

First Step in Amending Russian Civil Code Means Changes for Business

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On March 1, 2013 the first set of changes to the Russian Civil Code concerning the state registration of property, the principle of good faith in business and abuse of rights will come into force. The Civil Code is one of the fundamental Russian laws underlying much other Russian legislation, and these changes will affect all companies doing business in Russia.

A brief discussion of the most important changes follows below.

State Registration of Rights to Property

From March 1, 2013, there will be no need to register transactions with real estate; instead, only rights to real estate will require state registration. These changes end a burdensome system of double registration under which, for instance, the sale of an apartment required simultaneous registration of the sale and purchase contract as well as of the transfer of title to the new owner. Now contracts for the sale of living accommodation, sale of an enterprise, donation contracts, rent contracts and leases of premises, buildings, structures and enterprises take effect after signing, without the need to wait for state registration to become legally binding.

These changes to the Civil Code have opened an as yet unresolved debate on whether lease agreements require registration (as encumbrances) at all. In the opinion of the Head of the Committee for Civil, Criminal, Arbitration and Procedural Legislation of the Russian State Duma, even without the state registration of property transactions, Russian law still provides "grounds for state registration of a lease as an encumbrance over real estate." Whether this means that the state registration of leases (as encumbrances) is mandatory, and, if so, whether this applies both to short-term leases and long-term leases, is far from clear. Additional changes to legislation clarifying the registration of encumbrances are expected shortly.



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Another development concerning registration of property is the right of a previous owner of property to register an objection to the registration of ownership rights in the property register. If the person who requested the objection has not challenged the registered right in court within three months, the objection is annulled. A repeated objection by the same person is not permitted.

Principle of Good Faith

The principle of good faith in conducting business affairs is to appear in the Civil Code as one of the main principles of civil legislation. This is aimed at bringing Russian law closer to European rules where courts have greater flexibility in evaluating the business conduct of the parties, meaning that bona fide participants of commerce should be better protected. For instance, if a company's rights are violated by the bad faith actions of a counter-party, the company will be able to seek protection, even if that counter-party did not formally breach the terms of the relevant contract.

Abuse of Rights

Acting in circumvention of the law is now to be classed as an abuse of rights. From now on such abuse of rights may result in the need to pay damages to those whose own rights are violated by such abuse as well as possibly more serious consequences such as invalidation of transactions concluded with abuse of rights.

Giving a False Address

Providing false information about one's place of residence to creditors and other persons means any resulting risks will be borne by the person providing the false information. This

question was not formerly addressed in the Civil Code.

These changes are the start of a large-scale reform of Russian civil legislation and further amendments to the Russian Civil Code are planned throughout 2013.

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