



RUSSIAN CODE OF ADMINISTRATIVE COURT PROCEEDINGS COMES INTO FORCE

For the attention of company CEOs and in-house lawyers

Pepeliaev Group reminds you that the Code of Administrative Court Procedure of the Russian Federation¹ (the '**Russian Code of Administrative Court Proceedings**') takes effect on 15 September 2015.

The Russian Code of Administrative Court Proceedings determines the procedure for the Russian Supreme Court and courts of general jurisdiction to consider administrative cases. These include cases regarding protection when the rights, freedom and lawful interests of individuals and the rights and lawful interests of companies are violated or are in dispute. The Code also deals with other administrative cases arising out of administrative or other public legal relationships and involving courts overseeing whether the powers of government or other public authorities are exercised legitimately and justifiably ('**administrative cases**'), such cases currently being considered under the rules of the Russian Code of Civil Procedure.

In particular, the rules of the Russian Code of Administrative Court Procedure will cover cases involving challenges to legal regulations, decisions and acts or omissions of state authorities (for example, challenges to a state labour inspectorate's orders), or cases seeking that an assessed cadastral value be invalidated, when such cases do not relate to business or other economic activity.

However, the Russian Code of Administrative Court Proceedings does not regulate proceedings in cases

- relating to administrative offences and challenges to resolutions in administrative offence cases;
- arising out of public legal relationships falling within the jurisdiction of commercial ('arbitration') courts (such as tax disputes involving commercial entities), or
- relating to statements of claims for funds to be recovered from the state budgetary system of the Russian Federation.

Most rules of the Russian Code of Administrative Court Proceedings have been borrowed from the Russian Code of Civil Procedure. However, Russian Code of Administrative Court Proceedings introduces a number of new provisions. We will highlight the most important of these:

1. Only those individuals who have higher education in law may act as representatives in courts with regard to administrative cases. Moreover, in some categories of cases, it is provided that the representative must participate in court proceedings (for example, when a regulatory instrument is being challenged).
2. Representatives' powers to litigate in court must be recorded in a power of attorney, and the power of attorney granted by a company must be signed by its CEO and sealed².
3. Unlike the Russian Code of Civil Procedure, the Russian Code of Administrative Court Proceedings establishes an opportunity to file in electronic form a statement of administrative claim and other documents regarding the case.

¹ The Code of Administrative Court Procedure of the Russian Federation, Federal Law No. 21-FZ dated 8 March 2015, and Federal Law No. 22-FZ dated 8 March "On bringing into force the Code of Administrative Court Proceedings of the Russian Federation".

² The rules of the Russian Code of Administrative Court Proceedings concerning the seal that must be affixed on the power of attorney contradict provisions of civil legislation according to which limited liability companies and joint-stock companies are not required to have a seal. For this reason, one should take note of the explanations of the Russian Supreme Court (Overview No. 2 of Case Law approved by the Presidium of the Supreme Court on 26 June 2015). According to these explanations, if a company does not have a seal, its representative will have to submit the company's constituent documents (certified copies of them) to the court in order to confirm this fact.

4. The circumstances are determined in which a case may be examined according to the simplified procedure (in writing). An example is if an administrative claimant files a petition for an administrative case to be examined according to the simplified procedure and the administrative defendant does not object to such procedure being applied to examine the case.

What to think about and what to do

The Russian Code of Administrative Court Proceedings takes effect on 15 September, except for certain provisions. For instance, the rules regarding the opportunity to use electronic documents will come into force on 15 September 2016.

Cases which are being litigated in courts but will not have been examined by 15 September 2015, will be considered according to the rules of Russian Code of Administrative Court Proceedings.

For these reason, the new rules set by the Russian Code of Administrative Court Proceedings should be taken into account. Among other things, it should be checked whether representatives have higher education in law, it should be assessed whether it would be reasonable to apply the simplified (written) procedure of litigation, and representatives' powers should be confirmed under the rules provided for by the Russian Code of Administrative Court Proceedings. Opportunities should be used to conduct single-discipline, comprehensive, additional and follow-up expert reviews, as well as to apply electronic document flow in administrative legal proceedings.

It should also be noted that at the end of 2014 and the beginning of 2015, in a number of its decisions, the Russian Supreme Court stated that state commercial courts are not competent to consider certain disputes in cases concerning administrative offences that do not relate to business or other economic activity (such as in the area of public sanitation and disease control, environmental protection, and fire safety). Being guided by the above positions, state commercial courts quite often believe that cases aimed at challenging orders to remedy the corresponding violations do not fall under their jurisdiction. This means that such claims are to be examined in the courts of general jurisdiction under the Russian Code of Administrative Court Proceedings.

Help from your adviser

Pepeliaev Group's lawyers are ready to provide you comprehensive assistance in issues relating to the entry into force of the Russian Code of Administrative Court Proceedings. The firm's lawyers have extensive experience of advising and representing companies with regard to appealing against regulatory and non-regulatory instruments, decisions, and acts or omissions of state authorities, as well as providing support in disputes to challenge an assessed cadastral value.

Contacts**Elena Ovcharova**

Head of Administrative Defence
of Business Group

Tel.: +7 (495) 967-00-07
e.ovcharova@pgplaw.ru

**Alexander Korkin**

Head of Employment and Migration
Group (St. Petersburg)

Tel.: +7 (812) 640-60-10
a.korkin@pgplaw.ru

**Alexey Konevsky**

Partner
Real Estate and Construction

Tel.: +7 (495) 967-00-07
A.Konevsky@pgplaw.ru

**Egor Lysenko**

Head of Siberian Office,
Pepeliaev Group

Tel.: +7 (391) 277-73-00
E.Lysenko@pgplaw.ru