

CONFERENCES REVIEW NOTES

THE NATIONAL LEGAL CONGRESS: BUSINESS, THEORY, AND PRACTICE ON THE SAME PLATFORM

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The National Legal Congress, established in Moscow in 2011, has already become a platform recognized in the professional community, which traditionally brings together more than 250 representatives of the Russian courts, law firms, government and public organizations, business-structures, and prominent law and jurisprudence figures.

The organizers, participants and guests of the National Legal Congress annually seek to address important issues in the Russian legal sphere, prospects for improving justice and the development of the legal market in Russia. The fact that not only representatives from law firms, legal establishments and private corporations, but also from the legislative, executive and judicial authorities are among the Congress participants and speakers, attaches a great importance to the Congress.

In 2013, the Congress was officially renamed the National Legal Congress (NLC). The new name reflects the fundamental principles and objectives of the event, including a comprehensive review and evaluation of the changes taking place in the Russian legal market, promoting the improvement of legal culture, openness and transparency of the judicial system, and legal reforms in Russia.

The main objective of 2013 Congress remained unchanged: discussion of the developments in the Russian legal sphere, prospects for justice improvement and the development of the legal market in Russia.

In 2013, the program was divided into two main thematic blocks. The first day of the Congress was devoted to the topical issues of the Russian legal sphere and legislative changes. The second day of the Congress was organized to discuss further development of the professional legal services market.

At the plenary session of the National Legal Congress experts discussed Twenty Years of Constitutional Justice in Russia and the transformation of the socio-political and socio-economic systems.

To the surprise of those present at the plenary session, the authors of the Constitution abstained from discussing on its 20th anniversary the most urgent amendment thereto, namely, an amendment related to the merger of the courts.

Actually, the Constitution was amended only once, in 2008, when the presidential term and terms of State Duma deputies were increased, though no amendments were introduced to the bill, which was also initiated by the president. Thus, there is currently no experience of interpreting the procedural passage of amendments to the Constitution. It is unclear whether at the time of the Congress experts believed that attempts to amend the presidential bill are pointless and that it is a hopeless task to attempt to resist the presidential initiative by introducing the amendments. The issue failed to be discussed.

The merger of the courts, being a key legal topic of the year, was more willingly discussed by representatives of the legal community at the first session of the Congress. Discussion of the problem: 'Merger of the Supreme Court and Supreme Arbitration Court: The Formation of a Uniform Legal Practice! Pros and Cons!' sparked a disruptive reaction among Congress participants.

The process of the merger of the Supreme Court and Supreme Arbitration Court must be switched from a destructive to a constructive track – this view was expressed during the National Legal Congress by representatives from a number of major law firms.

According to experts, the very idea of merging the supreme courts gives rise to astonishment and incomprehension, although now that it is pointless to discuss this process, we should rather support it. Concern was also expressed that the reforms carried out in respect of the arbitration courts would be suspended or stopped after the merger. The distrust of the entire system of arbitration courts was expressed through merger of the courts. The experts believed that in the current situation it is important to preserve the personnel of the Supreme Arbitration Court, where a vast number of high-class professionals are employed, to solve probable problems with supervisory authority, and to make every effort to preserve the positive things achieved by the Supreme Arbitration Court over the years.

The next discussion was devoted to 'Russian Federation Civil Code Reform. Advocacy and Notaries: Improving Quality Standards of Legal Services.'

All participants in the discussion noted a direct relationship between the quality of legal aid and state regulation. Experts noted that it would be difficult for those engaged in advocacy bodies to find additional reserves to improve the quality of legal aid without increasing the wages of lawyers involved in criminal proceedings, and without regulating the legal aid sphere as a whole. Corporate self-cleansing works quite effectively: annually, approximately 500 lawyers lose their status, though

this effect is largely leveled due to the fact that expelled corporate personnel are free to continue legal practice in areas other than advocacy. Speakers stressed the need for urgent legislative solutions to tackling the unregulated part of the profession. Legal services are provided not only by individual entrepreneurs and businesses (LLC), but also by the persons who are neither registered, nor pay taxes, and often appear to be engaged in fraudulent activities. The speakers noted that general quality standards (including the availability of a relevant university degree, qualification examination, the professional code of ethics, disciplinary liability) are currently set only by advocacy companies. As such, it is necessary to implement a justice project in order to establish a monopoly on legal representation in certain categories of case for lawyers. However, one must not forget that the foundations for the provision of legal aid are laid during one's student days; as such, quality of education is an important issue that the legal community must address by actively participating in the training of future lawyers.

Discussion on the future of the legal profession was continued during the session on 'Interaction of High School and Practice. Crisis of Supply and Demand.'

Currently, Russia is in a paradoxical situation: despite an enormous number of law school graduates, we face a lack of qualified personnel. The number of lawyers in Russia is estimated at around 55–60 thousand. This legal boom can be explained by a desire to meet the basic international standards required for the country to enter the world market. The current inclusion of Russia in international integration processes hedges the need for recognition by foreign partners of diplomas issued by national universities.

Next discussion was devoted to the intellectual property court and entitled: 'Creating a New Intellectual Property Court. Court to Help?' Here, experts discussed which intellectual property disputes (dispute categories) would be the most popular and which would be the most complicated in the near future, which gaps in the RF Civil Code are most unfavorable to the development of practice, and the legal opinion of the Supreme Arbitration Court on the topical issue of the exercise of exclusive rights.

On the first day of the Congress, the following issues were addressed: 'The Participation of the Legal Market in its Reformation: Recent Projects. Initiative is not to be Punished!' and 'To Enter the Top 50 Doing Business! Is it Real for Russia?' The first session saw experts discuss the establishment of the Russian Arbitration Board, nonprofit partnerships and their participation in the transformation and improvement of existing legislation. The latter session was based on the results of comprehensive studies ranking market leaders. One of the leading law firms has studied, in conjunction with the Moscow government, various advantages to business registration procedures in 'Doing Business' leading countries. On the basis of the results, representatives offered Congress participants their vision of the project.

The second day of the Congress was opened with a panel discussion devoted to the operation of Legal Departments, 'The Legal Department in the Era of National Legal Services Market Reform.'

After years of discussion, the issue of reforming the legal market has now moved into an active stage. It is well known that it is impossible to build a state of law without having a developed national legal services market, composed not only of consultants, but also of corporate lawyers. In these circumstances, it is necessary to improve the perception of legal functions both within and outside the company. Principle topics discussed were: the evolution of legal services; legal support for business taking into account national specificities; the relationship between economic and legal functions in a business; corporate governance as a step towards increasing a company's value; the decentralization of legal departments and the engagement of external consultants or development of in-house departments. Russia's leading corporate lawyers participated in the discussions.

However, participants of the Congress appear to have found the event's most interesting discussion to have been the one to address 'Criteria for Assessing the Quality of Legal Assistance. Ranking, PR-wars and Pseudo-Professionals on the Domestic Legal Services Market.' This discussion was a logical continuation of the session held on Dec. 10, dedicated to the quality standards in legal services.

Since different law firm rankings are becoming more popular, everyone wants to know whether it is possible to consider the ranking of any company as an absolute indicator of its performance.

Practicing lawyers, advocates and consumers (heads of legal departments of large firms, and ranking authors) were invited to discuss the role of rankings upon the selection of legal advisors. According to those who use the services of external legal advisors, foreign rankings show less bias than domestic ones, the main reason for this being different methodologies for determining rankings.

However, when choosing a legal adviser, not only a law firm's quantitative indicators, but also an assessment of its service quality, is rather important. As such, companies entering the Russian market are interested in reputational rankings. According to Olga Voytovich, Legal Department Director of Interros, this is an urgent issue, though rankings have not yet become the popular method for selecting consultants in Russia.

A ranking is deemed credible when it is based primarily on the opinions of independent experts and consumers. This is another reason why foreign rankings are more credible than their Russian equivalents in terms of assessing the quality of legal services provided by law firms.

Techniques used in the preparation of rankings abroad were revealed by Mike Nash using the example of The Legal 500 EMEA. The Legal 500 EMEA ranking has been available for 26 years, and 67% of visitors to this site currently use the data given there as a starting point for selecting a law firm. In terms of process, first, ranking authors

always check the facts of the activities of law firms, and secondly, take into account their customer feedback and comments from market participants. Each year they devote 10 weeks to Russia, with a further 4 weeks to check the information received.

Participants were also interested in the answer to another question: whether law firm brand matters when selecting a consultant. The idea that brand cannot be the sole criterion for selecting a consultant was shared by speakers of the panel. Even in firms with widely recognized brands, their lawyers may have different levels of professional experience.

Three main criteria for evaluating the quality of legal services were identified as being the most important from the point of view of the client:

- (1) professionalism – ability to analyze and assess the situation and the law, and to take a competency-based approach to business;
- (2) belief in the correctness of one's position and focus on achieving results; and
- (3) a principled approach to business, through which confidence is established between the client and legal advisor.

Experts added that although brand does contribute to attracting customers, marketing costs incurred by law firms are not always justified, and their reduction would result in reducing the cost of services – something that is also very attractive to customers. One of the speakers disagreed with this point of view, maintaining that brand is primarily composed of the people working at a law firm, and that marketing is an essential part of strategy and a specific indicator of their performance. Even the best professional can see a decline in work unless he/she focuses on promotion.

The sessions entitled 'Investigation for Business. Antifraud in Business Turnover. Better safe than sorry!' and 'Analysis of Court Awards for Corruption Offences: Challenges and Prospects' were of practical value for businesses.

A session dedicated to the development of arbitration in Russia, where experts discussed the problems of arbitrability of commercial disputes, a code of professional ethics and arbitrator conflicts of interest, was also of great interest.

According to a Judge of the Russian Supreme Arbitration Court, it is impossible to create and legislate a closed list of categories of disputes to be resolved by the arbitration courts and international commercial arbitration tribunals. He emphasized that it is crucial to close puppet arbitration courts, to develop a code of ethics for arbitrators to popularize the idea of arbitration, and to establish arbitrators' liability for willful incompetent and unethical behavior. The Rules on Conflicts of Interest in International Arbitration established by the International Bar Association have long been used worldwide as a code of ethics for arbitrators. They require arbitrators to make a reasonable enquiries as regards conflict of interest, to disclose information where such a conflict of interest exists, and in cases of serious conflict – to refuse the appointment in question.

In connection with the discontinuation of RIA Novosti news agency in late 2013,¹ the fate of the next National Legal Congress is questionable. 'We seldom meet together, and only in a community that brings together people of opposing types of legal activity, can one draw a true conclusion on the direction in which our legal life will evolve,' said Anton Ivanov, Chairman of the Supreme Arbitration Court, in his message to final project participants. Congress organizers will continue the Chairman's thought and hope that the Congress platform will be an important venue for dialogue between lawyers, and that the project will occupy a rightful place in the future national legal market.

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¹ A Decree on the liquidation of RIA Novosti was signed by Vladimir Putin on Dec. 9, 2013. The purpose of the abolition of the agency was the 'improvement of the efficiency of state-owned media.' The liquidated RIA Novosti will be replaced by an international agency, Russia Today. It will be included in the list of the national strategic enterprises.

'The Federal State Unitary Enterprise International News Agency Russia Today focuses on covering abroad Russian state policy and public life,' states the Presidential Decree.