

Essentials for a litigation  
lawyer

# Russian Judicial System

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- Magistrate courts (note: most say that «мировой суд» is incorrect because it's actually a «мировой судья». Therefore the judge himself is a magistrate or a Justice of the Peace)
- Courts of general jurisdiction (less used: ordinary courts).
- Commercial courts (arbitration courts or not? See on the other slide!)
- Also: district, regional (krays, oblasts, cities), first instance, appellate
- Supreme Court of Russian Federation (composition: next slide!)
- Arbitration tribunals (what? Again? How come? You already know: see on the other slide)



# Supreme Court of the RF

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- The Plenary Session of the Supreme Court of the Russian Federation;
- The Presidium of the Supreme Court of the Russian Federation;
- The Appellate Chamber;
- The Judicial Chamber on Administrative Cases;
- The Judicial Chamber on Civil Cases;
- The Judicial Chamber on Criminal Cases;
- The Judicial Chamber on Economic Disputes/Affairs – successor of Supreme Commercial Court
- The Judicial Chamber on Cases of the Military;
- The Disciplinary Chamber.

# Commercial, arbitration, arbitrazh...?

- Russian арбитражные courts are commercial courts. Deal with economic disputes, “the sphere of entrepreneurial and other economic activities”. See Commercial Procedure Code of the RF, art. 1.
- They are indeed called Arbitrazh courts by some lawyers, publicists, practitioners. Due to the confusion between the terms «арбитражные суды» and «arbitration courts». Original names of judicial bodies are common for world’s jurisprudence – French cassational court is often referred to as La Cour de Cassation.
- Arbitration tribunals exist, as well. Translated as «третейские суды». Named after arbitration - a form of alternative dispute resolution, a way to resolve disputes outside the (state/governmental) courts. Indeed have a lot in common with commercial courts, but are non-governmental. There are 4 arbitration tribunals in the RF (after the reform), most famous is the *International Commercial Arbitration Court for Russian Chamber of Commerce*.



# Stages

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- First instance judgments (решение), rulings (определение), постановление (order). Some don't distinguish (everything is a judgment).
- An appeal judgment – judgment of the appellate court
- A cassational appeal judgment – judgment of the cassational court.
- Second cassational appeal (for instance, under the Commercial Procedure Code is filed against the first cassational decision to the Supreme Court's Judicial Chamber on Economic Affairs).
- Other procedures: motions/requests (ходатайства), for instance, a motion/a request for the restoration of procedural terms (also used: extension of a deadline). Meaning: ходатайство о восстановлении пропущенного срока. Motion for continuance – ходатайство об отложении.

# Some necessary verbs

- **Uphold the judgment** (support or confirm previous judgment – оставить без изменения)
- **Set aside the judgment** (annul or negate another court's judgment). Also: **overturn, overrule, reverse** (decide against). Отменить/изменить решение.

## **DIFFERENCE (after consulting Black's Law Dictionary & The Dictionary of Modern Legal Usage)**

The three terms **overruling, reversing, and setting aside** as well as **overturning** are terms that describe almost similar action by a court and are often used interchangeably even by judges in their judgment. However, as legal terms they are used to describe *the same action* but directed *towards different objects*.

- reverse - “to overturn a judgment or ruling especially on **appeal**” (directed towards a judgment/ruling of the lower court which is appealed against)
- overrule – “to overturn or set aside a **precedent** by expressly deciding that it should no longer be controlling law”
- set aside – **nullify** (аннулировать) the previous decision, usually of a lower court, but not necessarily to dictate a contrary result in further proceedings. **No reversing**

**See more on the next slide!**



## About the verbs (one more time):

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- A court **reverses** a judgment of a lower court on appeal before it and changes it to the opposite result from that given by the lower court.
- A court **overrules** a former precedent when it declares that it is no longer the ruling law over the subject matter and substitutes a different principle or precedent as the guiding law.
- A court **sets aside** its own judgment or that of a lower court when it annuls/vacates/nullifies the judgment without returning a contrary result.
- A court **overturns** a judgment or a precedent when it reverses or overrules same.

Good luck

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in future disputes!