

## Decree 300 summary

The recently adapted Decree of the Government of the Russian Federation N 300 dated 03.21.2019 has updated the powers of RosAccreditation (Federal Accreditation Service, FSA) and the Ministry of Economic Development and Trade of Russia in the field of accreditation, which are specified in Decree of the Government of the Russian Federation N 360 dated 30.03.2017.

In particular, it has been determined that the FSA, in cases and on the grounds stipulated by federal laws, has the right to inspect the activities of the accredited entities, the accreditation of which is terminated on the date of commencement of the inspection or before its completion.

*“If there is information that the results of the accredited entity’s activity was entered by them into the Federal State Information System in the field of Accreditation, registers of conformity certificates and registers of conformity declarations without actually conducting all or part of the conformity assessment work or in violation of the rules thereof, The FSA decides to transfer the information on the relevant results of the accredited entity’s activities to the archive part of the register.”*

Thus, in case of any violations in the work of a certification body or a testing laboratory on the certificates or declarations of conformity registered in the past and valid at the time of the inspection, the FSA has the right to cancel these documents without notifying the parties and without debate, including in cases where an accredited the entity has ceased operations and cannot contest the actions of the FSA.

*“If the period in which information on the results of the accredited entity’s activity entered by him into the registers of certificates of conformity and declarations of conformity without actually carrying out all or part of the work on conformity assessment or with violation of the rules thereof, is impossible to establish reliably, information is transferred to the archive part of the register for a period equal to one year from the date of the adoption of the relevant decision. ”*

This means that the FSA will terminate the results of accredited entities en masse, without investigation of each particular case.

*“Responsibility for losses caused to third parties by such a decision (also if, after making such a decision, it is established that the work on conformity assessment was carried out in accordance with the requirements), lies with the entity which failed to comply with the order to cancel the results of activity of the accredited entity (if such an order was not unlawful or challenged by the court in the manner prescribed by law and canceled before the adoption of this decision) and has committed actions (inaction), entailing the impossibility of conducting an audit.*

It follows that the FSA declines all responsibility for potential errors in the process of these activities.

The practice of judicial work of lawyers working in the field of technical regulation shows that the assessment by FSA of the full compliance with the requirements of the legislation by accredited entities is ambiguous, the opinions of accredited entities and FSA regarding the interpretation of the current legislation often differ. This applies to all stages of work on conformity assessment — selection, labeling and customs clearance of samples, analysis of the state of production and presentation of its results, registration of applications for certification, observance of deadlines for registration of applications, testing methods, registration of test reports, analysis of test results, registration of internal documents of certification bodies and testing laboratories, entering data into state registers. Any actions regarded by the FSA as violations at any of these stages, including after the termination of the activities of an accredited entity, may cause the cancellation of the executed documents of compliance. As can be seen from the text of the Decree, this may affect also the documents on conformity obtained without violations.

It is obvious that there is going be a period in the coming months when a significant segment of the array of previously registered documents on conformity in the Customs Union will appear at threat. It seems impossible to predict the breadth and depth of the application of these new tools by the FSA, but it is certain that control over the activities of market participants will only increase over time.