



# **RULING OF THE PLENARY SESSION OF THE SUPREME COURT OF THE RUSSIAN FEDERATION**

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## **On Certain Issues Arising during Consideration of Cases on Award of Compensation for Violation of Right to Trial within a Reasonable Time or of Right to Execution of a Judicial Act within a Reasonable Time (as amended by Plenary Ruling No. 23 of 29 June 2021)**

For the purpose of uniform court application of legislation of the Russian Federation regulating the consideration of cases on award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time, the Plenary Session of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, Articles 2 and 5 of Federal Constitutional Law No. 3 of 5 February 2014 “On the Supreme Court of the Russian Federation”, hereby rules to provide the following clarifications:

### ***General Provisions***

1. The right to judicial protection is acknowledged and guaranteed by the Constitution of the Russian Federation, international treaties of the Russian Federation and in particular includes the right to trial within a reasonable time and the right to execution of a judicial act within a reasonable time, which are realized through the creation, by the state, of procedural conditions for effective and fair consideration of cases, as well as through organizing and ensuring the timely and

effective execution of judicial acts (Article 46 of the Constitution of the Russian Federation, Article 14 of the International Covenant on Civil and Political Rights of 16 December 1966, paragraph 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950).

To ensure the effective nature of these rights, a special remedy in the form of award of compensation is stipulated in Federal Law No. 68 of 30 April 2010 “On Compensation for Violation of Right to Trial within a Reasonable Time or of Right to Execution of a Judicial Act within a Reasonable Time” (hereinafter referred to as the Law on Compensation).

The compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time (hereinafter – the compensation), as a measure of state liability, is aimed at compensating for non-property damage caused by violation of procedural conditions that ensure the implementation of these rights within a reasonable time, regardless of whether a court, criminal prosecution bodies, bodies charged with enforcement of judicial acts, other state bodies, local self-government bodies and their officials are at fault or not.

This compensation is not aimed at compensating for property losses of the interested person and does not replace any compensation for property damage caused to it by illegal actions (failure to act) of state bodies, including courts. Herewith, the award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time deprives the interested person of the right to compensation for moral harm caused by the aforementioned violations (Part 4 of Article 1 of the Law on Compensation, Articles 151, 1069, 1070 of the Civil Code of the Russian Federation (hereinafter – the CC RF).

The manner of proceedings in cases on award of compensation is regulated by procedural codes (Chapter 26 of the Code of Administrative Judicial Procedure of the Russian Federation (hereinafter – the CAJP RF), Chapter 27.1 of the Commercial Procedure Code of the Russian Federation (hereinafter – the ComPC RF).

2. Pursuant to the interrelated provisions of Part 1 of Article 1 and Article 3 of the Law on Compensation, this law applies to the following events:

- a) violation of reasonable time periods stipulated for cases considered by courts of general jurisdiction and commercial courts (hereinafter also referred to as

the courts) in accordance with the rules of court competence and jurisdiction stipulated in procedural legislation;

b) violation of reasonable time periods for execution of judicial acts stipulating recovery from the budget funds of the budgetary system of the Russian Federation in accordance with legislation in force at the moment when given legal relations arose, including:

- those adopted in regard of lawsuits against the Russian Federation, a constituent entity of the Russian Federation, a municipal entity (hereinafter – a public law entity) concerning compensation for damage caused to a natural person or legal person by illegal actions (failure to act) of state bodies, local self-government bodies or their officials;
- those adopted in regard of administrative statements of claim, applications for award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time at the expense of the federal budget, budget of a constituent entity of the Russian Federation, budget of a municipal entity;
- those adopted in regard of lawsuits concerning recovery of monetary funds at the expense of the treasury of a public law entity, in particular in the manner of subsidiary liability (hereinafter – lawsuit against a public law entity);
- those imposing duties on public authorities, local self-government bodies, their officials, state or municipal servants to perform payments at the expense of the federal budget, budget of a constituent entity of the Russian Federation, local budget (hereinafter – lawsuit on imposing a duty on public authorities, local self-government bodies, their officials);
- those adopted in regard of monetary obligations of a public establishment, public authorities (state bodies), local self-government bodies.

Pursuant to Article 6 of the Budgetary Code of the Russian Federation (hereinafter – the BC RF), a monetary obligation is the duty of a recipient of budgetary funds to pay certain monetary funds to a budget, a natural person and a legal person at the expense of the budget in accordance with the fulfilled terms and conditions of a civil transaction concluded within the recipient's budgetary powers or in accordance with the provisions of a law, other legal act, terms and conditions of a contract or agreement.

It should be noted that the Law on Compensation does not apply to compensation claims for violation of the time period for execution of judicial acts stipulating recovery from monetary funds of citizens and organizations that are not recipients of budgetary funds, in particular of budgetary institutions. However, this does not exclude the possibility of claiming damages in the general manner for culpable non-enforcement of all other judicial acts, in particular of those adopted against public law entities;

c) violation of reasonable time periods for execution of judicial acts imposing a duty to execute other property (non-monetary) claims and (or) non-property claims upon federal public authorities, public authorities of constituent entities of the Russian Federation, local self-government bodies, other bodies and organisations vested with certain state or other public powers, upon officials, state and municipal servants (e.g., accordingly, violation of reasonable time periods for execution of judicial acts imposing a duty to transfer property in kind upon a public law entity or imposing a duty to perform particular legally significant actions upon the aforementioned subjects);

d) violation of reasonable time periods in the course of pre-trial proceedings in criminal cases, where:

- a suspect or accused person has been established;
- a decree to suspend the preliminary investigation was adopted due to failure to establish the person subject to being drawn as the accused;
- a measure of procedural compulsion in the form of arrest of property (including exclusive rights) was taken against a person who is not the suspect, accused or a person materially liable for their actions in accordance with the law (hereinafter – person with arrested property).

3. The Law on Compensation also applies where compensation is awarded for violation of the right to a criminal trial within a reasonable time, provided that the grounds and conditions stipulated in Parts 6–7.3 of the Law on Compensation exist and are met.

4. By implication of Article 6.1 of the Criminal Procedure Code of the Russian Federation (hereinafter – the CrPC RF), Article 3 of the Law on Compensation, that Law does not apply, in particular, to compensation claims for violation of time periods for consideration of appeals in the manner stipulated in Article 125 of the CrPC RF [Judicial Manner of Consideration of Appeals], as well as to consideration of issues related to the execution of a sentence (e.g. parole applications).

5. Persons that have a right to apply to court with an application, administrative statement of claim for the award of compensation (hereinafter – compensation application) include citizens of the Russian Federation, foreign citizens, stateless persons, Russian, foreign and international organizations which believe that their right was violated and which, pursuant to procedural legislation, are:

- in civil and administrative judicial proceedings – parties, applicants, interested persons, third persons stating independent claims in regard of the subject matter of the dispute, recoverors and debtors;
- in criminal judicial proceedings – suspected persons, accused persons, defendants, convicted persons, acquitted persons (hereinafter – the suspect and the accused), victims or other interested persons to whom harm was caused by an act prohibited by criminal law, civil plaintiffs, civil defendants, as well as persons with arrested property (Part 1 of Article 1 of the Law on Compensation, Article 250 of the CAJP RF, Part 1 of Article 222.1 of the ComPC RF).

By implication of Part 1 of Article 1 of the Law on Compensation, in a case on an administrative offence, the person in whose regard the proceedings in the case were (are) conducted, as well as the victim have the right to apply to court with a compensation application, if the reasonable time of trial was violated.

Where stipulated in federal law, other persons may also apply to court with a compensation application, if their right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time was violated (Part 1 of Article 1 of the Law on Compensation).

6. Pursuant to Part 1 of Article 39 of the CAJP RF, a prosecutor may apply to court with a compensation application for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time in defence of the interests of a citizen who belongs to the persons that have a right to claim compensation and cannot apply to court with such an application on her/his own due to health condition, age, incapacity and other good reasons.

7. The right to trial within a reasonable time and the right to execution of a judicial act within a reasonable time are inalienable and non-transferable, including in the manner of transfer of a creditor's rights to another person under a transaction (assignment of claims).

In view of the foregoing, only the person that participated in the trial or the person in whose favour a writ of execution was issued is entitled to compensation.

If there is a procedural replacement of a person by its successor in the disputed substantive legal relation, the circumstances related to violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time that occurred prior to the transfer of rights to the successor cannot serve as grounds for satisfaction of the latter's compensation application.

8. Cases on award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time (hereinafter – compensation case) fall within the jurisdiction of the Supreme Court of the Russian Federation, of courts of general jurisdiction, if the compensation claim results from a lengthy period of proceedings in a case in a court of general jurisdiction or from a lengthy period of non-execution of a judicial act adopted by a court of general jurisdiction, as well as from a lengthy period of pre-trial proceedings in a criminal case (Item 1 of Part 1 and Item 1 of Part 2 of Article 3 of the Law on Compensation).

Compensations cases fall within the jurisdiction of the Supreme Court of the Russian Federation, of commercial courts, if the compensation claim results from a lengthy period of proceedings in a case in a commercial court or from a lengthy period of non-execution of a judicial act adopted by a commercial court (Item 2 of Part 1 and Item 2 of Part 2 of Article 3 of the Law on Compensation).

Proceeding from the interrelated provisions of Articles 26 and 43.2 of Federal Constitutional Law No. 1 of 28 April 1995 “On Commercial Courts in the Russian Federation”, the Intellectual Property Rights Court, acting as a court of first instance, considers compensation applications regarding cases that fall within its court competence of a court of first instance, as well as regarding cases on intellectual rights protection disputes considered by commercial courts.

If the dispute that provided grounds for filing a compensation application for violation of the right to trial within a reasonable time has been under consideration of both a court of general jurisdiction and a commercial court, the jurisdiction over the compensation case is determined based on which of those courts issued the last judicial act or before which court the case is currently pending.

### ***Filing a Compensation Application***

9. Pursuant to Part 1 of Article 251 of the CAJP RF, Part 1 of Article 222.2 of the ComPC RF, a compensation application is filed to the court authorized to consider such an application through the court that adopted the decision.

Pursuant to the specified provisions, a compensation application is filed through the court that adopted the decision (decree, ruling) in first instance, pronounced the sentence, or through the court considering the case in first instance.

A cassation appeal against a judicial act of a commercial court, filed to the Supreme Court of the Russian Federation, may contain a compensation claim for violation of the right to trial within a reasonable time (Part 4 of Article 3 of the Law on Compensation, Part 2 of Article 291.1, Part 3 of Article 291.3 of the ComPC RF).

A compensation application for violation of the right to execution of a judicial act within a reasonable time is filed through the court that considered the case in first instance, regardless of the place of execution of the judicial act.

If the right to trial within a reasonable time was violated in the course of pre-trial proceedings in criminal cases, a compensation application is filed directly to the supreme court of a republic, the court of a territory, region, federal city, autonomous region, autonomous circuit, the circuit (fleet) military court at the place of the pre-trial investigation, where it is subject to consideration (Part 3 of Article 251 of the CAJP RF).

10. A compensation application received by a court is to be sent, together with the case, to the court authorized to consider the application, within three days since its receipt.

If a compensation application for violation of the right to trial within a reasonable time is filed prior to the end of proceedings in the case, it is sent to the court authorized to consider it together with copies of judicial acts, minutes of court sessions, other documents required to adjudicate the case.

If the case that provided grounds for filing a compensation application is in a court of higher instance, the received application is sent to the court authorized to consider it without the case. Herewith, copies of judicial acts, minutes of court sessions, decisions of officials who carried out the criminal judicial proceedings are sent by the

court of higher instance upon request of the court authorized to consider the application.

A court may, upon its own initiative or upon the motion of the parties, request the authorities carrying out the pre-trial investigation to provide information necessary for consideration of a compensation application regarding the violation of reasonable time periods in pre-trial proceedings. Said information is subject to the court's assessment in conjunction with the other evidence in the compensation case (Part 1 of Article 63, Articles 70 and 84 of the CAJP RF).

11. A compensation application is filed to a court in written form and must be signed by the applicant or its representative; the corresponding state fee must be paid as well (Articles 125 and 252 of the CAJP RF, Articles 125, 222.3 of the ComPC RF).

Said application may also be filed by filling out a form on the official website of the court in the manner stipulated in the procedural legislation of the Russian Federation.

In addition to the information stipulated in Items 1, 2, 6–11 of Part 2 of Article 252 of the CAJP RF, an administrative statement of claim for compensation, filed by the victim or another interested person to whom harm was caused by an act prohibited by criminal law, must contain information about the general duration of the criminal proceedings, which is calculated from the day of filing the application, notification about a crime to the day on which the decision was adopted to suspend the preliminary investigation due to failure to establish the person subject to being drawn as the accused, or to the day on which a decision was adopted on refusal to initiate a criminal case due to expiry of the prescription period for criminal prosecution, or to the day on which the criminal prosecution was terminated or a judgment of acquittal was adopted (Item 5 of Part 2 of Article 252 of the CAJP RF).

12. It should be taken into account that procedural legislation does not stipulate the obligatory conduct of the case through a representative or require the applicant to have a law degree. In this regard, the fact that a person filing a compensation application does not have a law degree does not constitute grounds for leaving the application without action (Part 1 of Article 54, Part 1 of Article 126, Part 3 of Article 252 of the CAJP RF).

13. If a compensation application does not meet the requirements to its form and contents, as stipulated in law, it should be left without action in accordance with Article 255 of the CAJP RF, Article 222.5 of the ComPC RF.



It should also be taken into account that the requirements stipulated in Items 1, 3, 4, 6–7 of Part 1 of Article 126 of the CAJP RF (Part 3 of Article 252 of the Code), in Items 1, 3, 4, 6–7 of Part 1 of Article 126 of the ComPC RF do not apply to the documents attached to the compensation application submitted to the court.

When resolving the issue of accepting the compensation application for proceedings, the judge also checks whether there are grounds for refusal to accept the administrative statement of claim, application, as stipulated in Article 128 of the CAJP RF, Article 127.1 of the ComPC RF.

14. A compensation application for violation of the right to trial within a reasonable time may be filed within six months since the last judicial act in the case entered into force (Item 1 of Part 5 of Article 3 of the Law on Compensation, Part 2 of Article 250 of the CAJP RF, first paragraph of Part 2 of Article 222.1 of the ComPC RF).

For the purposes of filing a compensation application, as well as calculating the total duration of trial, based on the provisions of Article 16 of the CAJP RF, Article 13 of the Civil Procedure Code of the Russian Federation (hereinafter – the CPC RF), Article 15 of the ComPC RF, the last judicial act may be a decision, decree on termination of proceedings in the case, decree on leaving an application without action, adopted by a court of first instance, or a ruling (decree) of a court of appeal, cassation, supervision that considered the case or adjudicated it on the merits.

For the purposes of calculating the time period for filing a compensation application, the last judicial act may also be a judge's decree to refuse to forward a cassation, supervisory appeal, prosecutor's appeal for consideration in a court session of a court of appeal, cassation, supervision (Articles 324, 338 of the CAJP RF, Articles 383, 391.7 of the CPC RF, Articles 291.8, 308.6 of the ComPC RF).

15. Taking into account the provisions of Item 2 of Part 5 of Article 3 of the Law on Compensation, Part 3 of Article 250 of the CAJP RF, second paragraph of Part 2 of Article 222.1 of the ComPC RF, if the proceedings in a civil, administrative case, an administrative offence case, a case in an economic dispute have not ended, a person may file a compensation application after three years since the day of receipt of an application, statement of claim, administrative statement of claim, report about an administrative offence (decree on initiation of an administrative offence case) by the court of first instance, provided that the applicant previously filed an application to speed up the proceedings.

16. As regards cases on administrative offences considered by the courts, the last judicial act may be a court ruling, a decision on imposition of an administrative punishment, on termination of proceedings in the administrative offence case, and for commercial courts – also a decision following the consideration of an appeal against a decree of an administrative body in the administrative offence case and subsequent judicial acts of higher courts adopted in the administrative offence case.

17. A compensation application for violation of the right to trial within a reasonable time may be filed within six months after a judgment of conviction or acquittal (including an appeal sentence), ruling (decree) on taking of compulsory medical measures, a ruling (decree) on termination of a criminal case (hereinafter – the final court decision) enters into force following the court proceedings in the criminal case.

Following the pre-trial proceedings in a criminal case, a compensation claim may be submitted to court within the periods stipulated in Parts 6–7.3 of Article 3 of the Law on Compensation, Parts 5–8 of Article 250 of the CAJP RF.

18. If a decision following pre-trial proceedings or the final court decision was not adopted, or the final court decision was adopted, but has not entered into force, a suspect, accused may file a compensation application after four years since the beginning of criminal prosecution (Part 7 of Article 3 of the Law on Compensation, Part 5 of Article 250 of the CAJP RF).

For the purposes of the Law on Compensation, the beginning of criminal prosecution means the moment when one of the procedural decisions specified in Part 1 of Article 46 or Part 1 of Article 47 of the CrPC RF is adopted in regard of a person, pursuant to which that person is acknowledged as the suspect or accused; or the moment from which one of the procedural actions is performed in the manner stipulated in Part 1.1 of Article 144 of the CrPC RF, or one of the investigatory actions is performed, aimed at proving the person guilty of committing the crime, which precedes her/his acknowledgement as the suspect or accused.

19. Pursuant to Part 8 of Article 3 of the Law on Compensation, Part 4 of Article 250 of the CAJP RF, Part 3 of Article 222.1 of the ComPC RF, a compensation application for violation of the right to execution of a judicial act within a reasonable time is filed within six months since the end of proceedings on execution of the judicial act.

If the proceedings on execution of the judicial act have not ended, a compensation application may be filed no earlier than after sixth months following the expiry of the time period stipulated in federal law for the execution of a judicial act.

For instance, for the execution of judicial acts regarding lawsuits against public law entities, as well as for the execution of judicial acts stipulating recovery from budgetary funds as regards monetary obligations of public establishments, the BC RF establishes a three-month execution period, calculated from the day of receipt, by the body authorized to execute such a judicial act, of a duly drawn enforcement document, as well as of other documents stipulated in law (Article 242.1, Item 6 of Article 242.2, Item 8 of Article 242.3, Item 7 of Article 242.4, Item 7 of Article 242.5 of the BC RF).

If a public establishment opens its accounts in an institution of the Central Bank of the Russian Federation or in a credit organization, the execution of a judicial act stipulating recovery from budgetary funds is carried out within the time limits established in Federal Law No. 229 of 2 October 2007 “On Enforcement Procedure” (Item 13 of Article 242.3, Item 12 of Article 242.4, Item 12 of Article 242.5 of the BC RF).

Where a judicial act regarding a non-monetary property claim or a non-property claim is executed by a public authority, local self-government body, other body or organisation vested with certain state or other public powers, an official, state or municipal servant without the court issuing an enforcement document, without initiation of enforcement proceedings, and the legislation does not stipulate a period for the execution of the corresponding claims, then a compensation application for violation of the right to execution of a judicial act within a reasonable time is submitted no earlier than six months since the day on which the judicial act enters into force or from expiration of the period for its execution, as determined by the court, or no later than six months since the day of completion (end, termination) of execution of the judicial act (Part 8 of Article 3 of the Law on Compensation, Part 4 of Article 250 of the CAJP RF, Part 3 of Article 222.1 of the ComPC RF).

### *Speeding up the Consideration of the Case*

20. An application regarding compensation for violation of the right to trial within a reasonable time in a case, proceedings in which have not yet ended, may only be accepted by the court if the person claiming compensation or another person participating in the case earlier applied to the president of the corresponding court with an application to speed up the consideration of the case, including an administrative offence case (hereinafter – application to speed up the proceedings) (Item 2 of Part 5 and Part 7 of Article 3 of the Law on Compensation, Part 6 of Article 10, Part 3 of Article 250 of the CAJP RF, Part 6 of Article 6.1, second paragraph of Part 2 of Article 222.1 of the ComPC RF, Part 6 of Article 6.1 of the CPC RF, Part 5 of Article 6.1 of the CrPC RF).

For the purpose of fulfilling the objectives of proceedings in administrative offence cases – the complete and timely establishment of facts of every case and their consideration in accordance with the law – in the context of Article 6.1 of the ComPC RF and Part 7 of Article 10 of the CAJP RF, the person claiming compensation may apply to the president of the court with an application to speed up the proceedings (Article 24.1, Article 29.6 of the Code of Administrative Offences of the Russian Federation).

If the case is considered by a justice of the peace, an application to speed up the proceedings is submitted to the president of the district court (Item 6 of Article 4 of Federal Law No. 188 of 17 December 1998 “On Justices of the Peace in the Russian Federation”).

21. It should be taken into account that an application to speed up the proceedings is considered by the court president sitting alone, within five days from receipt of application by the court, without summoning the persons participating in the case (Part 7 of Article 6.1 of the CPC RF, Part 7 of Article 6.1 of the ComPC RF, Part 6 of Article 6.1 of the CrPC RF).

An application to speed up the proceedings is considered in the manner stipulated in the CAJP RF by the court president no later than on the next working day after the receipt of application by the court (Part 7 of Article 10 of the CAJP RF).

22. When assessing the duration of case consideration, it should be ascertained whether the court took measures to timely consider the case.

Taking into account the fact that after the application to speed up the proceedings is considered, a reasoned decree (ruling) to satisfy or refuse to satisfy the application is adopted, the court president has the right to request and obtain from the judge considering the case, regarding which the application to speed up the proceedings is filed, information on the case progress and actions taken towards its consideration (Part 6 of Article 10 of the CAJP RF, Part 7 of Article 6.1 of the ComPC RF, Part 7 of Article 6.1 of the CPC RF, Part 6 of Article 6.1 of the CrPC RF).

23. If grounds for speeding up the proceedings are established, the decree (ruling) of the court president may stipulate the time period within which a court session must be held, as well as other actions required to speed up the proceedings (Part 7 of Article 6.1 of the CPC RF, Parts 7, 8 of Article 10 of the CAJP RF, Part 7 of Article 6.1 of the ComPC RF, Part 6 of Article 6.1 of the CrPC RF).

In particular, the court president may draw the judge's attention to the need to take measures to promptly notify the persons participating in the case, to obtain evidence ordered for presentation by the court, to control the time of the expert examination, to resume the proceedings in the case, provided that the circumstances that led to their suspension have been eliminated.

When the court president chooses specific measures required to speed up the proceedings, it is necessary to take into account the inadmissibility of violation of the principles of independence and impartiality of judges. For instance, the court president may not appoint an expert examination, predetermine the issues of reliability or unreliability of a piece of evidence, of priority of one piece of evidence over another, or predetermine what decision the court must adopt when considering the case, and may not perform other actions aimed at interfering with the activities of the judge in the administration of justice in a specific case.

Measures that must be taken to speed up the proceedings cannot be directed at persons participating in the case, as well as at persons assisting in the administration of justice.

24. If after considering the application to speed up the proceedings the court president fails to establish any grounds to do so, he/she adopts a reasoned decree (ruling) on refusal to satisfy the application to speed up the proceedings.

The application to speed up the proceedings, as well as the court president's decree (ruling) adopted following its consideration, are attached to the materials of the case, in regard of which the application was filed.

A copy of the decree (ruling) is sent to the person that filed the application to speed up the proceedings and to other persons participating in the case.

A refusal to satisfy an application to speed up the proceedings does not deprive the interested person of the right to apply for compensation. In this regard, the court president's decree (ruling), adopted after consideration of the application to speed up the proceedings, is not subject to appeal.

25. If the reasonable time stipulated for pre-trial proceedings in a criminal case is violated, the right to file a compensation application may be exercised after a complaint is filed to a prosecutor or the head of an investigative body in the manner stipulated in Part 2 of Article 123 of the CrPC RF.

A refusal to satisfy this complaint, as well as failure of said persons to consider it, does not preclude one from filing a compensation application.

If a complaint regarding the duration of pre-trial proceedings in a criminal case was not filed, but there is information that a decree was adopted to prolong the period of pre-trial investigation in the case, which the applicant appealed in the manner stipulated in Part 1 of Article 123 and (or) Article 125 of the CrPC RF, this fact is to be regarded as compliance with the requirement to file an application to speed up the proceedings (Part 7 of Article 3 of the Law on Compensation).

### ***Returning a Compensation Application***

26. A compensation application is subject to return if it is filed by an inappropriate person (Items 1 and 4 of Part 1 of Article 254 of the CAJP RF, Item 1 of Part 1 of Article 222.6 of the ComPC RF).

The following persons have no right to file a compensation application:

- persons claiming compensation for violation of the right to execution of judicial acts not stipulating recovery from the federal budget, the budget of a constituent entity of the Russian Federation, a local budget (Part 1 of Article 1 of the Law on Compensation) or not imposing a duty to execute other property

claims and (or) non-property claims upon federal public authorities, public authorities of constituent entities of the Russian Federation, local self-government bodies, other bodies and organisations vested with certain state or other public powers, upon officials, state and municipal servants;

- representatives whose powers to sign and file a compensation application on behalf of persons that have the right to claim compensation are not confirmed in the manner stipulated in law. It should be taken into account that a representative's right to file a compensation application in the manner stipulated in Part 2 of Article 291.1 of the ComPC RF must be specified in the power of attorney;
- persons in whose regard the European Court of Human Rights has adopted a decision on the admissibility of their applications regarding an alleged violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time, or a decision on the merits of the case (Part 2 of Article 6 of the Law on Compensation);
- victims or other interested persons to whom harm was caused by an act prohibited by criminal law, who filed a compensation application before the end of proceedings in a criminal case, provided that a decree to suspend the pre-trial investigation due to failure to establish the person subject to being drawn as the accused was adopted before 25 June 2013 (Part 7.1 of Article 3 of the Law on Compensation, Part 2 of Article 5 of Federal Law No. 273 of 21 July 2014 "On Amendments to Article 3 of Federal Law 'On Compensation for Violation of Right to Trial within a Reasonable Time or of Right to Execution of a Judicial Act within a Reasonable Time' and to Certain Legislative Acts of the Russian Federation");
- persons that do not fall within the scope of Part 1 of Article 1 of the Law on Compensation.

27. A compensation application is regarded as filed in violation of the stipulated manner and of the time period and is subject to return, if it is filed:

- not through the court that adopted the decision;
- without the interested person first filing an application to speed up the proceedings or a complaint in the manner stipulated in Part 2 of Article 123 of the CrPC RF during pre-trial proceedings in a criminal case;
- after six months since the day on which the last judicial act entered into force;
- prior to the expiry of three years since the statement of claim, administrative statement of claim, application or administrative offence report (decree on initiation of an administrative offence case) in the pending case was filed to the court of first instance;

- after six months since the day on which the final court decision entered into force or from the day when the decision following pre-trial proceedings was adopted;
- prior to the expiry of four years since criminal prosecution was initiated or from the moment when the person was acknowledged as a victim, civil plaintiff, civil defendant in a pending criminal case, provided that the suspect or accused has been established;
- prior to the expiry of four years since the victim or another interested person filed a notification about a crime in a case in which neither the suspect nor the accused has been established;
- prior to the expiry of four years since the person's property was arrested, if the case is still pending;
- after six months since the day on which proceedings regarding the enforcement of the judicial act ended;
- earlier than six months since the expiry of the time period for execution of a judicial act, stipulated in federal law (Article 3 of the Law on Compensation, Article 250 of the CAJP RF, Article 222.1 of the ComPC RF);
- earlier than six months since the day on which a judicial act entered into force, which is executed without the court issuing an enforcement document, without initiation of enforcement proceedings, and for the execution of which the legislation does not stipulate a period; or earlier than six months since the day of expiry of the period for the execution of such a judicial act, determined by a court; or later than six months since the day of completion (end, termination) of execution of such a judicial act.

28. The court returns an application submitted in violation of the submission period, provided that no motion to restore the expired period has been received (Item 2 of Part 1, Part 2 of Article 254 of the CAJP RF, Item 2 of Part 1, Part 2 of Article 222.6 of the ComPC RF).

29. The six-month period for applying to court with a compensation application may be restored, provided that there is a corresponding motion of the person submitting the compensation application (Item 1 of Part 5, Parts 6, 7.1, 7.2, 7.3, 8 of Article 3 of the Law on Compensation, Parts 2, 4, 5–8 of Article 250, Part 2 of Article 257 of the CAJP RF, first paragraph of Part 2, Part 3 of Article 222.1 of the ComPC RF).

In a commercial court authorized to consider a compensation application, the motion to restore the missed period is considered by a single judge of that court, according to the rules stipulated in Article 117 of the ComPC RF.



According to Item 2 of Part 1 of Article 222.6 of the ComPC RF, a refusal to satisfy the aforementioned motion constitutes grounds for returning the compensation application.

In accordance with Part 2 of Article 257 the CAJP RF, a motion to restore the missed period is considered in a preliminary court session. If it is established that the period for filing an administrative statement of claim for award of compensation was missed without a good reason, the court decides to refuse to satisfy it without examining other facts of the administrative case.

30. When resolving the issue of restoring the missed period, the court should take into account that the period may be restored only where there were good reasons for missing it, as established by the court. Such reasons may be circumstances that objectively excluded the possibility of timely applying to the court with a compensation application and did not depend on the person submitting the motion for restoration of the period (e.g. introduction of a high alert or emergency situation regime on the whole territory of the Russian Federation or in its part, illness, helpless state, another's failure to timely send a copy of a document to that person, as well as other circumstances that deprived the person of the opportunity to apply to court within the period stipulated in law, deemed as good reasons by the court).

Such circumstances cannot include references of an organization-applicant to the need to approve the filing of a compensation application with any person, to the fact that the applicant's representative was on a business trip (vacation), to staff changes, absence of an attorney in the organization, replacement of the organization's head (or her/his absence on a business trip or vacation), as well as references to other organizational circumstances of the legal person applying for compensation (Part 2 of Article 117 of the ComPC RF).

31. A compensation application may be returned by the court on the basis of Item 3 of Part 1 of Article 254 of the CAJP RF, Item 5 of Part 1 of Article 222.6 of the ComPC RF due to the fact that the time of court proceedings or the time of execution of a judicial act evidently indicates that there was no violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time if, in particular, the total duration of consideration of the case does not exceed the sum of periods for its consideration stipulated in law for each court instance, if the periods stipulated in law for execution of a judicial act and performance of pre-trial proceedings in a criminal case have been observed.

It is not allowed to return a compensation application, if the presence or absence of violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time can be ascertained only during the trial in the case.

32. By virtue of Part 4 of Article 254 of the CAJP RF, Part 5 of Article 222.6 of the ComPC RF, the return of a compensation application does not preclude repeated application to court after the elimination of circumstances that served as grounds for the return, except when such circumstances are irremediable (e.g. a person does not have the right to file a compensation application).

### ***Preparation of a Case for Trial and Consideration of a Compensation Application***

33. After accepting a compensation application, the judge prepares the case for the trial in the manner stipulated in procedural legislation, in compliance with the rules of Article 257 of the CAJP RF, Part 3 of Article 222.8 of the ComPC RF.

The matter of time and place of holding a preliminary court session is resolved during the acceptance of the compensation application for proceedings, in which regard a corresponding decree is adopted. Herewith, in the aforementioned decree (hereinafter – acceptance decree), the court may simultaneously indicate the actions that the parties and other interested persons must perform within the procedure of preparing the case for the court session (Part 4 of Article 253 of the CAJP RF, Part 3 of Article 222.4 of the ComPC RF).

34. When preparing a compensation case for trial in accordance with Part 1 of Article 257 of the CAJP RF, Part 3 of Article 222.8 of the ComPC RF, the court defines the persons participating in the case, including the body, organization or official on which the duty to execute a judicial act is imposed.

By implication of the aforementioned provisions, the body, organization or official on which the duty to execute a judicial act is imposed are understood as the persons charged with executing a judicial act in regard of which act the reasonable time period for execution was violated, and also the corresponding financial body, body of the Federal Treasury or a body that opens and operates the personal account of a public establishment of a constituent entity of the Russian Federation or a personal

account of a municipal public establishment – as bodies that organize the execution of judicial acts in accordance with the budgetary legislation of the Russian Federation, or the Federal Bailiff Service – as the body that performs enforcement of judicial acts on the territory of the Russian Federation.

In the acceptance decree, the court sets a period for the aforementioned persons to present explanations, objections and (or) arguments regarding the compensation application, and also to present other evidence necessary for the consideration of the case or resolves the issue of drawing those persons to participation in the case as interested persons, third persons (Parts 2, 3 and 4 of Article 63, Item 5 of Part 3 of Article 135 of the CAJP RF, Article 66, Item 1 of Part 1 of Article 135 of the ComPC RF).

For these purposes, copies of the acceptance decree are sent to the person who filed the compensation application, to the body, organization or official that failed to execute a judicial act within a reasonable time, to other interested persons and also to the persons listed in Part 9 of Article 3 of the Law on Compensation, which represent the interests of a public law entity, in particular to the corresponding financial bodies (Part 5 of Article 253 of the CAJP RF, Part 4 of Article 222.4 of the ComPC RF).

This decree may also be sent to the prosecutor who exercised (is exercising) supervision over the procedural activities of inquiry bodies and pre-trial investigation bodies in regard of the case in which the reasonable time periods were violated (Part 1 of Article 37 of the CrPC RF).

35. According to Article 6 of the BC RF, the financial bodies are the Ministry of Finance of the Russian Federation (hereinafter – the Ministry of Finance of Russia), executive bodies of constituent entities of the Russian Federation that prepare and organize the realization of budgets of the constituent entities of the Russian Federation (financial bodies of constituent entities of the Russian Federation), bodies (officials) of local administrations of municipal entities that prepare and organize the realization of local budgets (financial bodies of municipal entities).

It should be taken into account that the interests of the Ministry of Finance of Russia are represented within the territory of constituent entities of the Russian Federation by departments of the Federal Treasury in the constituent entities of the Russian Federation.

In this regard, in order to timely consider compensation cases, copies of acceptance decrees and of compensation applications are sent not only to the Ministry of Finance of Russia, but also to the corresponding department of the Federal Treasury.

In compensation cases, it is obligatory to draw to participation in the case the financial bodies representing the interests of public law entities, and where Items 2, 4 and 5 of Part 9 of Article 3 of the Law on Compensation apply – also to draw to participation the principal managers of budgetary funds.

By implication of the aforementioned provisions of the Law on Compensation, the principal managers of budgetary funds of the corresponding budgets are the principal managers of budgetary funds of the federal budget, of the budget of a constituent entity of the Russian Federation, of a budget of a municipal entity, depending on the sphere of work of the body, organization, official whose actions (failure to act) caused the violation of right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time.

For instance, if the compensation application resulted from protracted non-execution of a judicial act on recovery of monetary funds from the federal budget as regards monetary obligations of a federal public establishment operating within the sphere of competence of a federal executive body, the interests of the Russian Federation in the case on award of compensation for violation of the right to execution of a judicial act within a reasonable time are represented by the Ministry of Finance of Russia and by the principal manager of funds of the federal budget – the corresponding federal executive body.

If the grounds for application to court for award of compensation for the violation of right to a criminal trial within a reasonable time resulted from the violation of reasonable time periods of pre-trial proceedings in a criminal case, the interests of the Russian Federation are represented by the Ministry of Finance of Russia and the principal manager of funds of the federal budget – depending on the body engaged in pre-trial investigation or inquiry.

36. For the purposes of implementation of Part 5 of Article 253 of the CAJP RF, Part 4 of Article 222.4 of the ComPC RF, the body, organization or official upon which the duty to execute a judicial act was imposed, in execution of which act the reasonable time period was violated, are as follows:

a) in lawsuits against a public law entity regarding the recovery of monetary funds at the expense of the budget of the corresponding public law entity (except for judicial acts on recovery of monetary funds in the manner of subsidiary liability of principal managers of funds of the corresponding budget of the budgetary system of the Russian Federation), regarding the award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time at the expense of the corresponding budget of the budgetary system of the Russian Federation – the Ministry of Finance of Russia, financial bodies of constituent entities of the Russian Federation, financial bodies of municipal entities (Parts 1, 3 and 4 of Article 242.2 of the BC RF, Item 3 of Part 9 of Article 3 of the Law on Compensation);

b) in lawsuits providing for recovery from funds of the federal budget under monetary obligations of federal public establishments, federal public authorities (federal state bodies) – the federal public establishment, federal public authority (federal state body) (as the debtor) and the body of the Federal Treasury at the place of opening of personal accounts for the debtor as the recipient of funds of the federal budget for the record of operations on execution of expenses of the federal budget, as an authority that organizes the execution of judicial acts according to the budgetary legislation of the Russian Federation (Part 1 of Article 242.3 of the BC RF), and if the debtor's accounts were opened in an establishment of the Central Bank of the Russian Federation or in a credit organization – the debtor and the corresponding establishment of the Central Bank of the Russian Federation or the credit organization;

c) in lawsuits providing for recovery in the manner of subsidiary liability under obligations of a federal public establishment, in case of their insufficiency – the principal manager of funds of the federal budget and the body of the Federal Treasury at the place of opening of a personal account for the principal manager of funds of the federal budget as the recipient of funds of the federal budget, as the body that organizes the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation (Part 10 of Article 242.3 of the BC RF);

d) in lawsuits providing for recovery from the budgetary funds of a constituent entity of the Russian Federation under monetary obligations of public establishments of the constituent entity of the Russian Federation, of a public authority of the constituent entity of the Russian Federation (state body of the

constituent entity of the Russian Federation) – the public establishment of the constituent entity of the Russian Federation, public authority of the constituent entity of the Russian Federation (state body of the constituent entity of the Russian Federation) (as the debtor) and the body that opens and operates the personal account of the public establishment of the constituent entity of the Russian Federation, at the place of opening of personal accounts for the debtor as the recipient of funds of the budget of the constituent entity of the Russian Federation for the record of operations on execution of expenses of the budget of the constituent entity of the Russian Federation, as a body that organizes the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation (Part 1 of Article 242.4 of the BC RF), and if the debtor's accounts were opened in an establishment of the Central Bank of the Russian Federation or in a credit organization – the debtor and the relevant establishment of the Central Bank of the Russian Federation or the credit organization;

e) in lawsuits providing for recovery in the manner of subsidiary liability under obligations of a public establishment of a constituent entity of the Russian Federation, in case of their insufficiency – the principal manager of budgetary funds of the constituent entity of the Russian Federation and the body at the place of opening of a personal account for the principal manager of budgetary funds of the constituent entity of the Russian Federation as the recipient of funds of the budget of the constituent entity of the Russian Federation, as the body that organizes the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation (Part 9 of Article 242.4 of the BC RF);

f) in lawsuits providing for recovery from the local budgetary funds under monetary obligations of municipal public establishments, local self-government bodies – the municipal public establishment, local self-government body (as the debtor) and the body that opens and operates the personal account of the municipal public establishment at the place of opening of personal accounts for the debtor as the recipient of funds of the local budget for the record of operations on execution of expenses of the local budget, as the body that organizes the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation (Part 1 of Article 242.5 of the BC RF), and if the debtor's accounts were opened in an establishment of the Central Bank of the Russian Federation or in a credit organization – the debtor and the

relevant establishment of the Central Bank of the Russian Federation or the credit organization;

g) in lawsuits providing for recovery in the manner of subsidiary liability under obligations of a municipal public establishment, in case of their insufficiency – the principal manager of funds of the local budget and the body at the place of opening of a personal account for the principal manager of funds of the local budget as the recipient of funds of the local budget, as the body that organizes the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation (Part 9 of Article 242.5 of the BC RF);

h) in lawsuits against federal public authorities, public authorities of constituent entities of the Russian Federation, local self-government bodies, other bodies and organisations vested with certain state or other public powers, officials, state and municipal servants regarding the execution of a property claim and (or) of a non-property claim – the public authority, local self-government body, other body or organisation, official, state or municipal servant, upon whom the corresponding duty is imposed in accordance with a court decision; the body of the Federal Treasury at the place of opening of personal accounts for the debtor as the recipient of funds of the corresponding budget for the record of operations on execution of expenses of the corresponding budget or the body at the place of opening of an account for the debtor as the recipient of funds of the corresponding budget, as bodies that organize the execution of a judicial act in accordance with the budgetary legislation of the Russian Federation; or the Federal Bailiff Service as the body that performs enforcement of judicial acts on the territory of the Russian Federation (depending on the manner in which the requirements stated in the enforcement document are to be executed, as well as on the actions (failure to act) that directly resulted in violation of the period for their execution).

The court or the judge that considered (is considering) the case, in relation to which grounds for submission of a compensation application appeared, as well as persons that participated (are participating) in this case, cannot be drawn to participation in the compensation case as interested persons. At the same time, the aforementioned court or judge may submit a corresponding reference note regarding the case.

37. For the purposes of Part 5 of Article 253 of the CAJP RF, Part 4 of Article 222.4 of the ComPC RF, other interested persons are understood as persons whose actions (failure to act) resulted in the increase of the time of proceedings or of execution of a

judicial act (e.g. inquiry and investigation bodies, territorial bodies of the Federal Bailiff Service, their officials).

In particular, a copy of the acceptance decree may be sent to a body of the Federal Treasury, to the Federal Bailiff Service, Investigative Committee of the Russian Federation, their officials.

37.1. If a person that is the debtor (administrative defendant, other participant of proceedings) has been reorganized, disestablished, and (or) if its powers were transferred to a different person during the execution of the judicial act, the court considering the case on award of compensation for violation of the period of execution of this act, draws to participation in the case the person participating in legal relations established in the corresponding judicial act, independent of legal succession within the framework of execution of this judicial act (Article 44 of the CAJP RF, Article 48 of the ComPC RF).

38. A compensation application is considered by a court of general jurisdiction under the general rules of the CAJP RF, with due regard to the features stipulated in Chapter 26 of the CAJP RF, and by a commercial court – under the general rules of claim procedure with due regard to the features stipulated in Chapter 27.1 of the ComPC RF.

Proceedings in a compensation case are subject to termination if, in particular:

- the court accepted the compensation application from a person that did not have the right to file it (Item 1 of Part 1 of Article 128, Item 1 of Part 1 of Article 194 of the CAJP RF, Item 1 of Part 1 of Article 150 of the ComPC RF);
- there already exists an effective court decision on award of compensation in regard of the person that submitted the compensation application (Item 2 of Part 1 of Article 194 of the CAJP RF, Item 2 of Part 1 of Article 150 of the ComPC RF);
- the judicial act, in regard to violation of the period for execution of which the compensation application was filed, has been cancelled (Part 3 of Article 194 of the CAJP RF, Part 2 of Article 150 of the ComPC RF).

39. The adoption of a decision in a compensation case does not preclude repeated application to court with another compensation application, if other facts related to a different period of protracted consideration of the case, execution of the judicial act, criminal prosecution will serve as grounds for its submission. Herewith, the facts previously examined by the court with regard to the initial compensation claim are



not subject to proof and may not be contested in another similar case involving the same applicant, administrative plaintiff.

Under these circumstances, a repeated application to speed up the proceedings is not required.

Herewith, the total accumulated duration of court proceedings in the case or of execution of the judicial act may be assessed by the court from the standpoint of duration of proceedings or execution of the judicial act and of its significance for the applicant.

### ***Facts That Have Significance for the Correct Adjudication of a Compensation Case***

40. When considering a compensation application, the court is not bound by the arguments contained in it and determines the fact of violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time, proceeding from the contents of judicial acts and other case materials; taking into account the legal and factual complexity of the case, the applicant's behaviour, the effectiveness and sufficiency of actions performed by the court or the judge for the purposes of timely consideration of the case, the effectiveness and sufficiency of actions performed by the head of the inquiry body, head of the inquiry unit, by the inquiry body, inquiry officer, head of the investigative body, investigator, prosecutor for the purposes of criminal prosecution, as well as of actions performed by bodies, organizations or officials charged with execution of judicial acts for the timely execution of the judicial act; the overall duration of court proceedings in the case and the overall duration of execution of the judicial act.

Since the fact of violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time is in itself proof of caused non-property damage (violation of the right to judicial protection), and its restitution does not depend on the fault of a body or official, the person applying for compensation should not prove the existence of such damage. Herewith, in accordance with Item 7 of Part 2 of Article 252 of the CAJP RF, Item 6 of Article 222.3 of the ComPC RF, the applicant must substantiate the amount of claimed compensation.

The establishment of the fact of violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time constitutes

grounds for the award of compensation (Parts 3 and 4 of Article 258 of the CAJP RF, Part 2 of Article 222.8 of the ComPC RF).

41. It should be taken into account that when resolving the issue of violation of the applicant's right to trial within a reasonable time, the assessment of sufficiency and effectiveness of the court's actions is performed by the court considering the compensation case on the basis of materials of the case in which the violation of the time periods occurred and of other submitted evidence.

42. When assessing the legal and factual complexity of a case, the following should be taken into account: circumstances impeding the consideration of the case, the number of co-plaintiffs, co-defendants and other persons participating in the case, the need to appoint expert examinations, their complexity, the need for interrogation of a significant number of witnesses, the participation of foreign persons in the case, the need to apply foreign law norms, the scope of indictment, the number of suspects, accused, defendants, victims, as well as the need to seek legal assistance from a foreign state.

At the same time, such circumstances as consideration of the case by various court instances, the participation of public authorities in the case cannot by themselves serve as evidence of complexity of the case.

43. When assessing the plaintiff's behaviour, courts should take into account the fact that it cannot be held liable for the protracted consideration of the case due to the use of procedural means provided in legislation for the protection of its violated or disputed rights, freedoms and lawful interests, in particular for changing the claims stated before the court, inspecting the case materials, filing motions, appealing against adopted judicial acts.

At the same time, by implication of Part 2 of Article 1 of the Law on Compensation, the court may decide to refuse to satisfy a compensation application, if the plaintiff's non-performance of procedural duties (e.g. violation of the established order in the court session resulting in the postponement of consideration of the case) or abuse of procedural rights (in particular, evasion from service of court notifications) resulted in violation of the reasonable time of the trial (Parts 6, 7, 9 of Article 45 of the CAJP RF, Parts 2, 3 of Article 41 of the ComPC RF, Article 35 of the CPC RF).

43.1. If a judicial act was adopted in regard of several independent claims of several persons, each of those persons may claim compensation for violation of the period of

execution of such an act, provided that the reasonable time period for execution of the corresponding claim has been violated. If a judicial act satisfied the joint claim of several persons (e.g. property was transferred into joint property or joint use of several persons), then each of those persons may claim compensation for violation of the period of execution of a judicial act, independent of which of them applied for its execution.

44. Actions of the court are regarded as sufficient and effective, if they are performed for the purposes of timely consideration of the case, in particular if the court effectively prepared the case for the trial, conducted the court session so as to create conditions for a comprehensive and full examination of evidence and ascertainment of the facts of the case, and if matters that had no bearing in the case were removed from the trial (Article 143 of the CAJP RF, Article 153 of the ComPC RF, Article 156 of the CPC RF, Article 243 of the CrPC RF).

In view of the above, matters subject to examination include those pertaining to the timely appointment of the case for hearing, conduct of court sessions at the appointed time, reasonable postponement of the case, the judge drafting a reasoned decision and sending it to the parties within the stipulated time, the fullness of the judge's control over the court staff performing their duties (in particular, as regards notification of persons participating in the case about the time and place of the court session, timely drawing of minutes of court sessions and familiarization of the parties with them), the complete and timely nature of measures taken by the judge regarding the participants of proceedings, such as measures of procedural compulsion aimed at preventing them from acting in bad faith in the proceedings or at preventing protraction of proceedings in the case, the judge's control over the time of the expert examination, imposition of fines, taking of measures in regard of other persons obstructing the administration of justice, etc.

It should be noted that the law provides for the postponement of trial, for the appointment and conduct of expert examinations, for returning the criminal case to the prosecutor for the purpose of eliminating violations of criminal procedure legislation committed during inquiry and preliminary investigation. However, if the aforementioned actions were performed by the court without any grounds and resulted in the increase of duration of proceedings, they can be regarded as violation of the reasonable time of proceedings.

45. Actions of the head of the inquiry body, head of the inquiry unit, of the inquiry body, inquiry officer, head of the investigative body, investigator, prosecutor may be

regarded as sufficient and effective, if they took necessary measures aimed at the timely protection of rights and lawful interests of persons and organizations injured by crimes, as well as at the protection of the person against unlawful and unsubstantiated accusation, conviction, limitation of rights and freedoms.

46. Actions performed by bodies, organizations or officials charged with execution of a judicial act are regarded as sufficient and effective, if performed for the purposes of timely execution of that act.

Herewith, it should in particular be taken into account whether the court or recoveror timely issued and sent a duly drawn enforcement document, as well as documents stipulated in Article 242.1 of the BC RF and in the Law on Enforcement Procedure, to the body, organization or official charged with execution of the judicial act. It should also be ascertained whether a delay in the issue or sending of the enforcement document was caused by the applicant's actions, for instance by its failure to provide bank account details (Part 5 of Article 253 of the CAJP RF, Part 4 of Article 222.4 of the ComPC RF, Item 13 of Article 242.3, Item 12 of Article 242.4, Item 12 of Article 242.5 of the BC RF).

47. When assessing the timely nature of measures taken by the court, prosecutor, head of the investigative body, investigator, head of the inquiry body, head of the inquiry unit, by the inquiry body, inquiry officer, as well as by bodies, organizations and officials charged with execution of the judicial act, the court should take into account the exceptional circumstances that determined the need for immediate administration of justice and (or) execution of the judicial act, failure to note which led to deprivation of a person of judicial protection.

48. Circumstances pertaining to the organization of work of the court, of inquiry bodies, investigation bodies and prosecution bodies, as well as of bodies and officials executing judicial acts cannot be regarded as grounds justifying the violation of reasonable time for trial or execution of a judicial act (for instance, substitution of a judge due to illness, vacation, termination or suspension of judicial powers, absence of necessary staff, absence of monetary funds necessary for execution) (Part 4 of Article 10 of the CAJP RF, Part 4 of Article 6.1 of the ComPC RF, Part 4 of Article 6.1 of the CPC RF, Part 4 of Article 6.1 of the CrPC RF).

49. When calculating the total duration of proceedings in the case, only the time when the case is being processed by the court, inquiry bodies, investigative bodies, prosecution bodies should be taken into account.

50. The total duration of proceedings in civil, administrative cases, administrative offence cases and commercial cases includes the period from the date when the statement of claim, administrative statement of claim, administrative offence report (decree on initiation of an administrative offence case), application is filed to the court of first instance and up to the date when the last judicial act in the considered case enters into force (Part 5 of Article 3 of the Law on Compensation, Item 4 of Part 2 of Article 252 of the CAJP RF, Item 4 of Article 222.3, Article 278 of the ComPC RF).

The period from adoption of a decree to transfer a cassation or supervisory appeal to a court of cassation or supervision and to the day on which the last judicial act, finalizing the consideration or adjudication of the case on its merits enters into force, should be included into the total duration of proceedings (Articles 330, 342 of the CAJP RF, Articles 291.14, 308.12 of the ComPC RF, Articles 390, 391.12 of the CPC RF).

The period from the day on which the last challenged judicial act in the case enters into force to the day of receipt of an appeal, prosecutor's appeal regarding that act by a court of appeal, cassation, supervision is not included into the total duration of proceedings.

The period of proceedings for the review of effective judicial acts due to new or newly discovered facts is included into the total duration of proceedings, if, following the review, a judicial act satisfying the application and reversing the earlier adopted judicial act is adopted (Item 2 of Part 1 of Article 351 of the CAJP RF, Parts 1 and 2 of Article 317 of the ComPC RF, Parts 1 and 3 of Article 397 of the CPC RF).

51. The total duration of criminal proceedings is calculated from the start of criminal prosecution to the adoption of a decision following pre-trial proceedings or entry of the final court decision into force.

52. If a compensation application is submitted by the person who filed an application about a crime in a criminal case in which the person subject to being drawn as the accused has not been established, and the pre-trial investigation was suspended for that reason, the total duration of proceedings is calculated from the day when the application about a crime was filed to the day when the aforementioned decree was adopted (Part 7.1 of Article 3 of the Law on Compensation, Part 6 of Article 250 of the CAJP RF).

If initiation of criminal proceedings was denied or the proceedings in the case were terminated due to the expiry of the prescription period for criminal prosecution, the total duration of proceedings is calculated from the day when the application about a crime was filed to the day when the corresponding decrees were adopted.

53. If a person with arrested property files a compensation application, the total duration of proceedings in a criminal case, as regards the protracted application of such a measure of a procedural compulsion, is calculated from the day on which the decision on the arrest of property was adopted to the day on which a decision following pre-trial proceedings was issued or on which the final court decision entered into force.

If proceedings in a criminal case have not been terminated, the total duration of proceedings is calculated from the day on which the decision on the arrest of property was adopted to the day on which a court decision in regard of the compensation application is adopted (Part 7.2 of Article 3 of the Law on Compensation, Part 7 of Article 250 of the CAJP RF).

54. It should be noted that if the application is filed by the victim or the civil plaintiff, the total duration of proceedings includes the period from the moment of termination of proceedings in the criminal case to the cancellation of the ruling (decree) on termination of proceedings in the case.

However, if the compensation is claimed by a suspect or accused, the aforementioned period is not included, as during this period said person was not subject to criminal prosecution, except when the ruling (decree) on termination of proceedings in the case or on termination of criminal prosecution was revoked following a complaint filed by the suspect or accused (Part 7 of Article 3 of the Law on Compensation, Part 5 of Article 250 of the CAJP RF, Articles 24 and 25, Part 2 of Article 27 of the CrPC RF).

55. The total duration of execution of a judicial act should include the period from the day on which the court receives the motion (request) of the person in whose favour the judicial act was adopted, of the recoveror, asking for the writ of execution and the attached documents, referred to in Item 2 of Article 241.1 of the BC RF or in the Law on Enforcement Procedure, to be sent to the body, organization or official charged with execution of judicial acts or from the day on which a writ of execution and said documents are received from such a person by the body, organization or official

charged with execution of judicial acts, to the end of proceedings on enforcement of the judicial act (Part 5 of Article 353 of the CAJP RF, Part 3.1 of Article 319 of the ComPC RF, Parts 1 and 3 of Article 428 of the CPC RF, Item 6 of Article 242.2, Item 8 of Article 242.3, Item 7 of Article 242.4, Item 7 of Article 242.5 of the BC RF).

If the execution of a judicial act regarding property or non-property claims is performed by a public authority, local self-government body, other body or organisation vested with certain state or other public powers, by an official, state or municipal servant without the issue of an enforcement document and initiation of enforcement proceedings or proceedings on recovery from the budget funds of the budgetary system of the Russian Federation, when calculating the total duration of execution of the judicial act, the period from the day of entry of the corresponding judicial act into force to the day of completion (end, termination) of execution of the judicial act is taken into account.

If the court allows to postpone execution of the judicial act or allows execution in instalments, this period is included into the total duration of execution of the judicial act (Article 358 of the CAJP RF, Article 324 of the ComPC RF, Article 434 of the CPC RF).

56. The total duration of court proceedings or of execution of a judicial act should include the period during which the proceedings in the case or the execution of the judicial act is suspended.

56.1. The courts should take into account that the total duration of proceedings or execution of a judicial act that has not ended is determined during the adoption of a decision on satisfaction or refusal to satisfy the compensation application, as of the day on which such a decision is adopted.

56.2. When assessing whether the periods of execution of judicial acts regarding non-monetary property claims or non-property claims are reasonable, the court should take into account the periods for their execution that expired before Federal Law No. 450 of 19 December 2016 entered into force.

57. The courts should take into account that if the total 3-year period of court proceedings in a civil, administrative case, an administrative offence case or a commercial case, or the total 4-year period of court proceedings in a criminal case

has been exceeded, this does not of itself indicate that the right to trial within a reasonable time was violated.

Herewith, if the 3-year period of proceedings or the 4-year period of proceedings in a criminal case has not been exceeded, this, taking into account certain facts of the case, may indicate that a violation of the right to trial within a reasonable time did occur (Item 2 of Part 5, Parts 7, 7.1, 7.2 of Article 3 of the Law on Compensation).

58. When considering compensation cases, the courts have no right to check the legality and substantiation of judicial acts adopted in the case to which the grounds for filing the compensation application pertain.

### ***Adopting a Decision on Award of Compensation***

59. By implication of Part 2 of Article 1 of the Law on Compensation, the compensation is not awarded, if the protracted nature of court proceedings or of execution of a judicial act was caused solely by the actions of the administrative plaintiff, applicant or by extraordinary and unavoidable circumstances (*force majeure*).

60. In every single instance, the court should ensure an individual approach to determining the amount of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time.

The amount of compensation must be determined by the court with due regard to the claims of the person that filed the application, to the facts of the case or of the execution procedure in which the violation occurred, to the duration of the violation, its consequences and their significance for the person that filed the compensation application.

When determining the amount of awarded compensation, the court should take into account the practice of the European Court of Human Rights, as well as the amounts of compensation awarded by the Court for similar violations (Part 2 of Article 2 of the Law on Compensation).

61. If, during consideration of compensation cases, certain facts are discovered that contributed to violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time, the courts should draw the



attention of corresponding bodies, organizations or officials to said facts, as well as to the need to take measures aimed at their elimination.

For instance, pursuant to Article 200 of the CAJP RF, if the court finds violations of lawfulness, it issues a special decree addressed to the corresponding bodies, organizations or officials, which are obliged to inform the court about the measures taken by them in order to remedy the violations.

62. The indexation of awarded sums, performed in accordance with Article 208 of the CPC RF, Article 183 of the ComPC RF due to the non-execution of the judicial act, does not deprive of the right to claim compensation in accordance with the Law on Compensation.

### ***Execution of a Court Decision on Award of Compensation***

63. The operative part of the decision on award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time indicates that the monetary funds are recovered from the corresponding public law entity, represented by the corresponding financial body, at the expense of the corresponding budget of the budgetary system of the Russian Federation.

For instance: "... to recover from the Russian Federation, represented by the Ministry of Finance of the Russian Federation, in favour of the applicant (family name, first name, patronymic or name of the legal person), compensation for violation of the right to trial within a reasonable time in the amount of..., at the expense of the federal budget".

The amount awarded as compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time is transferred using the bank account details of the person in whose favour the compensation is recovered.

It is not allowed to transfer the awarded compensation to the account of the representative of the person that filed the corresponding compensation application.

However, if there are circumstances making it objectively impossible for the person in whose favour the compensation is awarded to present its bank account details, the

court, upon the applicant's personal motion, may stipulate a different manner of execution of the decision on compensation.

64. Pursuant to Part 3.1 of Article 353 of the CAJP RF, second paragraph of Part 3 of Article 319 of the ComPC RF in their interrelation with the fourth paragraph of Item 2 of Article 242.1 of the BC RF, a writ of execution issued by virtue of a court decision on award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time (hereinafter – writ of execution) is forwarded by the court for execution independent of the recoveror's motions.

A writ of execution and a copy of the decision on award of compensation, adopted by a court of general jurisdiction, is forwarded for execution by the court no later than on the day following the day of adoption of the court decision in its final form, and is forwarded by a commercial court within five days from the day on which the decision on award of compensation is adopted (Part 3 of Article 259, Part 3.1 of Article 353 of the CAJP RF, Part 3 of Article 222.9, second paragraph of Part 3 of Article 319 of the ComPC RF).

65. A court decision on award of compensation for violation of the right to trial within a reasonable time or of the right to execution of a judicial act within a reasonable time is executed in the manner and within the period stipulated in Chapter 24.1 of the BC RF.

66. In view of adoption of this ruling, Ruling No. 30/64 of the Plenary Session of the Supreme Court of the Russian Federation and of the Plenary Session of the Supreme Commercial Court of the Russian Federation of 23 December 2010 "On Certain Issues Arising during Consideration of Cases on Award of Compensation for Violation of Right to Trial Within a Reasonable Time or of Right to Execution of a Judicial Act within a Reasonable Time" is no longer subject to application.

Chief Justice of the Supreme Court of  
the Russian Federation

V.M. Lebedev

Secretary of the Plenary Session, Judge of  
the Supreme Court of the Russian Federation

V.V. Momotov