

**STATUTE OF
LIMITATIONS IN INTERNATIONAL
COMMERCIAL CLAIMS**

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RUSSIAN FEDERATION

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1. General Time Period

A. What is the time period for legal action on commercial debt?

General time period for legal action is 3 years. For particular claims it can range from 1 year (invalidation of a voidable transaction) to 10 years (invalidation of a void transaction in case of challenging the transaction by person other than party to a contract).

i. Is it different for written versus oral debts?

General time period is the same for written and oral debts.

ii. When does the period begin to run (on sale, on delivery, on invoice date, on due date of invoice), cause of action, in installment contracts from date of agreement or date of first/last installment? Or other?

As a general rule, the time period starts to run on a day when person becomes aware (or ought to have become aware) of the infringement of its rights and of the person who is the proper defendant (with the exception of cases where the law expressly provides otherwise, for instance, for invalidation of a void transaction it runs from the transaction commencement date). Under no circumstances can the limitation period exceed 10 years from the date of the infringement.

If obligations are to be performed within a specific term, the time period starts on the day of its expiration. In case of payments by installments, this time period begins to run with respect to each installment separately.

2. Different Limitations

A. Are there categories of commercial debt with different limitations such as:

i. Sale of goods

General time period of 3 years is applied in case of sale of goods, claims for movable rights, leasing goods, rendering services, cheques or other negotiable instruments.

ii. Claim for movable right

Please see section 2.A.i., above.

STATUTE OF LIMITATIONS IN INTERNATIONAL COMMERCIAL CLAIMS

iii. Action in nullity of a commercial contract

As per the Russian *Civil Code*, commercial contracts could be declared as voidable (due to the court decision) or void (regardless of declaring by court as such). The statute of limitations for invalidation of voidable contracts is 1 year. The limitation for void contracts is 3 years for party to such a contract and shall be no longer than 10 years in other cases. This period starts on a transaction commencement day and if the legal action was brought by the person not a party to a contract this period starts on a day when this person becomes aware (or ought to have become aware) of the transaction commencement day.

iv. Leasing of goods

Please see section 2.A.i., above.

v. Services

The general term is 3 years; however, the term for bringing legal actions on low quality of works performed under contracting agreement is 1 year. In case it relates to buildings and constructions, the term is also 3 years.

It should be noted that the time period for claims raised from property insurance contracts is 2 years.

vi. Cheques or other negotiable instruments

The legal action of a cheque holder against persons obliged under the cheque (cheque drawer, guarantor of a bill, etc.) can be brought within 6 months from the expiration date of the cheque submission term for amount payable.

vii. Claims against carriers of goods — is there any difference between maritime and other forms of carriers?

With respect to claims raised from maritime, railway, and auto carrier contracts, the time period of 1 year can be applied as statute of limitations. Thus, there is no difference with respect to a time period.

3. Interruption of Time Period

A. How may the statute of limitations be prevented from running?

The statute of limitation could be suspended in the following cases:

1. if circumstance of *force majeure* is prevented from bringing legal action;
2. if plaintiff or defendant are in the Russian Armed Forces;
3. if the Russian Government provides suspension in fulfillment of obligations;
4. if respective legal act regulating the relations was suspended.

Running of the statute of limitations could be suspended under the condition that circumstances mentioned above appeared and continued to exist within the last 6 months of the statute of limitations or less.

RUSSIAN FEDERATION

B. Is a lawsuit necessary to halt the limitation period or will a formal demand for payment suffice? If the latter, may it be oral?

As per the legislation of the Russian Federation, a lawsuit suspends running the limitation period. Formal demand for payment is not sufficient for halting the time period. However, conducting actions on debt acknowledgment by person obliged leads to interrupting the limitation period.

C. Will a notice of mediation or arbitration suffice?

If parties agree to settle a dispute on out-of-court basis or through arbitration procedure, running of the limitation period shall be suspended for the time spent on such settlement and not less than 6 month starting from the out-of-court procedure commencement date. The mediation procedure, for example, commences with the conclusion of an agreement carrying out mediation procedure. Notice of mediation itself is not sufficient. Only the agreement on carrying out mediation procedure and the period of time actually spent in it provide sufficient basis for the suspension of limitation.

D. If a debtor is absent from the jurisdiction and his whereabouts are unknown, does that suspend the limitation period during the period of time the debtor is a “skip”/known?

If debtor is known by creditor, the latter may bring legal action against such debtor; as a result, running of the limitation period is suspended automatically under the law. Thus, it is not necessary to know the address of the debtor for suspension of the time period.

E. Is there any requirement of due care in ascertaining the whereabouts of the debtor? If so, give a brief description of the standard required.

It is creditor's personal responsibility to have all the information on their debtors in order to avoid tracing them around the globe.

F. Once the limitation period has been interrupted, does the limitation period commence *de novo*? If so, does the entire period apply once more from date of interruption?

In the case of interruption, the limitation period commences *de novo* and the entire period is applied once more from the interruption date.

G. If a lawsuit is necessary, must service be affected or is issue of process sufficient? If the latter, what is the maximum period that can elapse before it will not be taken into account?

In the case of interruption, the lawsuit will be affected since the entire process starts *de novo*. The maximum period is the same as it was before interruption.

H. Does laches exist in your jurisdiction (where the creditor deliberately waits in bringing a claim to increase interest and other damages)?

Laches exist in Russian practice. As a rule, most of the creditors do not wait that long in order to bring a claim with interest increased since the court, at its discretion and upon good cause being shown, may reduce the amount of interest and other damages within the reasonable limit.

I. When must the allegation of limitation first be raised?

STATUTE OF LIMITATIONS IN INTERNATIONAL COMMERCIAL CLAIMS

The limitation period is first applied in the court hearing only upon application of an interested party, not automatically.

J. Are there exceptions where the statute of limitations does not run?

The statute of limitations shall not be applied to the following cases:

1. claims for protection of personal non-propriety rights and other non-material values unless otherwise is provided by law;
2. claims of depositors against a bank on payment of deposits;
3. claims of the owner or another possessor for elimination of all violations of his right, even though these violations have not been involved in the deprivation of the possession;
4. other claims established by laws.

K. Does each debtor have his/her/its own period if there are co-debtors?

Russian law stipulates legal independence with respect to claims of creditors to their co-debtors. Therefore, limitation periods are prescribed for each co-debtor independently.

L. If the debt is time-barred, vis-à-vis one, does this excuse the others?

No, please see section 3.K., above.

M. In the case of co-debtors, how does an acknowledgment by one affect the others?

Acknowledgment of the debt by one debtor interrupts the limitation period with respect to such debtor and does not affect others.

N. Is it legal to make demand on a time-barred debt?

It is not prohibited to make a demand on a time-barred debt. Unless application on laches is submitted at the court hearings, claim on a time-barred debt could be satisfied by the court.

O. Is it legal to make such demand if suit/legal action is/is not threatened?

Please see section 3.N., above.

P. If the debtor fails to raise the defense of the statute of limitations, may the court do so?

Until 1991, the court was free to raise the issue of limitation periods on its own initiative. Currently the statute of limitations is applied by the court only upon the application of a party to the dispute.

4. Contractual Issues

A. Can the time limits set by law be modified by contract (either renounced, extended or lengthened)?

The time limits and provisions on its running shall not be modified by the contract, either renounced, extended or lengthened; it is an imperative rule.

B. When does the period begin in the scenarios covered above?

RUSSIAN FEDERATION

Please see section 4.A., above.

C. Is a notice required to suspend the limitation period in the scenarios covered above?

Please see section 4.A., above.

5. Acknowledgment of Debt

A. What is the effect of an acknowledgment of the debt by the debtor? Does it interrupt the time period? For how long?

Acknowledgment of the debt by the debtor interrupts the limitation period for the period of actions indicating such acknowledgment (e.g., part payment of the debt and/or interest, admission of the out-of-court claim). After such interruption, running of the limitations period starts *de novo*.

B. How specific must the acknowledgment of the debt by the debtor be?

Acknowledgment of the debt by the debtor shall be in written form and shall prove intent of the debtor to acknowledge the debt.

C. Does it have to be written?

Please see section 5.B., above.

D. Does it affect a guarantor/co-debtors?

Please see section 3.M., above.

E. In a cause of action based on fraud on the part of the debtor/defendant, when does the period commence?

As a general rule, the period commences on a day the person becomes aware (or ought to have become aware) of the fraud.

6. Bankruptcy and Fraud

A. In the case of bankruptcy, does the period run from the date of appointment of a trustee or from the date of the original cause of action?

The limitation period runs starting from the date of the original cause of action and does not depend on the appointment date of a trustee in the case of bankruptcy.

B. Does fraud of the debtor ever extend the limitation period?

The fraud of the debtor could not extend the limitation period.

C. Does bankruptcy of either creditor or debtor affect the limitation period?

General legal provisions regarding the statute of limitations remain the same in the case of bankruptcy of either creditor or debtor. However, the *Bankruptcy Law* contains special provisions on limitations for claims on challenging debtor's contracts concluded within the bankruptcy procedure. In such case, the limitation period starts from the day when the bankruptcy manager (the trustee) becomes aware or ought to have become aware of the grounds for challenging the debtor's contracts.

7. International Claims

A. Can parties contract for the law of another jurisdiction to apply which may have a different limitation period?

Contract parties may agree on applying foreign legislation with respect to limitation periods. In fact, parties prefer to follow rules closely connected to the law of the country of the seller, landlord, deliverer, or creditor.

B. Which limitation period applies to a debt owed by someone resident outside your jurisdiction — the law of the jurisdiction of the debtor or that of the contract or the creditor?

The statute of limitations shall be defined under legislation of the state subject to corresponding relations.

8. Claims Against the State

A. Does the statute of limitations run against the state?

Yes, the statute of limitations is applied to claims against the state as well.

B. Does the period differ for actions against the state or any other public body?

No, the time period for commercial claims remains the same. However, there is a special 3-month period for administrative claims against the state and other public bodies.

9. Time Period for Enforcement of Judgments

A. Is there a limitation period on the enforcement/execution proceedings of a judgment, whether domestic or foreign?

When the judgment enters into force, the creditor (recoverer) obtains the enforcement order that may be submitted to the bank or judicial bailiffs for the enforcement of the judgment within the 3 years. Therefore, the limitation period prescribes for the submission of the enforcement order for the enforcement only, but not the enforcement of the judgment itself.

B. If so, can the judgment be renewed before its limitation period expires? How?

Please see section 9.A., above. In addition, it shall be noted that in case the 3-year term for submission of the enforcement order is expired, the court may issue another one with a new term under corresponding request.

10. Is your country a signatory to the Convention on the Limitation Period in the International Sale of Goods (“the

RUSSIAN FEDERATION

Convention”)? If so, what is the effect of the Convention on your domestic law?

As the successor of the Soviet Union, the Russian Federation is a signatory to the convention on the Limitation period in the International sale of Goods. The Convention was signed by the Soviet Union on June 14, 1974. However, the Convention was not ratified by the Federal Assembly, which is an indispensable step to bring an international act into its legal force on the territory of the Russian Federation. Thus, the Convention on the Limitation period in the International Sale of Goods has no legal force on the territory of the Russian Federation and has no influence on the Russian domestic law.

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