

SPECIAL FEATURES OF OPERATION OF RUSSIAN COURTS DURING NON-WORKING DAYS

Due to the declaration by the Decrees of the President of the Russian Federation No. 206 dated March 25, 2020 and No. 239 dated April 2, 2020 of a non-working days for the period from March 30, until April 30, 2020 (“*Non-Working Days*”), significant changes were also introduced to the functioning of Russian courts.

The order of operation of courts, as well as the main recommendations in respect of court proceedings are set out in the following primary documents:

1. Review № 1 of the Presidium of the Supreme Court of the Russian Federation as of April 21, 2020, “On some issues of the court practice related to the application of the legislation and measures aimed at preventing the spread of a new coronavirus (COVID-19) on the territory of the Russian Federation”.
2. Resolution of the Presidium of the Supreme Court of the Russian Federation and the Presidium of the Council of Judges of the Russian Federation № 821 dated April 8, 2020.
3. Recommendations contained in the Letter of the Supreme Court of the Russian Federation No. 7-BC-1848/20 dated April 1, 2020, signed by the Deputy Chief Justice O. M. Sviridenko.

The above documents established the following features for the operation of courts in the period on Non-Working Days:

1. Personal reception of citizens is suspended and the access of the persons who are not participants of legal proceedings to the courts is limited.
2. Documents, in particular, procedural documents, may be submitted by electronic means to a court, through “My Arbiter” system, or by Russian Post.
3. Courts shall ensure the processing of incoming correspondence.
4. Each court is entitled to decide at its own discretion on holding hearings based on the facts of each case, the opinions of the participants to the proceedings and the conditions of the high alert regime introduced in the relevant Subject of the Russian Federation.
5. The case might be suspended by the court in case the parties may not participate in the hearings scheduled due to a special restrictive measures introduces by the law, unless such cases are not of an urgent nature.
6. During the high alert regime, courts are recommended to consider only cases of *urgent nature* as well as the cases that could be considered in simplified proceedings.
7. The list of cases of urgent nature is not exhaustive and includes without limitation:



- a) preliminary injunction issues;
- b) imposition, prolongation, cancellation or amendment of interim measures;
- c) protection of the interests of a minor or legally incapable person in case of refusal of the legal representative of medical intervention required to save a life (chapter 31.1 of the Administrative Court Procedure Code of the Russian Federation);
- d) administrative offences (i) for which an administrative arrest, administrative expulsion, administrative suspension of activities may be imposed, (ii) for which preliminary injunction in the form of administrative suspension of activities may be imposed, (iii) in the form violation of the legislation on elections and referendum (articles 5.1 - 5.25, 5.45 - 5.52, 5.56, 5.58, 5.69 of the Administrative Code of the Russian Federation);
- e) gross disciplinary misconduct, in cases of disciplinary arrest of military personnel, or execution of disciplinary arrest;
- f) other issues including the protection of the constitutional rights of citizens to freedom and personal integrity, protection of health and property.

It should be noted that the above wording is very broad and may allow hearing of almost any cases regarding the disputes of both pecuniary and non-pecuniary nature. This issue remains at the discretion of courts.

8. In case the last day of the term for which the court hearing is adjourned (postponed) or appointed, is a non-working day, such term shall expire on May 6, 2020 (the first working day).
9. In order to comply with the procedural terms for consideration of a case, the term for which the hearing is adjourned shall not be included in the term for the consideration of the case.
10. The period of Non-Working Days is not applicable to the courts, therefore procedural terms shall not be prorogated on this day. However, procedural terms might be restored in case the omission by the parties was due to anti-covid restrictive measures imposed by the law.

As of today, court visits are suspended almost everywhere and only some judges, who resolve the issues of an urgent nature, several court clerks and assistants of some judges, who provide information regarding specific issues, are available at courts premises.

The information on adjournment of arbitration courts' hearings most often appears in the "*Kartoteka arbitrazhnykh del*" (Arbitration Cases File) within 1-2 days before hearings.

Recommendations

In the current situation it is suggested as follows:

1. Regularly monitor the adoption and publication of resolutions on adjournment of court hearings in the services: <https://kad.arbitr.ru/> and <https://casebook.ru/>. At the same time, be prepared that the case pending before a court could also be treated during the non-working days (point 8 above).

2. The introduction of the Non-Working Days does not affect the course of limitation periods and procedural terms, including the terms for appealing court rulings.
3. In order to avoid the risk of non-observance of the limitation periods / procedural terms (for example, for appeal against court rulings, applications), file procedural documents with the court, submit additional evidence, file certain procedural applications in advance in electronic form or by Russian Post / courier services.
4. In order to avoid that the case is treated in the absence of an interested party, a dedicated motion for continuance should be filed with the court in advance. Such motion should expressly indicate that the party objects the treatment of the case without its attendance.
5. If the party considers that the case should be considered before April 30, 2020, and the proceedings cannot be adjourned, objections to the adjournment of the hearings / change of the date of hearings should be filed with the court in advance. After that regular monitoring for the decision of the court regarding the possibility of considering / adjourning the case in the “*Kartoteka arbitrazhnykh del*” (kad.arbitr.ru) or GAS “Pravosudie” (State Automated System) should be conducted.

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This article was prepared as a brief overview of the law and does not constitute a legal advice of OOO “Pavia e Ansaldo”.