

/Coat of arms of the Russian Federation/

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

No. 42

In the city of Moscow

On December 23, 2025

**On Amendments to Ruling of the Plenary Session of the Supreme Court of
the Russian Federation No. 53 dated 21 December 2017
"On Certain Issues regarding the Liability of Persons Controlling the Debtor
in Case of Bankruptcy"**

In connection with the issues existing in judicial practice, as well as in order to ensure the correct and uniform application of the provisions of the law, 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 of 5 February 2014 No. 3-FKZ "On the Supreme Court of the Russian Federation", hereby rules to amend Ruling of the Plenary Session of the Supreme Court of the Russian Federation of 21 December 2017 No. 53 "On Certain Issues regarding the Liability of Persons Controlling the Debtor in Case of Bankruptcy" as follows.

1. The following paragraph shall be added to Item 1:

"The conduct of business activity with entrepreneurial risk by a legal person does not constitute grounds for holding persons controlling the debtor liable for the obligations of such a legal person. Persons controlling the debtor may be held subsidiary liable only if the debtor's inability to satisfy existing claims is due to their conduct that did not meet the criteria of good faith and reasonableness, including inability that is not related to market or other objective factors (Items 3 and 4 of Article 1, Item 1 of Article 2, Items 1 and 5 of Article 10, Item 2 of Article 56, and Item 1 of Article 1064 of the CC RF).

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2. The text shall be supplemented with Items 20¹ and 20² as follows:

"20¹. If, during the consideration of an application for compensation for damages under the general rules of Articles 15, 53¹ and 393 of the CC RF, the issue of the significance of the controlling person's unlawful influence on the debtor's activities was not raised by the parties for discussion and was not considered by the court, an award on such an application does not prevent the subsequent filing of an application for holding the controlling person subsidiary liable in respect of the part not covered by the amount of the awarded damages.

20². If, during the consideration of claim for compensation for damages by a controlling person, the court finds that the actions imputed to the defendant have led to the impossibility of fully satisfying the creditors' claims and are grounds for holding it liable, the court has the right to raise the issue of changing the claim for discussion between the parties (Articles 49, 133, 135 and 153 of the ComPC RF). If none of the persons entitled to file an application to hold the person controlling debtor to subsidiary liability has supported a change in the claim to the controlling person, the court considers the application for compensation for damages."

3. The text shall be supplemented with Items 22¹ and 22² as follows:

"22¹. When resolving disputes on holding members of the collegial body of a legal person to subsidiary liability, it is necessary to establish the fact of participation of each particular defendant in causing damage to the property interests of creditors. The fact that the persons held the same position (for example, they were members of the debtor's collegial executive body) or had the status of a controlling person does not indicate their complicity in causing damage by implication of Article 1080 of the CC RF. General conclusions about their dishonesty cannot be based solely on their belonging to a single group of controlling persons; the objections and evidence of each individual defendant are subject to evaluation (Item 1 of Article 1064 of the CC RF).

22². A person that does not possess the characteristics of a controlling person, but participated together with the controlling person in causing damage to creditors insufficient for the onset of objective bankruptcy, is held liable within the amount of the damage caused jointly with the controlling person (Article 1080 of the CC RF). For example, a member of the board of directors of a legal person who, in bad faith, approved a transaction that was not significantly unprofitable, which, along with other transactions of the debtor for the withdrawal of assets (in the approval of which such a member of the board of directors did not participate), led to the inability to repay creditors' claims of (Item 1 of Article 61¹¹ of the Law on Bankruptcy), is liable to creditors within the amount of damage caused by the approved transaction. In order to exclude unjust enrichment of the debtor and (or) its creditors, the provisions on joint obligations (Article 323 of the CC RF) are applied to the liability of the person that participated in the joint causing of damage and the controlling person that was brought to subsidiary liability in the same part."

4. In paragraph two of Item 24, the words "in the manner stipulated in Part 3 of Article 223 of the ComPC RF" shall be deleted.

5. The text after Item 26 shall be supplemented with a new section as follows:

"Amount of Subsidiary Liability"

26¹. By implication of Item 11 of Article 61¹¹ and Item 2 of Article 61¹² of the Law on Bankruptcy, outstanding creditors' claims against the debtor are taken into account to determine the amount of subsidiary liability, in particular:

current payment requirements (Article 5 of the Law on Bankruptcy);

claims included in the register of creditors' claims, as well as those filed after the closure of the register of creditors' claims (Articles 134-138, Item 4 of Article 142 of the Law on Bankruptcy);

claims for payment of financial penalties (Item 3 of Article 137 of the Law on Bankruptcy), including penalties for public offenses by the debtor, with the exception of fines for tax offenses;

claims for payment of interest accrued from the date of the introduction of the monitoring procedure on the claims of bankruptcy creditors and the authorized body included in the amount of subsidiary liability (moratorium interest – Item 4 of Article 63, Item 2 of Article 81, paragraph four of Item 2 of Article 95 and Item 2¹ of Article 126 of the Law on Bankruptcy).

26². In the event of application of paragraph three of Item 11 of Article 61¹¹ of the Law on Bankruptcy, it is necessary to proceed from the fact that its effect applies to a person that is controlling or controlled in relation to the person held liable, or is under the control of the same third party jointly with the person held liable.

A claim against the debtor assigned by an interested party in favor of an independent person is not included in the amount of subsidiary liability by virtue of Article 384 of the CC RF. A claim against a debtor assigned by an independent creditor in favor of an interested party is not included in the amount of subsidiary liability by virtue of the special regulation provided for in paragraph three of Item 11 of Article 61¹¹ of the Law on Bankruptcy.

26³. The court can consider the issue of reducing the amount of subsidiary liability by virtue of paragraph two of Item 11 of Article 61¹¹ of the Law on Bankruptcy both at the stage of determining the grounds for holding a person subsidiary liable and at the stage of determining the amount of liability (Item 7 of Article 61¹⁶ of the Law on Bankruptcy).

26⁴. If the amount of subsidiary liability of the controlling person has been reduced, the disposal of the right of claim by assigning a part of this claim to the creditor is carried out taking into account the order and proportion (sub-item 3 of Item 2 of Article 61¹⁷, Items 2 and 3 of Article 142 of the Law on Bankruptcy).

26⁵. The claim of a creditor that is a controlling party of the debtor or a person affiliated with it for the return of compensatory financing provided to the debtor is included in the amount of subsidiary liability if such creditor is not an interested party by implication of paragraph three of Item 11 of Article 61¹¹ of the Law on Bankruptcy, is not held subsidiary liable, and the person being held liable acted independently of this the creditor. In particular, a claim by a debtor's majority shareholder that provided compensatory financing and was not an accomplice of the director in the withdrawal of assets of the legal person or a beneficiary of such actions, is subject to inclusion in the amount of subsidiary liability.

26⁶. Claims in respect of which the controlling person has provided evidence that, under normal conditions of the civil turnover, the violations committed by it could not have led to the inability of repayment of such claims, and therefore there is no causal relationship between the unlawful conduct of the controlling person and the imputed amount of liability, are not subject to inclusion in the amount of subsidiary liability (Item 1 of Article 1064 of the CC RF). The relevant objections may be raised by the controlling person at the stage of determining the amount of liability.

For example, the controlling person may prove that there is no causal relationship with respect to current payments that arose due to the long-term continuation of the debtor's business activities carried out by the insolvency officer or approved by the meeting (committee) of creditors (paragraph two of Item 11 of Article 61¹¹ of the Law on Bankruptcy). In this case, such creditors and/or the insolvency officer may be required to pay damages in favor of creditors that did not participate in approving the continuation of business activities.

26⁷. If creditors, upon entering into legal relations with the debtor, knew about an impending, ongoing or past violation that led to the debtor's bankruptcy, the claims of such creditors are not included in the amount of subsidiary liability or the amount of liability to such creditors is reduced by the court (Item 4 of Article 1, Items 1 and 2 of Article 1083 of the CC RF). These rules do not apply to the claims of involuntary creditors of the debtor.

In the event of the inability of satisfying creditors' claims (Article 61¹¹ of the Law on Bankruptcy) due to the conclusion and execution of a substantially detrimental transaction that was expressly approved by some of the debtor's creditors (including independent ones), who had sufficient information about the terms of this transaction and the purposes of its execution, the claims of such creditors are not included in the amount of subsidiary liability.

The relevant objections may be raised by the controlling person at the stage of determining the amount of liability.

26⁸. By implication of Item 11 of Article 61¹¹, Item 2 of Article 61¹², Item 5 and 6 of Article 61¹⁷ and Item 4 of Article 61¹⁸ of the Law on Bankruptcy, a creditor whose claim is not included in the amount of subsidiary liability of the controlling person is not entitled to have his claim repaid using the amounts collected from the controlling person and to assign a part of the claim in his favour under sub-item 3 of Item 2 of Article 61¹⁷ of the Law on Bankruptcy, as well as cannot vote at a meeting of creditors considering issues regarding the procedure for the disposal of the right of claim from subsidiary liability.

26⁹. If the creditor's claim was not included in the amount of subsidiary liability for reasons beyond his control, such a creditor is entitled to file an independent application for additional determination of the amount of subsidiary liability (Part 5 of Article 3, Part 2 of Article 225¹⁷ of the ComPC RF), in particular when the creditor's claim relates to current payments and arose after the announcement of the operative part a judicial act on determining the amount of subsidiary liability; the creditor's claim was to be included in the register of creditors' claims, however, due to objective circumstances, the creditor or the insolvency officer missed the deadline for inclusion.

The circumstances established by a court ruling that has entered into legal force on holding a person controlling the debtor subsidiary liability are not proven again when the court considers the said application filed against the same controlling person on the same grounds, unless the parties to the case provide arguments about the absence of liability to this specific creditor (Part 2 of Article 69, Part 2 of Article 225¹⁷ of the ComPC RF). The order of satisfaction of such a claim is not subject to change; it is satisfied in the same order as if it had been taken into account in the absence of the said obstacles.

26¹⁰. When resolving the issue of whether a controlling person held subsidiary liable has the right to object to the validity of creditors' claims included in the register and, accordingly, on this ground, declare a reduction in the amount of liability, it is necessary to proceed from the following.

According to Item 4 of Article 34 of the Law on Bankruptcy, the controlling person has the right to disclose its status in relation to the debtor and file with the court a petition to involve the debtor in the bankruptcy case. Filing such a petition does not constitute, in itself, recognition of this status for the purposes of holding a person subsidiary liable. From the date of relevant ruling, the controlling person has the right to participate in the bankruptcy case during the consideration of issues, the resolution of which may affect whether it is held liable, as well as the amount of such liability, which means that it has, among other things, the right to object to the validity of creditors' claims and (or) appeal judicial acts establishing such claims in the register of creditors' claims, as well as judicial acts and acts of other bodies that constitute the grounds of such claims.

26¹¹. If the controlling person has not exercised its right to participate in the bankruptcy case in order to provide arguments and evidence when forming the register of creditors' claims, the fact of the subsequent involvement of the controlling person as a co-defendant (paragraph one of Item 1 of Article 61¹⁵ of the Law on Bankruptcy) is not a reason for reinstating the period for appealing judicial acts on the inclusion of claims in the register of creditors' claims, as well as judicial acts and acts of other bodies that constitute the grounds of such claims. In addition, such a controlling person, that is subsequently held subsidiary liable, is not entitled to refer to the invalidity of the claims included in the register of creditors' claims when the amount of liability is determined.

By implication of paragraph three of Item 1 of Article 61¹⁵ of the Law on Bankruptcy, an exception to this rule is cases when the controlling person was mistaken in good faith about whether it had the relevant status or caused damage to the interests of creditors, as well as when it, having in good faith lost the status of a controlling person on the eve of bankruptcy, should not have followed the subsequent fate of the debtor (for example, the head of an organization who changed his/her place of employment before the emergence of signs of objective bankruptcy). In this case, the controlling person has the right to object to the validity of the claim included in the register by appealing the judicial act on the inclusion of the claim in the register, as well as judicial acts and acts of other bodies that constitute the grounds of such a claim, in accordance with the rules of Item 12 of Article 16 of the Law on Bankruptcy."

6. Item 31 shall be revised to read as follows:

"31. By implication of Items 3 and 4 of Article 61¹⁴ of the Law on Bankruptcy, when proceedings are terminated in a bankruptcy case based on paragraph eight of Item 1 of Article 57 of the Law on Bankruptcy, both the applicant in the bankruptcy case and other creditors may file a claim for holding a person subsidiary liable on the grounds stipulated in Articles 61¹¹ and 61¹² of the Law on Bankruptcy, outside of the bankruptcy case, if indebtedness to them is confirmed by an effective judicial act (including that of inclusion of the claim in the register) or another document subject to enforcement."

7. The test shall be supplemented with Item 31¹ as follows:

"31¹. In order to protect public interests, the prosecutor has the right to file an application for holding persons controlling the debtor subsidiary liable, as well as to join such proceedings at any stage (Articles 27, 35 of Federal Law of 17 January 1992 No. 2202-I "On the Prosecutor's Office of the Russian Federation", Article 52 of the ComPC RF)."

8. The test shall be supplemented with Item 34¹ as follows:

"34¹. When considering an application for holding a controlling person liable, the court prepares for trial (Articles 133, 135 of the ComPC RF), facilitates the timely disclosure of evidence available to the parties, and may invite the parties to claim the evidence they lack (Article 66 of the ComPC RF), and involve a co-defendant to participate in an isolated dispute (Article 47 of the ComPC RF), change the subject or grounds of the application under consideration (Article 49 of the ComPC RF), etc.

In the preliminary hearing, the court submits the parties for discussion and, taking into account the results of such discussion, determines the method of protecting the violated right, the type of liability from among those provided for in Articles 61¹¹, 61¹², 61¹³, 61²⁰ of the Law on Bankruptcy, the range of defendants, issues of legal qualification and applicable law, as well as determines whether there are grounds for the application of the presumptions provided for in Item 2 of Article 61¹¹ of the Law on Bankruptcy, what evidence must be presented, and distributes the burden of proof."

9. The test shall be supplemented with Item 36¹ as follows:

"36¹. When considering an application for interim measures under the rules of Item 5 of Article 61¹⁶ of the Law on Bankruptcy, the court should take into account that taking such measures, as a rule, should not lead to the deprivation of the defendant – a natural person – of the ability to make expenses that are reasonably necessary to support his/her life and the lives of his/her dependents (family members and other persons).

In this regard, in the case of seizure of funds and other property of the defendant, the court orders the lifting of such arrest from funds in the amount necessary for the above-mentioned purposes, as well as for the payment by the defendant for the services of representatives within reasonable limits. If these issues were not resolved when interim measures were taken, they may be resolved upon defendant's petition by partially lifting such measures (Article 97 of the ComPC RF)."

10. The text shall be supplemented with Items 37¹–37⁵ as follows:

"37¹. The initiation of bankruptcy proceedings against a person controlling the debtor and the introduction of the procedure applied in a bankruptcy case do not prevent the continuation of the consideration of the application for holding it subsidiary liable (Part 5 of Article 3 of the ComPC RF, paragraph one of Item 6 of Article 61¹⁶, Item 2 of Article 61¹⁹ of the Law on Bankruptcy). In this case, the provisions of Item 6 of Article 61¹⁶ of the Law on Bankruptcy are subject to application, including on the procedural status of persons participating in the bankruptcy case of the person controlling the debtor (paragraph two of Item 6 of Article 61¹⁶ of the Law on Bankruptcy).

A claim based on an application for holding a person subsidiary liable, for inclusion in the register of claims of the controlling person's creditors (paragraph three of Item 6 of Article 61¹⁶ of the Law on Bankruptcy) is considered to have been presented by the insolvency officer or the first creditor who filed an application for inclusion of the claim in the register, also on behalf of all other creditors (sub-item 2 of Item 4 of Article 61¹⁹ of the Law on Bankruptcy).

37². In the absence of a bankruptcy case against a controlled person (for example, due to the termination of proceedings), an application for holding a person subsidiary liable may be filed in the bankruptcy case of the controlling person in the form of an application for inclusion of such a claim in the register of creditors' claims, provided that it does not relate to current payments (Articles 71, 100, sub-item 3 of Item 2 of Article 213¹¹, Item 4 of Article 213²⁴ of the Law on Bankruptcy).

If the claim for subsidiary liability relates to current payments (Article 5 of the Law on Bankruptcy), it is subject to consideration in action proceedings by the commercial court that have considered the bankruptcy case of the controlled person, and in the absence of such a case – at the location of the controlled person (Item 1 of Article 33, Item 2 of Article 61¹⁹ of the Law on Bankruptcy).

37³. Subsidiary liability of the controlling person – citizen and the obligation to compensate for damage arise at the moment of committing unlawful act (omission), which caused the bankruptcy of the debtor or damage to his creditors (Article 1064 of the CC RF). The corresponding obligation is part of the controlling person's estate, does not cease upon his death and is repaid within the limits of the value of the inherited property at the time of opening of the inheritance (Articles 418, 1175 of the CC RF), unless bankruptcy proceedings have been introduced with respect to the property of the deceased controlling person (Article 223¹ of the Law on Bankruptcy).

In the event of the death of a controlling person, during the consideration of an application for holding a person subsidiary liable or for compensation for damages, the court carries out procedural succession in favour of the heirs of the deceased person or involves a financial manager of the estate (paragraph four of Item 7 of Article 213⁹ of the Law on Bankruptcy, Article 48 of the ComPC RF). It should be borne in mind that the ability of the heirs and the financial manager to present evidence related to the reasons for committing certain actions or omissions by the testator, or making respective management decisions, is limited. Therefore, the court must assist such persons in obtaining the necessary evidence (Part 4 of Article 66 of the ComPC RF).

37⁴. By virtue of Part 5 of Article 46 of the ComPC RF, the court considering an application for holding a person subsidiary liable may, upon petition of the defendant or on its own initiative, raise the issue of involving a co-defendant for discussion between the parties. If none of the persons entitled to file an application for holding the controlling debtor subsidiary liable has supported the involvement of the co-defendant, the court has the right to involve the co-defendant as a third party that does not make independent claims regarding the subject of the dispute (Part 1 of Article 51 of the ComPC RF).

37⁵. If the defendant in an isolated dispute on holding a person subsidiary liable or compensation for damages believes that the damage to creditors also occurred as a result of the actions of another person, the defendant has the right to demand the involvement of such another person as a third party that does not make independent claims regarding the subject of the dispute (Part 1 of Article 51 of the ComPC RF)."

11. In paragraph two of Item 41, the words "in the manner stipulated in Part 3 of Article 223 of the ComPC RF" shall be deleted.

12. The test shall be supplemented with Item 56¹ as follows:

"56¹. Item 2 of Article 61¹⁵ of the Law on Bankruptcy establishes the obligation of the defendant to provide a response to the application for holding him/her subsidiary liable. When considering an isolated dispute, the court explains to the defendant the consequences of failure to provide a response, as provided for in Item 4 of Article 61¹⁶ of the Law on Bankruptcy. In the event of subsequent non-fulfillment of this obligation without a valid reason, as well as evasion from giving clarifications regarding the reasons for the debtor's bankruptcy and the specifics of his/her business activities on the eve of bankruptcy, the court has the right to take into account such procedural conduct as indirect confirmation by the defendant of the circumstances constituting the grounds of the application on holding a person liable, having transferred the burden of proof to him/her in an isolated dispute (Item 4 of Article 61¹⁶ of the Law on Bankruptcy, Part 2 of Article 9, Part 3¹ of Article 70 of the ComPC RF)."

13. In paragraph two of Item 57 the words "Part 5" shall be replaced by the words "Part 7".

14. In paragraph five of Item 66, the words "six months" shall be replaced by the words "three months".

15. The text shall be supplemented with Items 69¹ and 69² as follows:

"69¹. The claim to the controlling person for compensation for damages is subject to inclusion in the debtor's bankruptcy estate. Such a claim may be disposed of by collecting debts into bankruptcy estate or selling the claim (Item 2 of Article 140 of the Law on Bankruptcy), subject to the provisions of Article 61¹⁷ Law on Bankruptcy.

Damages recovered from the controlling person within the amount of claims subject to accounting in the amount of subsidiary liability may be assigned to a creditor to the extent attributable to his/her claim, taking into account the order and proportion of repayment of creditors' claims (Items 2 and 3 of Article 142 of the Law on Bankruptcy).

69². By implication of Item 6 of Article 61²⁰ of the Law on Bankruptcy, it is assumed that the damage caused by the controlling person does not exceed the amount of subsidiary liability, until the opposite is proven by persons whose claims are not included in its amount."

Chief Justice of the Supreme Court of the
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I.V. Krasnov

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