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Russia's Accession to the WTO: How It Might Affect the Legal Market

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Russia's accession to the WTO means that a huge range of new rules and legal regulatory mechanisms is included in its legal system; this, without a doubt, will result in a demand for the services of lawyers who specialize in the various areas covered by WTO rules. Russian lawyers do not currently have experience with the procedures for resolving disputes on WTO rules, so when such disputes arise, the Russian government will initially have to engage foreign law firms that have this experience. However, most experts are inclined to believe that in the disputes that might arise in the near future, Russia is likely to be the defendant rather than the plaintiff. Consequently, deep knowledge of Russian law will be needed to settle such disputes, and it will scarcely be possible to avoid involving Russian lawyers.

The question of what obligations are taken by Russia to the WTO for the regulation of the legal services market in Russia is no less interesting.

According to the Russian Constitution, "the right to receive qualified legal services is guaranteed to every person." The content of this provision means that the state has an obligation to ensure that every person may receive legal services expressly of a qualified nature in relation to any issue, but not only in a criminal trial. Specialist knowledge and skills, as well as honesty, is required to provide high-quality legal services regarding civil law and administrative law issues as well, since not only the property interests of individuals and legal entities depend on this; so do their good names and business reputation, which is no less significant and sometimes even more so.

However, apart from requirements for notaries and patent attorneys, effective Russian law only imposes qualification requirements for attorneys who provide legal services to persons accused and being sentenced in criminal cases, and in the context of representing parties in the Russian Constitutional Court (only attorneys and persons with an academic legal education may undertake this latter task). In all other instances, any persons may provide

legal services, including those without any special education and even convicts.

As a result, people who do not have enough qualifications (knowledge, skills, experience) but still wish to earn in the legal field make up for their lack of credentials by their "relations" and "acquaintances" with state officials and judges and "solve" the emerging issues, sometimes even for cash. The activities of such individuals is one of the reasons that legal nihilism and corruption are growing in Russian society; the quality of legal education is falling, and, worse yet, a diploma may simply be purchased.

It is also important to note that current legislation contains no qualification requirements (including knowledge of the Russian language or Russian law) for foreign lawyers working in Russia and providing Russian law services. Not only does this run counter to the interests of Russian society and the state, but it also puts Russian lawyers at a disadvantage. In foreign states, they are subject to qualification requirements, in particular in relation to knowledge of the national language). Foreign lawyers provide services that involve advising clients on Russian law not just through subsidiaries incorporated in Russia, but also through branches of foreign firms. This means that they enjoy other tax benefits and avoid the requirements of Russian currency legislation, giving them an advantage over Russian law firms. Currently, there are tens of branches and subsidiaries of foreign law firms in Russia, which aim to cover the legal services market for large and medium businesses, displacing this segment of Russian legal firms.

Such are Russian realities, and upon its accession to the WTO, the Russian Federation established no restrictions on the legal services market or restrictions on the national regime applied to foreign persons and entities, only with a sole exception in terms of acting as an attorney. Attorneys may only operate through a chamber, bureau or association of attorneys or legal advisers. In addition, the term "attorney" in the Protocol of Russia's accession to the WTO is defined in a way that is not in line with current legislation and which the Russian Constitutional Court interpreted with a degree of discretion in its resolution No. 17-P dated 9 July 2012. It should be kept in mind that under current Russian legislation, in contrast to notaries and patent attorneys, not only Russian citizens may become attorneys, but also foreign citizens and stateless persons as well.

What can a good, qualified Russian lawyer do to be competitive in such circumstances on the legal services market in Russia? If no changes happen, the answers are obvious.

However, it should be noted that Russia's obligations to the WTO do not prevent Russia from introducing qualification requirements for foreign lawyers, as long as the same requirements are brought in for Russian colleagues (this is precisely what the national regime principle requires). Introducing such qualification requirements may be one step on the way to solving the problems discussed above to be overcome and will allow good faith competition to be created on the legal services market, leading to an increase in the quality of the services. It is a question of the form and procedure in which they are introduced. Currently, there are various legal structures that should ensure a working and transparent mechanism to provide compliance with qualification requirements, allowing a painless transition to the new conditions for those lawyers who have long enough professional experience.

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