



NEW RULES FOR ESTABLISHING WHICH COURTS HAVE JURISDICTION OF CASES

For the attention of heads of legal

Law firm Pepeleiev Group advises that the approach has changed to establishing whether courts of general jurisdiction or state commercial courts should consider disputes regarding the prohibition on causing damage to the environment.

To date, the “economic case” category, which is a key criterion for delineating whether courts of general jurisdiction or state commercial courts have jurisdiction, was defined based on the identities of the parties to legal relationships and on the nature of such relationships¹. In this process, the nature of legal relationships had the determining role. The identities of parties played a secondary role as a criterion for establishing jurisdiction.

In view of this, cases regarding the prohibition on causing damage to the environment were to be resolved by courts of general jurisdiction because they originated from environmental offences that infringed on the rights of the public generally, including individuals who were not involved in entrepreneurial activities. Therefore the courts classified such disputes as environmental, rather than economic, disputes.

What has changed

When the Economic Panel of the Russian Supreme Court considered a specific case in a cassation procedure, it disagreed with the traditional approach, preferring to take into account the identities of the parties to the legal relationship in establishing in which type of court the case should be heard².

In the opinion of the Economic Panel, since the dispute arose between two legal entities, one of which is the supervisory authority for the management of natural resources and the other is a business company, even this fact is sufficient for the dispute to be classified as an economic dispute which covers, among other things, efforts aimed at protecting, rehabilitating, and restoring the environment and using it soundly.

What to think about

The significant point is that, given the new interpretation of the law, all similar disputes which are being considered by courts of general jurisdiction should be terminated in accordance with the rules set out in article 220 of the Russian Code of Civil Procedure.

It is also important that this judicial act refers to the legal position of the Russian Supreme Court which was set out in Judicial Practice Review No. 1 (2015) of the Russian Supreme Court. This deals with the delineation of the jurisdiction of the different types of courts regarding claims for environmental damage to be compensated.

In both cases, there is a general conclusion that identities of parties should be taken into account on a first-priority basis when it is being established which court has jurisdiction in a case. As a result, it is possible for this conclusion to be extended to other categories of economic cases including those which have no relation to the protection of the environment. This may be especially important with cases concerning administrative offences.

¹ Clause 1 of joint Resolution No. 12/12 of the Plenum of the Russian Supreme Court and of the Plenum of the Russian Supreme Commercial Court “On certain matters connected with cases being subject to the jurisdiction of courts and state commercial courts” dated 28 August 1992.

² Ruling in case No. A07-18651/2014 dated 17 November 2015.

Help from your advisor

Pepeliaev Group's lawyers have the required experience to represent clients in courts of general jurisdiction and state commercial courts. We provide the whole range of high-quality legal assistance in both forums. Our experts are available to help you to make the right choice of court, identifying which is competent to consider your case. If necessary, they can also assist in challenging existing judicial decisions on the ground that they were not adopted by the proper court.

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