

ONPOINT / A legal update from Dechert's Moscow Office

April 2020

COVID-19 Coronavirus – Effects on the Operation of Russian State Courts

On March 18, 2020, Russia's Supreme Court and the Counsel of Judges issued Joint Resolution No. 808 to address measures Russian state courts must take to limit the spread of COVID-19 (the "Resolution").¹

The Resolution makes reference to the Federal Law on Sanitary and Epidemic Safety,² the Federal Law on Protection of the Population and Territory against Extraordinary Events,³ as well as a number of COVID-19-related resolutions and decrees already issued by the Russian healthcare authorities.

Key steps taken by Russian state courts

The Resolution sets out the following steps, which should be implemented immediately in every state court in Russia:

- meetings in person in courts must be limited;
- all submissions shall be made via the Internet or by Russian state post;
- courts may consider only:
 - urgent cases (such as cases concerning arrests, protection of the interests of minors or legally incapacitated persons, medical interventions in extreme cases etc.);
 - cases to be considered in simple (minor disputes, including disputes with tax authorities and other state bodies) or default writ proceedings (including debt recovery disputes and non-performance of contract disputes);
- where possible all courts must use video conference facilities when considering cases;
- all judges and employees of the courts must go into self-isolation should any symptoms of any illness appear;
- access to the court by third parties who are not party to any proceedings should be limited;
- the above measures shall remain in force between March 19 and April 10.

Taking into account the current situation with regards to the spread of COVID-19 in Russia the date for such measures to be taken may be extended. At the moment, all regular court hearings scheduled between March 19 and April 10 are automatically postponed to a later date, usually depending on the schedule of the judge.

What counts as an "urgent" case?

The list of cases considered "urgent", and therefore subject to consideration during this time period, is open and up to the discretion of the judge. Therefore, applications from parties to impose urgent injunctive measures in commercial disputes may also be treated as urgent (although it is worth noting that such applications are considered without the presence of the involved parties in any event).

The current practice of Russian courts shows us that applications from parties to impose urgent injunctive measures are indeed still being heard by Russian judges.

It is not yet clear, however, whether the measures included in the Resolution could be a valid excuse to claim an extension of the statute of limitation in a particular case. Most likely, this will be resolved on a case-by-case basis, taking into account the possibility of electronic or postal filing.

Technological solutions

In terms of the use of video conference facilities in Russian state courts when considering cases, this is certainly possible, however, so far video conferences have mostly been used to decrease travel costs to parties in cases where courts have the relevant facilities.

There have also been rare cases where judges agree to talk to parties via Skype call or video call in WhatsApp messenger, however, so far these cases are unique and without solid legal foundation.

Given the economic effect of the pandemic, it seems unlikely in the short term that courts will be able to afford to set up sophisticated facilities, but other less expensive means may become an option if the impact of the COVID-19 pandemic lasts for many months, provided that laws are amended to further allow video in place of in-person hearings.

Measures imposed by the City of Moscow Arbitrazh Court

Following the Resolution, The City of Moscow Arbitrazh Court, which is one of the busiest commercial courts in Russia, immediately altered its internal regulations to comply with the restrictions announced by the Resolution and posted the changes on its website.⁴ The Moscow Court has also applied, amongst other things, additional measures beyond those included in the Resolution to decrease the spread of COVID-19. It has:

- stopped accepting submissions of hard copies of documents to the court;
- allowed electronic filings either through filing system "My Arbitr"⁵ or via Russian post;
- allowed court hearings only on urgent cases or on simplified proceedings;
- restricted physical access to court files, including banning physically collecting enforcement writs as well as court decisions (unless permitted by a judge).

Steps companies should take

While the impact of COVID-19 continues to disrupt ordinary business, all companies involved in, or planning to initiate, litigation in Russian state courts should take the following measures:

- ensure they have the ability to file pleadings to Russian state courts online (including having a valid electronic signature to sign documents electronically);
- check the statute of limitations to ensure that they do not miss filing deadlines;
- file documents to Russian state courts online and send a physical submission by Russian state post;
- keep in contact with court clerks to monitor the situation with regards to particular proceedings;

- when developing litigation strategies keep in mind that current consideration of cases may be longer than usual.

If you have any questions about this, or any other topic, we would be happy to help in any way we can. Please feel free to reach out to your Dechert contact for assistance.

For more information on the global impact of Coronavirus COVID-19 please see our [COVID-19 Business Impact page](#).

Footnotes

- 1) <http://www.supcourt.ru/files/28814/>
- 2) http://www.consultant.ru/document/cons_doc_LAW_22481/
- 3) http://www.consultant.ru/document/cons_doc_LAW_5295/
- 4) <https://msk.arbitr.ru/node/15909>
- 5) <https://my.arbitr.ru/#index>

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