

REIMBURSEMENT OF COURT COSTS – A NEW RULING OF THE PLENUM OF THE SUPREME COURT

Newsletter

Why is it important to read this Newsletter?

If you are participating in litigation in Russia or expect to do so in the future, in addition to the subject matter of the dispute, it is also important to know who will be responsible for the court costs. The Supreme Court recently issued several clarifications on this issue.

On 21 January 2016, the Supreme Court adopted a Ruling of the Plenum¹ containing the rules on applying the procedural legislation for distributing court costs between the parties to a case. We would like to note the following key clarifications of the Supreme Court.

1. What is included in court costs?

The list of court costs stipulated in the procedural codes is not exhaustive. In addition to the costs listed in the codes, court costs also include expenses incurring on the collection of evidence before the case comes to court, on the drafting of a power of attorney (but only if the power of attorney was issued for the participation of a representative in a specific case), and expenses incurred to comply with the mandatory out-of-court dispute resolution procedure.

Please note that expenses incurring on the study of case materials, on the use of the Internet and on mobile communications are not subject to additional reimbursement, since these expenses are included in the fee for the services provided (unless stipulated otherwise by the agreement).

2. General provisions

- Court costs are imposed on the party against whom the final court order was issued. This may not only be a court decision on the merits of the case, but also a ruling to dismiss a claim without prejudice or a ruling to terminate proceedings on a case.

- If case proceedings are subject to termination due to the claimant's abandonment of its claim due to the voluntary satisfaction of its demands by the defendant after the initiation of a legal action by the claimant, court costs will be recovered from the defendant.
- Court costs may be recovered not only in favour of the party that won the dispute, but also in favour of a third party participating on the side of the party in whose favour the court order was adopted.² The possibility to recover court costs does not depend on whether or not the third party joined the litigation on its own initiative, based on the motion of a party, or at the request of the court.
- Court costs are only subject to reimbursement on the resolution of disputes involving substantive law. For this reason, costs arising during the consideration of categories of cases such as cases considered according to the procedure to declare lost documents void, cases to establish legally relevant facts, on adoption, on the declaration of a citizen as a missing person, etc. are not subject to reimbursement.

3. Special issues

- Expenses on the payment of representatives incurred by the bodies and organizations that have been granted the right by law to have recourse to the courts to protect the rights and freedoms of other parties are not subject to reimbursement. The Ruling of the Plenum states that the authorities of these bodies and organizations (for example, consumer protection agencies) stipulate their independent participation in court proceedings, without bringing in representatives for a fee.
- Court costs incurred by the parties during the consideration of a case prior to the conclusion of an amicable settlement agreement or a conciliation agreement are charged to the parties and are not subject to distribution.

¹ Ruling of the Plenum of the Supreme Court "On Certain Issues Regarding the Application of Legislation on Reimbursement of Costs on the Consideration of a Case".

² A similar sentence is contained in the Framework for a Unified Civil Procedural Code of the Russian Federation, approved on 8 December 2014 by the State Duma. The literal wording of Article 98 of the RF CPC is currently based on the possibility to distribute court costs only among the parties to the dispute, but not among third parties.



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- The court is entitled to offset court costs to be recovered in favour of each of the parties as counterclaims. The offset is based on a motion of the parties or at the court's initiative, which forwards this issue for the consideration of the parties.



Falk Tischendorf
Attorney-at-law, Partner
Head of the Representative Office
BEITEN BURKHARDT Moscow
E-mail: Falk.Tischendorf@bblaw.com



Alexander Bezbodov, LL.M.
Attorney-at-law, Partner
BEITEN BURKHARDT Moscow
E-mail: Alexander.Bezbodov@bblaw.com

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Editor in charge

Alexander Bezbodov

Natalia Bogdanova



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BEITEN BURKHARDT · RECHTSANWÄLTE (ATTORNEYS-AT-LAW)

MOSCOW · TURCHANINOV PER. 6/2 · 119034 MOSCOW · TEL.: +7 495 2329635 · FAX: +7 495 2329633
FALK TISCHENDORF · FALK.TISCHENDORF@BBLAW.COM

ST. PETERSBURG · MARATA STR. 47-49 LIT. A · OFFICE 402 · 191002 ST. PETERSBURG · TEL.: +7 812 4496000 · FAX: +7 812 4496001
NATALIA WILKE · NATALIA.WILKE@BBLAW.COM

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