassational commercial court in panel, in a court session, in accordance with the rules for the consideration of a case by the commercial court of the first instance, provided by this Code, subject to the special rules, established in this Chapter, except for cases, mentioned in Part 1¹. of this Article.

1¹. The Intellectual Property Rights Court as a court of the cassational instance considers cases, considered by it as a court of the first instance in a session of the presidium of this court, in accordance with the rules for the consideration of a case by the commercial court of the first instance, subject to the special rules, provided by this Chapter.

2. Rules, provided by this Code solely for the consideration of the case by the commercial court of the first instance, are not applied during the consideration of the case in a cassational commercial court, unless otherwise stipulated in this Chapter.

3. Failure of the person that filed the cassational appeal and of other persons participating in the case to appear in the court session of the cassational commercial court is not an obstacle for the consideration of the case in their absence, if they were properly notified of the time and place of the judicial proceedings.

Article 285. Term for the Consideration of a Cassational Appeal

1. A cassational commercial court considers a cassational appeal, filed against a judicial act of a commercial court, within two months at most from the day of the cassational appeal's receipt by the cassational commercial court along with the case, including the time for the preparation of the case for judicial proceedings. If a cassational appeal is received by a cassational commercial court before the term for filing it expires, the term for the consideration of the cassational appeal is counted beginning on the day of expiry of the term, fixed for filing it.

2. The president of the commercial court may extend the term, fixed in **Part 1** of this Article for up to six months, on the basis of a reasoned application of the judge, considering the case, due to

the special complexity of the case or a considerable number of participants to the proceedings.

Article 286. Limits for the Consideration of a Case in the Cassational Commercial Court

1. The cassational commercial court checks the legality of decisions and judgements, delivered by the commercial court of the first and appellate instances, by verifying the correctness of application of the norms of substantive and procedural law during the consideration of the case and the delivery of the disputed judicial act, based on the arguments, stated in the cassational appeal and in the objections regarding the appeal, unless otherwise stipulated in this Code.

2. Regardless of the arguments contained in the cassational appeal, the cassational commercial court verifies, whether the commercial courts of the first and appellate instances violated the norms of procedural law, which, according to **Part 4 of Article 288** of this Code, constitute grounds for the reversal of the decision of the commercial court of the first instance or of the judgement of the appellate commercial court.

3. When considering the case, the cassational commercial court verifies, whether the conclusions of the commercial court of the first and appellate instances on the application of a legal norm correspond to the evidence, contained in the case, and to the facts of the case, established by them.

Article 287. Powers of a Cassational Commercial Court

1. After the consideration of the cassational appeal, the cassational commercial court is entitled:

1) to leave the decision of the commercial court of the first instance and (or) the judgement of the appellate court without amendment and the cassational appeal - without satisfaction;

2) to reverse or to amend the decision of the court of the first instance and (or) the judgement of the appellate court fully or in part and, while not forwarding the case for a new consideration, to deliver a new judicial act, if factual circumstances significant for the case have been established by the commercial court of the first or appellate instance on the basis of a full and comprehensive examination of the evidence, contained in the case, but this court failed to correctly apply the legal norm, or if the legality of the decision or judgement of the commercial court of the first or appellate instance is repeatedly verified by the cassational commercial court in the absence of grounds, provided by Item 3 of Part 1 of this Article;

3) to reverse or to amend the decision of the court of the first instance and (or) the judgement of the appellate court fully or in part and to forward the case for a new consideration to the corresponding commercial court, the decision or judgement of which is reversed or amended, if this court violated the norms of procedural law, which in conformity with **Part 4 of Article 288** of this Code constitute grounds for the reversal of the decision or judgement, or if the conclusions, contained in the disputed decision or judgement, do not correspond to the factual circumstances, established in the case, or to the evidence, contained in the case. When forwarding a case for a new consideration, the court may specify that the case needs to be considered in panel and (or) in a different court composition;

4) to reverse or to amend the decision of the court of the first instance and (or) the judgement of the appellate court fully or in part and to forward the case for consideration to another commercial court of the first or appellate instance within the same judicial circuit, if the said judicial acts are repeatedly checked by the cassational commercial court, and the conclusions, contained in them, do not correspond to the factual circumstances, established in the case or to the evidence, contained in the case;

5) to leave one of the earlier decisions or judgements on the case in effect;

6) to reverse a decision of the court of the first instance and (or) a judgement of the appellate court fully or in part and to terminate proceedings on the case or to leave the statement of claim without consideration, fully or in part.

2. The commercial court, considering the case in the cassational instance, has no right to establish or to regard as proven the circumstances, which were not established in the decision or in the judgement or which were rejected by the court of the first or appellate instance, to predetermine the issues of authenticity of a piece of evidence, of the superiority of one piece of evidence over another, of what particular norm of substantive law is to be applied and what particular decision or judgement is to be delivered, when the case is considered de novo.

Article 288. Grounds for the Amendment or Reversal of the Decision or Judgement of the Commercial Court of the First or Appellate Instance

1. Contradiction of the conclusions of the court contained, in the decision or in the judgement, to the facts of the case, established by the commercial court of the first or appellate instance, and to the evidence, contained in the case, as well as the violation or incorrect application of the norms of substantive or procedural law constitute grounds for the amendment or reversal of the decision or judgement of the commercial court of the first or appellate instance.

2. The following are regarded as incorrect application of the norms of substantive law:

- 1) non-application of the law, subject to application;
- 2) application of the law, not subject to application;
- 3) erroneous interpretation of the law.

3. Violation or incorrect application of the norms of procedural law constitutes grounds for the amendment or reversal of the decision or judgement of a commercial court, if this violation caused or could have caused the delivery of an incorrect decision or judgement.

4. In any case, the grounds for the reversal of a decision or judgement of a commercial court are:

- 1) consideration of the case by an illegal composition of the commercial court;
- 2) consideration of the case in the absence of any of the persons participating in the case, not properly notified of the time and place of the court session;
- 3) violation of the rules regarding the language of proceedings during the consideration of the case;
- 4) the court's delivery of a decision regarding the rights and duties of persons, not drawn to the participation in the case;
- 5) non-signing of the decision or judgement by a judge or by one of the judges or signing of the decision by judges, other than those named in the decision or judgement;
- 6) absence of the minutes of the court session in the case or its signing by the persons, other than those named in **Article 155** of this Code;
- 7) violation of the rule of secrecy of the judges' conference during the delivery of the decision or judgement.

Article 289. Judgement of a Cassational Commercial Court

1. After the consideration of a cassational appeal, the cassational commercial court issues a judicial act, called a judgement, which is signed by the judges, who considered the case.

2. The judgement of a cassational commercial court must contain:

- 1) the name of the cassational commercial court and the composition of the court, which delivered the judgement;
- 2) the number of the case, the date and place of delivery of the judgement;
- 3) the name of the person that filed the cassational appeal, its procedural status;
- 4) names of the persons participating in the case;
- 5) the subject matter of the dispute;
- 6) surnames of persons, attending the court session, with an indication of their powers;
- 7) names of the commercial courts, which considered the case in the first and appellate instances; the date of delivery of the disputed decision or judgement; the surnames of the judges, who

delivered them;

8) a brief summary of contents of the decision or judgement, delivered on the case;

9) grounds, substantiating the claims to verify the legality of the decision or judgement, contained in the cassational appeal;

10) arguments, stated in the statement of defence on the cassational appeal;

11) explanations of persons participating in the case and attending the court session;

12) laws and other normative legal acts, on which the cassational court relied, when delivering the judgement; motives of the delivered judgement; motives, according to which the court did not apply the laws and other normative legal acts, to which the persons participating in the case referred;

13) motives, according to which the cassational court did not agree with the conclusions of the court of the first and appellate instances, if their decision or judgement is reversed fully or in part;

14) conclusions as to the results of consideration of the cassational appeal;

15) actions, which are to be performed by persons participating in the case and by the commercial court of the first or appellate instance, if the case is forwarded for a new consideration.

Directions of the cassational commercial court, including those concerning the interpretation of law, rendered in its judgement on the reversal of the decision or of the judgement of the court of the first or appellate instance, are obligatory for the commercial court, considering the given case de novo.

3. The judgement of the cassational commercial court specifies the distribution of judicial costs, borne in connection with the filing of the cassational appeal, between the parties.

If the judicial act is reversed and the case is forwarded for a new consideration, the issue of distribution of judicial costs is resolved by the commercial court, considering the case de novo.

4. Copies of the judgement of the cassational commercial court are forwarded to the persons participating in the case within five days from the day of delivery of the judgement.

5. The judgement of the cassational commercial court enters into force on the day of its delivery.

Article 290. Cassational Appeals against Rulings of Commercial Courts of the First and Appellate Instances

1. Cassational appeals against rulings of commercial courts of the first and appellate instances, filed in accordance with the rules, provided by this Code, are considered by the cassational commercial court in the manner, established in this Chapter for the consideration of cassational appeals against decisions and judgements of the appropriate commercial court.

2. Cassational appeals against rulings of an appellate commercial court on the return of an appeal and against other rulings, impeding the further progress of the case, are considered by the cassational commercial court within fifteen days at most from the day of receipt of such an appeal by the cassational commercial court.

Article 291. Appeals against a Ruling of a Cassational Commercial Court

1. Appeals against a cassational commercial court ruling on the return of a cassational appeal, filed to the cassational commercial court that issued such a ruling, are considered by a panel of judges of the same court within ten days from the day of the appeal's receipt by the court, without the notification of the parties.

2. Appeals against other rulings of the cassational commercial court, appealing against which is provided by this Code, are considered by a different composition of the same cassational commercial court in the manner, stipulated in this Chapter.

3. A ruling is issued after the consideration of an appeal against a ruling of the cassational commercial court.

Chapter 36. Supervisory Review Proceedings

Article 292. Supervisory Review of Judicial Acts

1. Effective judicial acts of commercial courts in the Russian Federation may be reviewed in supervisory review proceedings in accordance with the rules of this Chapter by the Supreme Commercial Court of the Russian Federation, upon applications from persons participating in the case, and from other persons, mentioned in **Article 42** of this Code, and as to the cases, indicated in **Article 52** of this Code - upon the address of a prosecutor.

2. Persons participating in the case and other persons in situations, stipulated in this Code, have the right to challenge a judicial act in supervisory review proceedings if they believe that this act considerably infringes their rights and lawful interests in the sphere of entrepreneurial and other economic activity, as a result of violation or incorrect application of norms of substantive law or procedural law by the commercial court, which delivered the disputed judicial act.

A person, believing that its right to a fair trial within a reasonable time was violated, is also entitled to claim compensation in the application for the supervisory review of judicial acts.

3. An application or an address for the supervisory review of a judicial act may be filed to the Supreme Commercial Court of the Russian Federation within three months at most from the day of entry into force of the last disputed judicial act, delivered on the given case, if other opportunities for the verification of the legality of the said act in court proceedings are exhausted.

4. The term for filing an application or an address for the supervisory review of a judicial act, missed for reasons beyond control of the person, filing the application or address, including when this person had no information regarding the disputed judicial act, may upon the applicant's motion be restored by a judge of the Supreme Commercial Court of the Russian Federation, on condition that the motion is filed within six months from the day of entry into force of the latest disputed judicial act or, if the motion is filed by the person, indicated in **Article 42** of this Code, from the day, on which this person learned or must have learned about the violation of its rights or legitimate interests by the disputed judicial act.

The restoration of the missed term is specified in the ruling on the acceptance of the application or address for proceedings, the refusal to restore the missed term - in the ruling on the return of the application or address.

Article 293. Supervisory Review

1. Supervisory review proceedings are commenced upon an application of a person participating in the case, or an address of a prosecutor, and also in situations, stipulated in this Code, upon applications of other persons, requesting the supervisory review of an effective judicial act of a commercial court.

2. The issue of acceptance of an application or an address for proceedings is resolved by a judge of the Supreme Commercial Court of the Russian Federation in conformity with **Article 295** of this Code.

3. After it is accepted for proceedings, the application or address is considered in conformity with **Article 299** of this Code, in a court session, by a panel of judges of the Supreme Commercial Court of the Russian Federation, who resolve the issues of awarding a compensation for the violation of right to a fair trial within a reasonable time and forwarding the case to the Presidium of the Supreme Commercial Court of the Russian Federation for the supervisory review of the judicial act.

4. The Presidium of the Supreme Commercial Court of the Russian Federation, formed in conformity with the Federal Constitutional Law on Commercial Courts in the Russian Federation, carries out the supervisory review of judicial acts in accordance with **Article 303** of this Code and awards compensation for the violation of right to a fair trial within a reasonable time.

5. A compensation claim for the violation of right to a fair trial within a reasonable time is considered in accordance with the rules, provided by this Chapter and in compliance with the Federal Law "On Compensation for the Violation of Right to a Fair Trial within a Reasonable Time or the Right to the Enforcement of a Judicial Act within a Reasonable Time".

Article 294. Requirements for an Application to the Supreme Commercial Court of the Russian Federation

1. An application or an address for the supervisory review of a judicial act is forwarded directly to the Supreme Commercial Court of the Russian Federation in the written form. The application or the address must be signed by the person, requesting the review of a judicial act, or by its representative. Such an application or address may also be filed by filling out the form on the official website of the Supreme Commercial Court of the Russian Federation.

2. The application or the address must contain:

1) the name of the person, filing the application or the address, with an indication of its procedural status, the names of the other persons participating in the case, their location or place of residence;

2) information regarding the disputed judicial act and the name of the commercial court, which delivered it; information regarding other judicial acts, delivered on the given case; the subject matter of the dispute;

3) grounds, stipulated in **Article 304** of this Code and arguments of the person, filing the application or the address, with an indication of grounds for the review of the judicial act and with reference to laws and other normative legal acts, which in the applicant's opinion confirm a violation or an incorrect application of the norms of substantive and (or) procedural law, which caused considerable infringements of this person's rights and lawful interests in the sphere of entrepreneurial and other economic activities;

4) a list of documents, attached to the application or the address.

The application or the address may contain phone and fax numbers, e-mail addresses of the persons participating in the case and of their representatives, as well as other information, necessary for the consideration of the case.

2¹. A compensation claim for the violation of right to a fair trial within a reasonable time must also contain the following:

1) the total duration of proceedings in the case, counted from the day, on which the address of claim or an application was received by a commercial court of the first instance to the date of delivery of the last judicial act on the case;

2) circumstances known to the person, filing the application, that affected the duration of proceedings in the case;

3) arguments of the person, filing the application, citing the grounds for the award of compensation and its amount;

4) effects of violation of the right to a fair trial within a reasonable time and their significance for the applicant;

5) bank requisites of the person, filing the application, onto whose bank account the recoverable assets are to be transferred;

6) a list of documents, attached to the application.

3. Copies of the disputed judicial act and of other judicial acts, delivered on the case, must be attached to the application or the address.

If the application or the address is signed by a representative, a certificate of authority or another document, confirming the powers of the representative to sign the application or the address must be attached thereto.

Documents, attached to the application or to the address may be submitted to the Supreme Commercial Court of the Russian Federation in electronic form.

4. The application or the address and the documents, attached to it in conformity with this Article, are forwarded to the Supreme Commercial Court of the Russian Federation with a number of copies thereof, equal to the number of persons participating in the case.

Article 295. Acceptance of the Application or Address for Proceedings

1. The issue of acceptance of an application or an address for proceedings is considered by a single judge of the Supreme Commercial Court of the Russian Federation within five days from the day of its receipt by the Supreme Commercial Court of the Russian Federation.

2. An application or an address for the supervisory review of a judicial act filed with the observation of requirements, stipulated in this Chapter, is accepted for proceedings at the Supreme Commercial Court of the Russian Federation.

3. A ruling is issued on the acceptance of an application or an address for proceedings, which commences the supervisory review proceedings. A copy of the ruling is forwarded to the person that filed the application or address.

4. The ruling on the acceptance of an application or an address for proceedings may specify the request of the case from a commercial court. In this case, a copy of the ruling is forwarded to the commercial court, which must forward the requested case to the Supreme Commercial Court of the Russian Federation within five days from the receipt of a copy of the ruling.

Article 296. Return of the Application or Address

1. The Supreme Commercial Court of the Russian Federation returns the application or address for the supervisory review of a judicial act, if, while resolving the issue of its acceptance for proceedings, it establishes that:

1) the requirements, stipulated in **Articles 292** and **294** of this Code, are not met;

2) the applicant files a motion for the return of the application or address before it is accepted for proceedings;

3) the application or address is filed after the expiry of the term, established by **Part 3 of Article 292** of this Code, and does not contain a motion for its restoration, or the court refuses to restore the missed term.

2. A ruling is issued on the return of the application or address, a copy of which is forwarded to the person that filed the application or address, along with the application or address and the documents, attached to it.

3. The return of an application or an address is not an obstacle for a repeated application to the Supreme Commercial Court of the Russian Federation with the same application or address in the general manner after the elimination of circumstances that served as grounds for its return.

Article 297. Statement of Defence on the Application or Address for the Review of a Judicial Act

1. A person participating in the case forwards a statement of defence on the application or address for the supervisory review of a judicial act, enclosing documents that confirm objections against the review, to other persons participating in the case and to the Supreme Commercial Court of the Russian Federation.

A document, confirming that copies of the statement of defence have been forwarded to other persons participating in the case, is attached to the statement of defence, forwarded to the Supreme Commercial Court of the Russian Federation.

2. The statement of defence is sent via registered letter with an advice of delivery within the term, fixed by the court and ensuring the possibility to access the statement of defence before the Presidium of the Supreme Commercial Court of the Russian Federation begins to consider the application or address.

3. The statement of defence is signed by the person participating in the case or by its representative. If the statement of defence is signed by a representative, a certificate of authority or another document, confirming the powers of the representative to sign the statement of defence, is attached to it.

4. The statement of defence may be submitted to the Supreme Commercial Court of the

Russian Federation by filling out the form on the official website of the Supreme Commercial Court of the Russian Federation. Documents attached to the statement of defence may be submitted to the Supreme Commercial Court of the Russian Federation in electronic form.

Article 298. Stay of Execution of a Judicial Act by the Supreme Commercial Court of the Russian Federation

1. The Supreme Commercial Court of the Russian Federation may stay the execution of a judicial act upon the motion of the person filing the application or the address for the supervisory review of a judicial act, on condition that the applicant substantiates the impossibility of reversion of its execution or provides a counter indemnity against possible losses to the other party by depositing monetary assets in the amount of the disputed sum to the bank account of the commercial court, which considered the case in the first instance, and if the court deems it necessary to stay the execution of the judicial act in order to guarantee the balance of the parties' reciprocal rights and duties.

2. The issue of stay of execution of a judicial act is resolved by a panel of judges of the Supreme Commercial Court of the Russian Federation in a court session. A ruling is issued on the results of the consideration.

Copies of the ruling are forwarded to persons participating in the case.

3. The execution of a judicial act may be stayed until the end of the supervisory review proceedings, unless a different term is fixed by the court.

4. The stay of execution of a judicial act is cancelled by the same panel of judges, who passed the ruling on the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation, or by the Presidium of the Supreme Commercial Court of the Russian Federation, which issued the judgement on the refusal to satisfy the application or address.

5. A ruling is issued on the cancellation of the stay of execution of a judicial act, or this is specified in the ruling on the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation, or in the judgement on the refusal to satisfy the application or address.

Copies of the ruling or judgement are forwarded to persons participating in the case.

Article 299. Consideration of the Application or Address for the Supervisory Review of a Judicial Act

1. The application or address for the supervisory review of a judicial act is considered by a panel of judges of the Supreme Commercial Court of the Russian Federation in a court session, without notification of the persons participating in the case within a month from the day of receipt of the application or address by the Supreme Commercial Court of the Russian Federation or from the day of receipt of the case by the Supreme Commercial Court of the Russian Federation, if it was requested from a commercial court.

2. The panel of judges, considering the application or address for the supervisory review of a judicial act, is formed in accordance with the rules, envisaged in **Article 18** of this Code, with regard to the order of priority in the distribution of applications, arriving at the Supreme Commercial Court of the Russian Federation among the judges.

3. When considering the application or address for the supervisory review of a judicial act, the commercial court determines, whether there exist grounds for the review of the disputed act and the award of compensation, based on the arguments contained in the application or address, as well as on the contents of the disputed judicial act.

To resolve the issue of existence of grounds for the supervisory review of a judicial act, the court may request the case from a commercial court, in which regard a ruling is issued.

4. If there exist grounds, envisaged in **Article 304** of this Code, the court issues a ruling to refer the case for supervisory review of the disputed judicial act, as well as for the resolution of issue of awarding of compensation and forwards it to the Presidium of the Supreme Commercial Court of the

Russian Federation within five days from its issuance, along with the application or address and the case, requested from the commercial court.

5. Copies of the ruling are forwarded to persons participating in the case within the same term, with an enclosure of the application or address and of the documents, attached to it.

In the ruling, the court fixes the term, within which the persons participating in the case may submit a statement of defence on the application or address for the supervisory review of a judicial act.

6. If during the consideration of the application or address it is established that in the absence of grounds, envisaged in **Article 304** of this Code, there still exist other grounds for verifying the correctness of application of the norms of substantive or procedural law, the court may refer the case for consideration to the cassational commercial court, on condition that the given judicial act was not reviewed in cassational proceedings.

6¹. If during the consideration of an application, also containing a compensation claim for the violation of right to a fair trial within a reasonable time, it is established that in the absence of grounds for the supervisory review of judicial acts, provided by **Article 304** of this Code, there exist grounds for the verification of the compensation claim, the court may refer the case for consideration to the circuit commercial court, provided that the claim was not considered by this court.

7. A ruling is issued on the referral of the case to the cassational commercial court. The contents of this ruling may be stated in the ruling on the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation.

Copies of the ruling are forwarded to persons participating in the case.

8. In the absence of grounds envisaged in **Article 304** of this Code, the court issues a ruling on the refusal to refer the case for supervisory review of the judicial act to the Presidium of the Supreme Commercial Court of the Russian Federation.

A copy of the ruling is forwarded to the person, requesting that the judicial act be reviewed in supervisory review proceedings, no later than on the day following its issuance.

8¹. If during the consideration of an application or an address for the supervisory review of a judicial act it is established, that there exists a circumstance, provided by Item 5 of Part 3 of Article 311 of this Code, the panel of judges of the Supreme Commercial Court of the Russian Federation issues a ruling on the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation, citing the possibility of review of the disputed judicial act due to new facts within the term, provided by **Part 1 of Article 312** of this Code.

9. A repeated filing of an application or an address for the supervisory review of a judicial act by the same person on the same grounds is inadmissible.

Article 300. Contents of a Ruling to Refer the Case to the Presidium of the Supreme Commercial Court of the Russian Federation

The ruling to refer the case for the supervisory review of a judicial act to the Presidium of the Supreme Commercial Court of the Russian Federation must contain:

- 1) the date of the ruling's issuance;
- 2) the panel of judges of the Supreme Commercial Court of the Russian Federation, which issued the ruling;
- 3) the name of the person, requesting the supervisory review of a judicial act, its procedural status and location or place of residence; names of the other persons participating in the case, their location or place of residence;
- 4) information regarding the disputed judicial act, the dates of its delivery and entry into force; information on other judicial acts, delivered on the case;
- 5) the name of the commercial court that delivered the judicial act and the subject matter of the dispute;
- 6) grounds for referring the case to the Presidium of the Supreme Commercial Court of the Russian Federation, envisaged in **Article 304** of this Code, and the motives for such a referral, with an indication of norms of substantive or procedural law, which in the court's opinion were violated during

the delivery of the disputed judicial act, as well as motives for the award of a compensation for the violation of right to a fair trial within a reasonable time, including the total duration of court proceedings in the case;

7) suggestions of the court that issued the ruling, in particular with respect to the issue of awarding a compensation for the violation of right to a fair trial within a reasonable time.

Article 301. Contents of a Ruling on the Refusal to Refer the Case to the Presidium of the Supreme Commercial Court of the Russian Federation

A court ruling on the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation for the supervisory review of a judicial act must contain:

- 1) the date of the ruling's issuance;
- 2) the panel of judges of the Supreme Commercial Court of the Russian Federation, which issued the ruling;
- 3) the name of the person, requesting the supervisory review of a judicial act, its procedural status and location or place of residence; names of other persons participating in the case, their location or place of residence;
- 4) information regarding the disputed judicial act, dates of its delivery and entry into force; information on other judicial acts, delivered on the case;
- 5) the name of the commercial court, which delivered the judicial act, and the subject matter of the dispute;
- 6) motives for the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation for the supervisory review of a judicial act;
- 7) motives for the referral of the case to a cassational commercial court in conformity with **Parts 6 and 6¹ of Article 299** of this Code.

Article 302. Notification of Consideration of the Case by the Presidium of the Supreme Commercial Court of the Russian Federation

Persons participating in the case are notified of the time and place of consideration of the case on the supervisory review of a judicial act by the Presidium of the Supreme Commercial Court of the Russian Federation in accordance with the rules, envisaged in **Chapter 12** of this Code. Failure of persons participating in the case, properly notified of the time and place of the case consideration by the Presidium of the Supreme Commercial Court of the Russian Federation, to appear is not an obstacle for the supervisory review of the case.

Article 303. Consideration of a Case by the Presidium of the Supreme Commercial Court of the Russian Federation

1. The Presidium of the Supreme Commercial Court of the Russian Federation accepts a case for consideration upon a court ruling, referring the case to the Presidium, issued in conformity with **Article 299** of this Code.

2. The Presidium of the Supreme Commercial Court of the Russian Federation considers cases in the order of their receipt by the Presidium, but no later than within three months from the day of issuance of the ruling, referring the case to the Presidium.

3. The Presidium of the Supreme Commercial Court of the Russian Federation may consider cases in supervisory review proceedings, if the majority of the Presidium members are in attendance.

4. The person that filed the application or address for the supervisory review of a judicial act and other persons participating in the case may participate in the session of the Presidium of the Supreme Commercial Court of the Russian Federation.

5. The case is reported by a judge of the Supreme Commercial Court of the Russian Federation - the reporting judge on the given case.

The reporting judge gives an account of the circumstances of the case, the contents of the disputed judicial act and of other judicial acts, issued on the given case, the arguments stated in the application or address for the supervisory review of a judicial act, in the compensation claim for the violation of right to a fair trial within a reasonable time, of the grounds for review of the judicial act, motives, contained in the court ruling, referring the case for consideration to the Presidium of the Supreme Commercial Court of the Russian Federation.

6. Persons participating in the case, if they appear in the session of the Presidium of the Supreme Commercial Court of the Russian Federation, may give their oral explanations after the statement of the reporting judge.

The person that filed the application or address for the supervisory review of a judicial act is the first to give explanations.

7. After the statement of the person requesting the supervisory review of a judicial act and of other persons participating in the case and attending the session, the Presidium of the Supreme Commercial Court of the Russian Federation delivers the judgement in camera.

7¹. When resolving the issue of awarding a compensation for the violation of right to a fair trial within a reasonable time, the Presidium of the Supreme Commercial Court of the Russian Federation establishes the fact of violation of the applicant's right to a fair trial within a reasonable time on the basis of the arguments stated in the application, the contents of judicial acts delivered on the case, the case materials, and with regard to the following circumstances:

- 1) the legal and factual complexity of the case;
- 2) the behaviour of the applicant and of other participants of commercial court proceedings;
- 3) the sufficiency and effectiveness of the court's and the judge's actions, aimed at the consideration of the case in due time;
- 4) the total length of proceedings in the case.

8. The judgement of the Presidium of the Supreme Commercial Court of the Russian Federation is delivered by a majority vote of the judges. The judge, presiding over the court session, is the last to vote. If the votes of the judges are equally divided, the application or address is left without satisfaction, the judicial act - without amendment.

9. The judge, disagreeing with the opinion of the majority of members of the Presidium of the Supreme Commercial Court of the Russian Federation, has the right to express a separate opinion, which is attached to case materials and is subject to publication with the judgement of the Presidium of the Supreme Commercial Court of the Russian Federation.

The judge, who votes for the delivered judgement of the Supreme Commercial Court on the merits of the case under consideration, but is left in minority during the vote on the motivation of the delivered judgement, may render a separate opinion in the written form. In this case, the separate opinion is likewise attached to the case materials and is subject to publication along with the judgement of the Presidium of the Supreme Commercial Court of the Russian Federation.

Article 304. Grounds for the Supervisory Review of Effective Judicial Acts and for Awarding a Compensation for the Violation of Right to a Fair Trial within a Reasonable Time

1. Effective judicial acts of commercial courts are subject to amendment or reversal if, while considering the case in supervisory review proceedings, the Presidium of the Supreme Commercial Court of the Russian Federation establishes that the disputed legal act:

- 1) violates the uniformity of interpretation and application of norms of law by commercial courts;
- 2) violates the human and citizen's rights and freedoms, according to the universal principles and norms of international law and the international treaties of the Russian Federation;
- 3) violates the rights and lawful interests of the general public or other public interests.

2. The existence of the violation, provided by Item 2 of Part 1 of this Article, expressed in the violation of right to a fair trial within a reasonable time, constitutes grounds for the award of compensation by the commercial court for the violation of right to a fair trial within a reasonable time.

Article 305. Judgement of the Presidium of the Supreme Commercial Court of the Russian Federation

1. After the consideration of a case on the supervisory review of a judicial act, the Presidium of the Supreme Commercial Court of the Russian Federation may:

- 1) leave the disputed judicial act without amendment, and the application or address - without satisfaction;
- 2) reverse the judicial act, fully or in part, and refer the case for a new consideration to the commercial court, whose judicial act is reversed or amended. When referring the case for a new consideration, the Presidium of the Supreme Commercial Court of the Russian Federation may specify that the case is to be considered by a different composition of the court;
- 3) reverse the judicial act fully or in part and deliver a new judicial act without referring the case for a new consideration;
- 4) reverse the judicial act fully or in part and terminate proceedings in the case or leave the claim without consideration, fully or in part;
- 5) leave one of the earlier delivered judicial acts intact;
- 6) award a compensation for the violation of right to a fair trial within a reasonable time or refuse to award it.

2. In cases, envisaged in **Items 2 - 5 of Part 1** of this Article, the Presidium of the Supreme Commercial Court of the Russian Federation must cite specific grounds for the amendment or reversal of a judicial act, in conformity with **Article 304** of this Code.

3. Directions of the Presidium of the Supreme Commercial Court of the Russian Federation, stated in the judgement on the reversal of a court decision or judgement, in particular regarding the interpretation of law, are obligatory for the commercial court considering the given case de novo.

4. The Presidium of the Supreme Commercial Court of the Russian Federation has no right to establish or to regard as proven any circumstances, which were not established or proven by a court decision or judgement, or were rejected by the said judicial acts, or to predetermine the issues of authenticity of a piece of evidence, of priority of a piece of evidence over another one, of what norm of substantive law is to be applied and what particular decision or judgement is to be delivered during the new consideration of the case.

5. The judgement of the Presidium of the Supreme Commercial Court of the Russian Federation must meet the requirements, stated in Article 306 of this Code.

6. The judgement of the Presidium of the Supreme Commercial Court of the Russian Federation is signed by the judge, presiding over the session of the Presidium.

Article 306. Contents of a Judgement of the Presidium of the Supreme Commercial Court of the Russian Federation

The judgement of the Presidium of the Supreme Commercial Court of the Russian Federation indicates:

- 1) the number, date and place of delivery of the judgement; the composition of the court, which delivered the judgement;
- 2) the name of the person, filing the application or address for the supervisory review of a judicial act, its procedural status;
- 3) the names of persons participating in the case; the subject matter of the dispute; the surnames of persons attending the court session with an indication of their powers;
- 4) the names of commercial courts, which considered the case in the first, appellate and cassational instances; information regarding the judicial acts, delivered on the case; a summary of the disputed judicial act;
- 5) the arguments, stated in the application or address for the supervisory review of a judicial act, and the applicant's claims;

- 6) the objections, contained in the statement of defence on the application or address for the supervisory review of a judicial act;
- 7) the explanations of persons participating in the case and attending the court session;
- 8) the grounds for the amendment or reversal of the judicial act, as well as for the award of compensation for the violation of right to a fair trial within a reasonable time or for the refusal to award it, established by the court, with reference to laws and other normative legal acts;
- 9) the motives of the delivered judgement;
- 10) the conclusions and decisions made, after the consideration of the application or address;
- 11) the actions to be performed by the persons participating in the case and by the commercial court, when the case is referred for a new consideration;
- 12) the amount of compensation for the violation of right to a fair trial within a reasonable time.

Article 307. Entry of a Judgement of the Presidium of the Supreme Commercial Court of the Russian Federation into Force and Its Publication

1. The judgement of the Presidium of the Supreme Commercial Court of the Russian Federation enters into force on the day of its delivery.
2. Copies of the judgement are forwarded to persons participating in the case, as well as to other persons concerned within five days from the day of the judgement's issuance.
3. The judgement of the Presidium of the Supreme Commercial Court of the Russian Federation is subject to publication in the Bulletin of the Supreme Commercial Court of the Russian Federation and is placed on the official website of the Supreme Commercial Court of the Russian Federation.

Article 308. Supervisory Review of Commercial Court Rulings

1. Rules for the supervisory review of judicial acts, provided by this Chapter, are also applied for the review of commercial court rulings, if this Code provides appealing against them separately from the decisions and judgements, and if they impede the further progress of the case.
2. Other commercial court rulings may be reviewed in supervisory review proceedings along with the supervisory review of commercial court decisions and judgements.

Chapter 37. Proceedings Concerning the Review of Effective Judicial Acts due to New or Newly Discovered Facts

Article 309. Right of the Commercial Court to Review a Judicial Act due to New or Newly Discovered Facts

The commercial court may review an effective judicial act that it delivered earlier due to new or newly discovered facts on the grounds and in the manner, provided by this Chapter.

Article 310. Commercial Courts, Reviewing Judicial Acts due to New or Newly Discovered Facts

1. An effective decision or ruling that was delivered by a commercial court of the first instance is reviewed due to new or newly discovered facts by the court that delivered this decision or ruling.
2. Judgements and rulings of appellate and cassational commercial courts, judgements and rulings of the Supreme Commercial Court of the Russian Federation, delivered in supervisory review proceedings and amending a judicial act of a commercial court of the first, appellate or cassational instance or delivering a new judicial act are reviewed due to new or newly discovered facts by the court, which amended the judicial act or delivered the new judicial act.

Article 311. Grounds for the Review of Judicial Acts due to New or Newly Discovered Facts

1. The following are the grounds for the review of judicial acts, according to the rules of this Chapter:

1) circumstances, cited in Part 2 of this Article and existing at the time of delivery of the judicial act, are regarded as newly discovered facts;

2) circumstances, cited in Part 3 of this Article, which arose after the delivery of a judicial act, but are of significance for the correct adjudication are regarded as new facts.

2. Newly discovered facts are the following:

1) circumstances significant for the case, of which the applicant had no and could not have any knowledge;

2) falsification of evidence, deliberately false expert opinion, deliberately false witness testimony, deliberately incorrect translation that resulted in the delivery of an unlawful or an unsubstantiated judicial act on the given case and is established by an effective court sentence;

3) criminal deeds of a person participating in the case or of its representative or criminal deeds of a judge, committed during the consideration of the given case and established by an effective court sentence.

3. New facts are the following:

1) reversal of the judicial act of a commercial court or of a court of general jurisdiction, or of the decision of another body, which served as grounds for the delivery of the judicial act on the given case;

2) a transaction, which entailed the delivery of an unlawful or an unsubstantiated judicial act on the given case and is invalidated by an effective judicial act of a commercial court or of a court of general jurisdiction;

3) declaration by the Constitutional Court of the Russian Federation of non-compliance with the Constitution of the Russian Federation of a law, applied by a commercial court in a specific case, in connection with the delivery of a decision in which the applicant applied to the Constitutional Court of the Russian Federation;

4) establishment by the European Court of Human Rights of violation of provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms during the consideration of the case by a commercial court, in connection with the delivery of a decision in which the applicant applied to the European Court of Human Rights;

5) determination or change of interpretation of a legal norm by a judgement of the Plenary Session of the Supreme Commercial Court of the Russian Federation or by a judgement of the Presidium of the Supreme Commercial Court of the Russian Federation, if the appropriate act of the Supreme Commercial Court of the Russian Federation specifies the possibility of review of effective judicial acts by virtue of this circumstance.

Article 312. Manner and Term for Filing an Application for the Review of a Judicial Act due to New or Newly Discovered Facts

1. An application for the review of an effective judicial act due to new or newly discovered facts is filed with the commercial court that delivered the given judicial act by the persons participating in the case no later than within three months from the day, on which the circumstances, constituting grounds for the review of the judicial act, arose or were discovered, or, if the existence of the circumstances, provided by **Item 5 of Part 3 of Article 311** of this Code, is detected during the consideration of an application or address for the supervisory review of a judicial act, from the day when the applicant receives a copy of the ruling on the refusal to refer the case to the Presidium of the Supreme Commercial Court of the Russian Federation.

2. The commercial court may restore the missed term for filing the application upon the motion of the person filing it, on condition that the motion is submitted no later than within six months from

the day of arising or discovery of circumstances, constituting grounds for the review, and that the commercial court recognises the reasons for missing the term as good. The motion to restore the term for filing an application for the review of a judicial act due to new or newly discovered facts is considered by the commercial court in the manner, established by **Article 117** of this Code.

3. Where it is provided by **Item 5 of Part 3 of Article 311** of this Code, an application for the review of an effective judicial act may be filed within the term, provided by this Article, but no later than within six months from the date of entry into force of the last judicial act, finalising the consideration of the case on its merits, if the possibility to apply to an appellate or cassational court is exhausted.

Article 313. Form and Contents of the Application

1. The application for the review of a judicial act due to new or newly discovered facts is filed with the commercial court in the written form. The application is signed by the person filing it or by its representative, authorised to sign it. The application may also be filed by filling out the form on the official website of the commercial court.

2. The application for the review of a judicial act due to new or newly discovered facts must indicate:

- 1) the name of the commercial court, with which the application is filed;
- 2) the name of the person filing the application and of other persons participating in the case, their location or place of residence;
- 3) the name of the commercial court that delivered the judicial act, for the review of which due to new or newly discovered facts the applicant applies; the number of the case and the date of delivery of the judicial act; subject matter of the dispute;
- 4) the claim of the person filing the application; the new or newly discovered fact, envisaged in **Article 311** of this Code, which in the applicant's opinion allows to raise the issue of review of the judicial act due to new or newly discovered facts, with reference to the documents confirming the discovery or establishment of this fact;
- 5) a list of attached documents.

The application may also contain phone and fax numbers, e-mail addresses of the persons participating in the case and other information.

3. The person filing the application is obliged to forward to other persons participating in the case the copies of the application and of the attached documents, which they do not possess, via registered letter with advice of delivery.

4. The following must be attached to the application:

- 1) copies of documents, confirming the new or newly discovered facts;
- 2) a copy of the judicial act, for the review of which the applicant applies;
- 3) a document, confirming that copies of the application and of documents, the persons participating in the case do not possess, have been forwarded to them;
- 4) a certificate of authority or another document, confirming the person's powers to sign the application.

5. Documents, attached to the application for the review of a judicial act due to new or newly discovered facts, may be submitted to the commercial court in electronic form.

Article 314. Acceptance of the Application for Commercial Court Proceedings

1. An application for the review of a judicial act due to new or newly discovered facts, which meets the requirements of this Code to its form and contents, is accepted for proceedings of the corresponding commercial court.

If the said requirements are not met, the commercial court returns the application in the manner, stipulated in **Article 315** of this Code.

2. The issue of accepting the application for proceedings of the commercial court is resolved by

a single judge within five days from the day of its receipt by the commercial court.

The commercial court issues a ruling on the acceptance of the application for proceedings.

The ruling specifies the time and place of the court session for the consideration of the application.

Copies of the ruling are forwarded to persons participating in the case.

Article 315. Return of an Application for the Review of a Judicial Act due to New or Newly Discovered Facts

1. The commercial court returns the application for the review of a judicial act due to new or newly discovered facts to the applicant if, when resolving the issue of its acceptance for proceedings, it establishes that:

- 1) the application is filed in violation of the rules, established in **Article 310** of this Code;
- 2) the application is filed after the expiry of the fixed term, and there is no motion for its restoration, or that the court refused to restore the missed term for filing the application;
- 3) the requirements of this Code to the form and contents of the application are not met.

2. A ruling is issued on the return of the application.

A copy of the ruling is forwarded to the applicant along with the application and the documents, attached to it, no later than on the day following its issuance.

3. The commercial court ruling on the return of the application may be appealed against.

Article 316. Consideration of the Application for the Review of a Judicial Act due to New or Newly Discovered Facts

1. The commercial court considers the application for the review of an effective judicial act due to new or newly discovered facts in a court session, within one month from the day of its receipt by the commercial court.

2. The applicant and other persons participating in the case are notified of the time and place of the court session. Failure of properly notified persons to appear is not an obstacle for the consideration of the application.

Article 317. Judicial Acts, Delivered by the Commercial Court after the Consideration of an Application for the Review of a Judicial Act due to New or Newly Discovered Facts

1. After the consideration of the application for the review of an effective decision, judgement or ruling due to new or newly discovered facts, the commercial court either delivers a decision or judgement to satisfy the application and reverse the judicial act that it delivered earlier due to new or newly discovered facts or issues a ruling on the refusal to satisfy the application.

2. If the judicial act is reversed due to new or newly discovered facts, the case is repeatedly considered in the general manner, established by this Code, by the same commercial court, which reverses the judicial act it delivered earlier.

2¹. In the event of reversal of a judicial act by virtue of the circumstance, provided by **Item 5 of Part 3 of Article 311** of this Code, the judicial act, delivered as a result of repeated consideration of the case, may not be changed to the deterioration of position of the person that is being held or was held liable for committing administrative or tax offences or publicly liable in any other way.

3. The commercial court may repeatedly consider the case immediately after the reversal of the judicial act in the same court session, if the persons participating in the case or their representatives are present in the court session and do not raise objections to the consideration of the case on its merits in the same court session.

4. Copies of the ruling on the refusal to satisfy the application for the review of a judicial act due to new or newly discovered facts are forwarded to persons participating in the case.

5. The commercial court decision or judgement to reverse a judicial act due to new or newly

discovered facts and the ruling on the refusal to satisfy an application for the review of a judicial act due to new or newly discovered facts may be appealed against.

Section VII. Proceedings in Cases on Execution of Judicial Acts of Commercial Courts

Article 318. Execution of Judicial Acts of Commercial Courts

1. Judicial acts of commercial courts are executed after they enter into force, with the exception of cases of immediate execution, in the manner, established in this Code and in other federal laws, regulating the issues of the enforcement procedure.

2. The enforcement of a judicial act is performed on the basis of a writ of execution, issued by the commercial court, unless otherwise stipulated in this Code.

3. The forms of writs of execution, the manner of their production, record-keeping, storage and destruction are approved by the Government of the Russian Federation.

Article 319. Issuance of a Writ of Execution

1. The writ of execution is issued by the commercial court of the first instance on the basis of a judicial act, delivered by this commercial court.

2. On the basis of a judicial act delivered by an appellate, cassational commercial court or by the Supreme Commercial Court of the Russian Federation, the writ of execution is issued by the appropriate commercial court, which considered the case in the first instance, unless otherwise provided by this Code.

3. A writ of execution is issued after the judicial act enters into force, with the exception of cases of immediate execution. In these cases, a writ of execution is issued straight after the delivery of such a judicial act or after it is turned to immediate execution. The writ of execution is issued to the recoverer or, upon the recoverer's motion, is forwarded for execution directly by the commercial court. A writ of execution for the recovery of money to the budget is forwarded by the commercial court to the tax body or another authorised state body at the debtor's location.

A writ of execution, resulting from a decision to award compensation for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time is forwarded for execution by the commercial court within five days from the date of the decision's delivery, whether or not there is a recoverer's motion on that.

3¹. If a judicial act specifies recovery against the budget funds of the budgetary system of the Russian Federation, a copy of the judicial act, for the execution of which the writ of execution is issued, certified by the court in the established manner, must be attached to the writ of execution, forwarded by the court upon the recoverer's motion.

4. On every judicial act one writ of execution is issued, unless otherwise provided by this Article.

5. If the judicial act is delivered in favour of several plaintiffs or against several defendants, or if the execution is to be effected in different places, the commercial court upon the recoverer's motion issues several writs of execution, in each of them precisely indicating the place of execution or the part of the judicial act which is to be executed under the given writ of execution.

6. On the ground of a judicial act on the recovery of money from joint defendants, the commercial court, upon the recoverer's motion, may issue several writs of execution, according to the number of joint defendants, specifying in each of them the total sum of recovery, the names of all the defendants and their joint liability.

7. The writ of execution, issued before the entry of the judicial act into force, except for cases of immediate execution, is null and void and subject to recall by the court that delivered the judicial act.

Article 320. Contents of a Writ of Execution

1. A writ of execution must indicate:

1) the name of the commercial court, which issued the writ of execution; the name and location of a foreign court, an arbitration tribunal or an international commercial arbitration court, if the writ of execution is issued by the commercial court on the basis of an award of such a court;

2) the case, on which the writ of execution is issued, and the number of the case;

3) the date of delivery of the judicial act, subject to execution;

4) the name of the recovering organisation and the debtor organisation and their location, actual address (if known), date of registration in the capacity of a legal entity, taxpayer identification number; the surname, name and patronymic of the recoverer (individual) and of the debtor (individual), their place of residence, date and place of birth; place of employment of the debtor (individual) or the date and place of the debtor's state registration in the capacity of an individual entrepreneur, taxpayer identification number;

5) the operative part of the judicial act;

6) the date of the judicial act's entry into force or a demand for its immediate execution;

7) the date of issue of the writ of execution and the term for its presentation for execution.

8) requisites of the recoverer's bank account, onto which the recoverable assets must be transferred, if a compensation is awarded for the violation of right to a fair trial within a reasonable time or the right to the enforcement of a judicial act within a reasonable time.

If the commercial court grants a delay or an instalment principle in the execution of the judicial act before the issue of the writ of execution, the writ of execution specifies the time, when it becomes valid;

2. The writ of execution is signed by a judge and certified by the official seal of the commercial court.

Article 321. Terms for the Presentation of a Writ of Execution for Execution

1. A writ of execution may be presented for execution within the following terms:

1) within three years from the day, on which the judicial act enters into force, or from the day following the delivery of the judicial act, subject to immediate execution, or from the day of expiry of the fixed term, when a delay or an instalment principle is granted in the execution of the judicial act;

2) within three months from the issuance of a ruling on the restoration of the missed term for the presentation of a writ of execution for execution in conformity with **Article 322** of this Code;

2. If the execution of a judicial act is suspended, the term of suspension is not included into the term, fixed for the presentation of a writ of execution for execution.

3. The term for the presentation of a writ of execution for execution is interrupted by its presentation for execution, unless otherwise established by federal law, or by a partial execution of the judicial act.

4. If a writ of execution is returned to the recoverer in connection with the impossibility to execute it, a new term for the presentation of the writ of execution for execution is counted from the day of its return.

Article 322. Restoration of the Missed Term for the Presentation of a Writ of Execution for Execution

1. A recoverer that misses the term for the presentation of a writ of execution for execution may apply to the commercial court of the first instance, which considered the case, with an application for the restoration of the missed term, if the restoration of the missed term is stipulated in federal law.

2. A recoverer's application for the restoration of the missed term is considered in the manner, envisaged in **Article 117** of this Code. A ruling is issued after the consideration of the application.

Copies of the ruling are forwarded to the recoverer and the debtor.

3. A commercial court ruling on the restoration of the missed term for the presentation of a writ of execution for execution may be appealed against.

Article 323. Issue of a Duplicate of a Writ of Execution

1. If a writ of execution is lost, the commercial court, which delivered the judicial act, may issue a duplicate of the writ of execution upon the recoverer's motion.

2. An application for the issue of a duplicate of a writ of execution may be filed before the expiry of the term, fixed for the presentation of the writ of execution for execution, with the exception of cases, when the writ of execution is lost by a bailiff or by another person, carrying out the execution, and the recoverer learned about this after the expiry of the term, established for the presentation of the writ of execution for execution. In these cases, an application for the issue of a duplicate of the writ of execution may be filed within a month from the day, on which the recoverer learned about the loss of the writ of execution.

3. The recoverer's application for the issue of a duplicate of the writ of execution is considered by the commercial court in a court session within ten days from the day of the application's receipt by the court. Persons participating in the case are notified of the time and place of the court session. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the application.

4. The commercial court ruling on the issue of a duplicate of the writ of execution or on the refusal to issue a duplicate may be appealed against.

Article 324. Delay or Instalment Principle in the Execution of a Judicial Act, Change of the Method and Manner of Execution

1. If there are circumstances, impeding the execution of a judicial act, the commercial court, which issued the writ of execution may upon the motion of the recoverer, the debtor or a bailiff, delay or allow instalments in the execution of the judicial act, or change the method and manner of its execution.

2. An application for the delay or instalment principle in the execution of a judicial act is considered by the commercial court within a month from the day of the application's receipt by the commercial court, in a court session with the notification of the recoverer, the debtor and the bailiff. Failure of the said persons, properly notified of the time and place of the court session, to appear is not an obstacle for the consideration of the application.

A ruling is issued after the consideration of the application.

Copies of the ruling are forwarded to the recoverer, the debtor and the bailiff.

2¹. Issues of granting a delay or an instalment principle for the recovery of the enforcement fee, of reduction of its sum or of relief from its recovery, as well as other issues, arising in the course of the enforcement procedure and by virtue of law, subject to consideration by the court, are resolved in accordance with the rules, established in Part 2 of this Article.

3. If the debtor is granted a delay or instalment principle in the execution of a judicial act, the commercial court may, upon the recoverer's motion, take measures to secure the execution of the judicial act in accordance with the rules, established in **Chapter 8** of this Code.

4. A ruling of the commercial court, granting a delay or an instalment principle in the execution of a judicial act, on the change of method and manner of execution, or on the refusal to satisfy the application for a delay or an instalment principle in the execution of a judicial act, or for changing the method and manner of its execution may be appealed against.

Article 325. Reversion of Execution of a Judicial Act

1. If an executed judicial act is reversed fully or in part, and a new judicial act is delivered on the full or partial dismissal of the claim, or if the claim is left without consideration, or the proceedings

in the case are terminated, everything that was recovered from the defendant in favour of the plaintiff under the judicial act, reversed or amended in the corresponding part, is returned to the former.

2. If a non-executed judicial act is reversed fully or in part, and a new judicial act is delivered on the full or partial dismissal of the claim, or if the claim is left without consideration fully or in part, or if the proceedings in the case are terminated, the commercial court delivers a judicial act on the full or partial termination of recovery under the judicial act, reversed in the corresponding part.

Article 326. Resolution of the Issue of Reversion of a Judicial Act's Execution

1. The issue of reversion of a judicial act's execution is resolved by the commercial court, which delivers a new judicial act, reversing or amending the earlier judicial act.

2. If the judgement on the reversal or amendment of the judicial act does not specify the reversion of its execution, the defendant may file the corresponding application to the commercial court of the first instance.

3. An application for the reversion of execution of a judicial act is considered in the manner, stipulated in **Article 324** of this Code.

4. The commercial court ruling on the reversion of execution of a judicial act or on the refusal to reverse its execution may be appealed against.

5. The commercial court of the first instance issues a writ of execution for the return of the recovered money, property, or of its cost upon the application of an organisation or an individual. A document, confirming the execution of the earlier delivered judicial act, is attached to the application.

Article 327. Suspension, Resumption and Termination of the Enforcement Procedure

1. The commercial court may upon the motion of the recoverer, debtor or bailiff, suspend or terminate the enforcement procedure, initiated by the bailiff on the basis of a writ of execution, issued by the commercial court, in cases, stipulated in the federal law on the enforcement procedure.

2. Enforcement proceedings are suspended or terminated by the commercial court, which issued the writ of execution, or by the commercial court at the bailiff's location.

3. An application for the suspension or termination of the enforcement procedure is considered within ten days in the manner, envisaged in **Article 324** of this Code.

4. The commercial court ruling on the suspension or termination of the enforcement procedure or on the refusal to suspend or terminate the enforcement procedure may be appealed against.

5. The enforcement procedure is resumed upon the motion of the recoverer, debtor or bailiff, by the commercial court, which suspended the enforcement procedure, after the elimination of reasons or circumstances that served as grounds for its suspension.

A ruling is issued on the resumption of the enforcement procedure.

Article 328. Postponement of Enforcement Actions

1. If there are circumstances, impeding the performance of individual enforcement actions, the commercial court may upon the application of the recoverer, debtor or bailiff, postpone the enforcement actions of the enforcement procedure, initiated by a writ of execution, issued by the commercial court.

2. Enforcement actions are postponed by the commercial court, which issued the writ of execution, or by the commercial court at the bailiff's location.

3. An application for the postponement of enforcement actions is considered by the commercial court within ten days in the manner, stipulated in **Article 324** of this Code.

A ruling is issued after the consideration of the application.

4. The ruling on the postponement of enforcement actions specifies the date, until which the enforcement actions are postponed, or an event, the occurrence of which constitutes grounds for the resumption of enforcement actions by the bailiff.

Copies of the ruling on the postponement of enforcement actions are forwarded to the recoverer, debtor and bailiff.

Article 329. Challenge of Decisions of Officials of the Bailiff Service and of Their Actions (Failures to Act)

1. Decisions of the Chief Bailiff of the Russian Federation, the Chief Bailiff of a constituent unit of the Russian Federation, of the senior bailiff, their deputies, of a bailiff, and their actions (failures to act) may be disputed in commercial courts in cases, stipulated in this Code and in other federal laws, according to the rules, provided by **Chapter 24** of this Code.

2. No fee is to be paid for an application, challenging the decisions of the officials of the bailiff service and their actions (failures to act).

Article 330. Liability for the Non-Execution or Improper Execution of the Bailiff's Duties

1. Damage, inflicted by a bailiff as a result of non-execution or improper execution of duties regarding the enforcement of a writ of execution, issued by a commercial court, is subject to reimbursement in the manner, provided by civil legislation.

2. Compensation claims are considered by commercial courts in accordance with the general rules for adversarial proceedings, stipulated in this Code.

Article 331. Liability for the Loss of a Writ of Execution

The commercial court may impose a court fine in the manner and amount, fixed in **Chapter 11** of this Code, upon a person, guilty of loss of a writ of execution, issued by the commercial court and handed to this person for execution.

Article 332. Liability for the Non-Execution of a Judicial Act

1. The commercial court may impose a court fine in accordance with the rules of **Chapter 11** of this Code and in the amount, fixed in federal law for the non-execution of a judicial act of a commercial court by public authorities, local government bodies and other bodies, by organisations, state officials and individuals.

2. The commercial court, which issued a writ of execution, may impose a court fine in the manner and amount, established in **Chapter 11** of this Code for the non-performance of actions, specified in the writ of execution by the person, upon whom the performance of these actions is imposed.

3. The payment of the court fine does not relieve one from the duty to execute the judicial act.

4. The issue of imposing a court fine is resolved by the commercial court upon the application of the recoverer or bailiff in the manner, stipulated in this Code.

Moscow, the Kremlin
Federal law No. 95, July 24th, 2002

President of the Russian Federation
V. Putin