Support children globally

International child support is more pressing than ever, but conventions must remain sensitive to domestic legal frameworks. That was the message yesterday afternoon as the Russian Ministry of Justice and the Hague Conference on Private International Law held a spirited discussion on the Convention of 2007 on the International Recovery of Child Support and other Forms of Family Maintenance. The session featured Christophe Bernasconi, secretary general of the Hague Conference on Private International Law.

During the discussion, Philippe Lortie, first secretary of the Permanent Bureau on the Hague Conference on Private International Law, observed that the area has been a topic of discussion since the League of Nations. It continues to be an important topic today, especially as there are an increasing number of relations overseas, and there are challenges to enforcing child support judgments overseas.

One reason for the new convention was that the New York Convention of June 20, 1936 on the Recovery Abroad of Maintenance, which was the first to establish a central referral system, was working extremely well between states that had a civil law tradition, as well as those with a common law tradition. “But between states of civil and common tradition, it was complete chaos,” he said, adding that the language was not precise enough for the two to find a common solution.

Domestic systems had also evolved; some had become very modern, and the international systems were no longer serving as models to encourage reform on the state level.

However, he emphasised that the goals of the Hague Conference are not to impose its system on member states, saying that the Hague Conference instruments are extremely respectful of domestic systems. Instead, he added: “Our goal is that the Convention and the way it is set up will invite reforms at the domestic level.”

It was also important for the new convention to take into account information technology developments, previously much of this work involved signatures and hard copies of documents. “When we developed this treaty we clearly had in mind the use of information technology,” said Lortie.

Improving the Convention
A number of government officials from a variety of jurisdictions were present at yesterday’s conference, including representatives from the Russian Federation, Kazakhstan, Belarus and Sri Lanka. While many were broadly supportive of the goals of the convention, they also offered suggestions that would help their countries when considering accession.

Representatives from the Russian Federation were especially active, with representatives from the Ministry of Justice, the Ministry of Foreign Affairs and the Supreme Court all participating. Aleksandr Klikushin, the presiding judge of the Family Law Panel of the Supreme Court of the Russian Federation, noted that nine percent of the cases in Russian courts deal with marriage and marital law – one-third of those cases are about support for underage children, accounting for a total of RUB 6.5 billion in support recovery. He said that one element that could be helpful is an automated system of information transfer. At the moment it takes too long to process obligations, and in that time the debtor’s relevant information may change. He believed an automated system would be able to react faster.

Alua Nadirkulova of the Ministry of Justice of Kazakhstan, revealed that they are planning to submit a draft law in the next two months, and the country is also planning a conference in Astana on the convention in November. While supportive, she believed that the rules should be translated into Russian, so that Russian-speaking jurisdictions can familiarise themselves with the toolkit as the treaty members expand.

The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance is a multilateral treaty governing the enforcement of judicial decisions regarding child support and other forms of family support extraterritorially.

It is one of a number of conventions in the area of private international law of the Hague Conference on Private International Law in 2007. The convention is open to all states as well as to Regional Economic Integration Organisations as long as they are composed of sovereign states only and have sovereignty in part of the content of the convention.

The convention entered into force on January 1, 2013 between Norway and Albania. For Bosnia-Herzegovina and Ukraine, the convention entered into force later, in 2013. The EU became a party in 2014 as a Regional Economic Integration Organisation. Because the subject matter of the convention fully falls within EU competency, the EU rather than the individual member states became a party. The convention is applicable to all 28 member states except Denmark and only applies to those territories that form part of the EU.

Further signatories are Burkina Faso and the US, whose Senate approved the treaty in 2010 and implementation legislation has been passed on a federal level. Ratification can take place after legislation at state level.
VOX POPS:
What has attracted you to the forum this year?

Natalia Sidorova
Department of Criminal Justice
St Petersburg State University
I have taken part in all previous legal forums here. Now we have the legal forum for young lawyers at the same time and that is very interesting to me.

Olga Mazur
Senior associate
Baker & McKenzie
The forum is always on top of the most significant issues. This year there seems to be an emphasis on developing Russian law and the major changes in the past year.

Sergey Spassennov
Partner
Pepelioev
The forum is an opportunity to hear about the tendencies of our foreign peers. This year we will discuss how the new Supreme Court has affected dispute resolution in the past year.

Vera Kolesnik
Head of Legal, Russia and Eurasia
Nestlé
I’m attracted by the audience that attends: the brilliant legal minds of Russia and abroad. There are great general topics as well as smaller topics like personal data and antitrust.

Zhanat Kulzhabayeva
Deputy to director of Ministry of Justice
Republic of Kazakhstan
I have come to St Petersburg for five days for the forum, and always enjoy returning to the city as I was once a student at St Petersburg State University.

Jinan Guo
Ministry of Justice
People’s Republic of China
The forum is a great opportunity to meet people and attend worthwhile sessions. I am particularly looking forward to the anti-corruption session on Thursday.

Wijeyadasa Rajapakse
Minister of Justice
Sri Lanka
I am here to discuss the rule of law at the forum. Secondly I am here to sign three bilateral agreements on behalf of Sri Lanka.
Yesterday a number of top officials from Shanghai Cooperation Organisation (SCO) member states and partners came together in the Palace of Justice to discuss the rule of law in its member states. The panel was moderated by Anatoly Kapustin, the president of the Russian Association of International Law and first deputy director of the Institute of Legislation and Comparative Law.

The SCO was established in 2001 in Shanghai, with China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan. Uzbekistan joined in 2001, prompting the organisation’s establishment. Before Uzbekistan joined, the five other member countries had signed a treaty to become the Shanghai Five in 1996; the group is now nearing its 20th anniversary.

The two top-level councils – that of the heads of state and heads of government – meet annually, with meeting locations rotating between the SCO members. The group focuses on a number of regional issues such as security and economic cooperation.

Together, the group makes up 60% of the land mass in Eurasia, and its official languages are Chinese and Russian. Indeed the panel discussion was conducted in those two languages.

Aside from its six members, there are a number of observer states, including India, Iran, Mongolia and Pakistan. Dialogue partners such as Sri Lanka also had representatives at the conference, and there are also guest attendees.

Russia is holding the rotating presidency of the SCO for 2015, and it’s been reported that a priority is for India and Pakistan to become full members this year; they applied for full membership in September of last year.

Speakers present included Alexander Konovalov, Russia’s minister of justice; Rustam Shohmurod, minister of justice of Tajikistan; Berik Imashev, minister of justice of Kazakhstan and Kazem Gharib Abadi, deputy secretary general of the High Council for Human Rights of Iran.

On May 29 2014, following years of discussion, the presidents of Kazakhstan, Russia and Belarus signed a treaty unifying those nations economically. The union came into effect on January 1 2015, and Armenia and Kyrgyzstan have also joined since then, on October 9 2014 and December 23 2014 respectively.

With a population of 180 million people, the purpose of the Eurasian Economic Union has been to both integrate and modernise the economies of these nations.

The agreement represented a new dawn for participating countries, and the long process of modifying and harmonising legislation in individual nations began immediately.

This session will look at the progress made by the union almost exactly one year on from the day of its inauguration. Speakers from the union itself, as well as the governments from participating countries, will contemplate the legal obstacles it has faced during the transition period, as well as the evolution of dispute settlement systems in the region.

They will then discuss how best to improve competition law between member states, all the while ensuring fair conditions in cross-border trade.

Steps towards a region-wide standard are being made, but this is no easy task, as the political and cultural independence of each member state must be maintained throughout.
Dining with the tsars

Whether it’s an authentic local experience or the familiar flavours of home you’re looking for, there’s something for everyone in Russia’s culture capital.

Long gone are the days of the Soviet empire’s limiting culinary choices. Over twenty years later, St. Petersburg offers a remarkable 4,000 restaurants to choose from. The city has everything from traditional Russian delicacies to sushi and pizza; use this guide as simply an introduction to the best of what is on offer.

Allow yourself to be transported back to when St. Petersburg was the capital of Russia at Palkin, a 200-year old restaurant renowned for its offering of luxurious, high-end cuisine including black caviar and truffles. Grab a window seat and feast like an aristocrat on traditional Russian fare, while gazing out at the bustling Nevsky Prospect below.

Cited by many as the best restaurant in Russia, the L’Europe can be found within the Belmond Grand Hotel Europe. Priding itself on its status as the oldest restaurant in Russia, its breath taking art nouveau interior, mouth-watering courses and weekend ballet and entertainment and an on-hand liquor specialist. With live jazz shows are sure to impress. The hotel is also home to the L’Europe’s Bar, one of the only bars solely to the delicacy. With over 100 varieties of wine resident chef Ivan Berezutskiy. A trip to St Petersburg’s evolving food scene, PMI Bar is best known for its classic Russian food and fabulous live band; dinner here is perfect for those looking for elegant surroundings and well-executed dishes.

For a premium dining experience a short walk from the forum’s location, check out PMI Bar on the Moika Embankment. Testament to St Petersburg’s evolving food scene, PMI Bar is best known for resident chef Ivan Berezutskiy. With over 100 varieties of wine and champagne, there’s plenty to wash it all down with. Alternatively, The Cafe Idiot is perfect for relaxing against the backdrop of Russian literature. Named after Dostoevsky’s The Idiot, it offers a deliciously rustic vegetarian meal in an underground grotto, with the added bonus of rubbing shoulders with the city’s intellectuals. Make sure to head over during happy hour when drinks are two for one, and be sure to scoop up a complimentary vodka shot.

The best of the rest

For a classically Russian dining experience, check out Do Zari or avant-garde Sadko. Located minutes from the Mariinsky Theatre, Sadko is perfect for those heading out to watch one of the city’s acclaimed ballet or opera shows.

Terrassa is a slick open-air sushi bar, which offers some of the best views in the city thanks to its rooftop location. The restaurant is located on the roof of one of the tallest buildings in St. Petersburg’s historic centre, with gorgeous views of Nevsky Prospekt and Kazansky Cathedral.

The Artist’s Attic Fondue Bar, hidden away on the fourth floor of the Gallery Glass Rosuzidesign Art Gallery, is a delightful rooftop bar. The restaurant remains a local secret, thanks to its cosy size, although with its beautiful view, art exhibition and fondue specialties it is worth adding to your list.

Other highlights include a super juice flavoured with horseradish at informal Cafe Botanika, or spotting local football stars at trendy floating restaurant Yunost, just minutes from the famous Petrovsky Stadium.

To subscribe today call Nick Heath on +44 (0)20 7779 8692 or contact nheath@euromoneyplc.com
Making the best of it

This morning’s business breakfast illustrates how Russia’s legal system can benefit from economic turbulence

Last year was a difficult one for Russia. Access to the US and European markets was blocked, new sanctions were imposed, the financial markets were volatile and the rouble weakened. But these problems have created opportunities, particularly for the country’s legal system and lawyers.

As this morning’s business breakfast, ‘legal strategies during turbulence’ will show, by creating and transforming the market, legal, financial and tax infrastructure, the government is opening up new business development opportunities.

One of the speakers at this morning’s business breakfast will be examining the need to update Russia’s international standards – primarily its civil code – that governs corporate transactions in the country.

Speakers will be looking at international standards in terms of harmonisation of the approach and borrowing certain concepts from other jurisdictions. For example, Evgeny Sukhanov, deputy chairman of the board of codification, the head of the council working group on the codification of the civil law who will feature in the session, has been learning European systems of law, in particular the German system.

“So there are specialists, who, although Russian, have plenty of international experience,” says Oxana Balayan, partner at Hogan Lovells in Moscow, and a speaker at the session. “And the questions we will be asking are what we are doing well, what we could be doing differently,” she adds.

A firm approach is needed for such an assessment, according to Balayan. “There are different opinions in Russia around which laws are critical to our national identity, and on the other hand what is simply historic, out of time and needs to be replaced with higher international standards.”

One such area that is expected to fall into the latter category is contractual and shareholder relationships, including drag-along and various shareholders’ rights and options. These are all in the early stages of being drafted in Russia. Balayan also predicts that the speakers will also discuss the nature of regulatory approvals in the country and the need to change. “Tight approvals are often preventing businesses entering Russia, so we will touch on that,” she says.

Bar admission will also be discussed. “There is currently no bar admission to practice Russian law, so we will look at that during the session,” says Balayan. In certain courts, lawyers can appear with power of attorney from their client, without the need to prove the completion of legal courses or bar exams. “So if you call yourself a lawyer, that is generally enough for everyone apart from the higher level advocate community, which do require qualifications,” says Balayan. The questions surrounds whether the country will require all lawyers to qualify at the level of the advocate community. “This would be revolutionary. Russian lawyers are not used to going through additional restrictions,” she adds.

Turning to the east

Another topic in need of discussion is the legal adaptations to account for Russia’s increasing involvement with Asian investors, especially Chinese ones. As opportunities in Europe diminish the country has taken steps to attract Chinese parties. Lawyers need to be aware of this shift though, and draft accordingly.

“At the moment we are simply exploring the differences with Asian legislation and the requirements of investors,” says Balayan. For instance on some deals, Chinese investors prefer their agreements to be governed by Chinese law. The country has history in accommodating these language issues though. When European investors first came to Russia, they insisted their agreements were drafted in English law. “So the first priority is simply to understand the differences between the legal systems a little better,” says Balayan.

The world’s best restructuring regime

Results of a recent poll suggest the UK has toppled the US as the restructuring hub of choice

One of the most frequently predicted – and somewhat unwelcome – developments in the global financial markets this year is that US interest rates will rise. While it will reflect higher growth in the US, it means that companies globally may find it more difficult to restructure. “The US interest rates will rise. While it will reflect higher growth in the US, it means that companies globally may find it more difficult to restructure,” says John Marsden, partner at Mayer Brown JSM in Hong Kong. “That is a powerful provision.”

In contrast, he says, Chapter 15 recognition doesn’t provide that protection against creditor claims; it operates only in the US. The automatic stay is enforceable because most major financial institutions clear dollars in the US. If the creditor goes against the automatic stay in Chapter 11, it’s very likely that it can be brought into the US.

But Chapter 11 puts the entire company into bankruptcy – a nightmare for family-owned or controlled companies, especially those based overseas. It affects every piece of debt that the company has, as well as customers, employees and suppliers.

It is also costly. Compared to a UK scheme, Chapter 11 is always considered as a more expensive rehabilitation process, says Marsden, so its attraction may be limited to corporates of a certain size.

It’s also a more debtor-driven process, he adds. While they also remain in control under UK schemes, the sentiment is that there is more court supervision and creditor involvement in the UK process.

The poll

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Unlocking deal success

Matthew Ponsoby, the EMEA head of M&A for Barclays discusses the deal-making environment for the year ahead

Matthew Ponsoby was appointed Barclays’ head of EMEA M&A in July 2014. He is also co-chief operating officer of the investment bank. In a year when the durability of the long-awaited M&A renaissance faces clouds of uncertainty, Ponsoby discusses caution on boards, the legal and regulatory initiatives on his radar, and how to ensure a deal’s success.

Q What do you see as the key trends in European M&A for the rest of 2015?

The macroeconomic data remain somewhat mixed. There are a number of areas that are very supportive of long-term positive trends in M&A, particularly in the US, but there are also pockets of uncertainty. Therefore I think while a number of big strategic themes will continue to play out and act as drivers of M&A supported by areas of benign macroeconomic data, there remain risks to some of that happening in practice.

Q What do you believe are the key threats to a long-term M&A revival and to more big deals?

The primary threat to the long-term M&A revival and big deals happening going forwards is that boards remain rightly cautious as to whether or not the outlook is as benign as some indicators would suggest. That has been evidenced over last year, particularly in EMEA, in that we continue to see events that heighten that uncertainty. One key example is clearly the situation in Russia, and the Greek elections. Within EMEA we’re reminded that the economic outlook is perhaps not as uniform across the region as it might be in the US. That means that boards remain cautious and the view on valuation is not as uniform as it might be because it is less certain whether buyers will meet seller expectations.

There are also continuing issues of stability in the EMEA region, particularly in the Middle East, whether that be the uncertainty as to the outcome of the west’s sanctions, or differing views on growth in the eurozone. Recent data comes in as negative growth and it’s not clear as to whether that’s wholly attributable to the fall in fuel prices or whether there are other more fundamental factors at play. The situation within different geographies can be very different.

Q Which regions or sectors provide the most opportunities for investors?

There are opportunities for investors across all regions and we’ll continue to see strong cross-border flows. It’s also hard to identify any one sector that’s going to outperform. TMT has been busy over the last few years and I suspect it will continue to be, as indeed I suspect to see continued activity in consumer, industrials, and real estate.
What are the main legal and regulatory initiatives on your radar?

There are a number of trends here. Regulators are rightly focused on the management of information and management of conflicts. That’s always at the centre of how banks think about their business because it’s absolutely critical to their clients. It’s very much a topic that I think we will continue to focus on.

There is also a clear focus on factors outside the narrow financials of a deal, such as the trend we’ve seen in the UK of holding companies to account for what they say in an offer document. This means that how companies think about positioning a deal in its totality remains important.

There is also a continual focus on the risks of deals leaking, regulators remain rightly concerned to ensure equality of information. This means that banks and other advisors are very thoughtful around how many people are on board, and when those people are bought on board.

It almost goes without saying that investment banks that operate across regions increasingly need to think about their activities globally and about regulation globally in ensuring that what they do meets best practice across all its regulators.

What are the key factors that you believe lead to deal success?

There is a huge amount to do once a deal is signed but all of that is easier to do if the deal is positioned correctly in the first place. So for me the key factor to a deal’s success is that the deal is underpinned by sound strategic logic in the first place, that it is bought into by both companies and all the relevant stakeholders – the shareholders and other investors. In that circumstance where you have the strategy and the investor-base aligned, and then following that through with the right integration plan, you’re setting yourself up for success.
Sleepless in St Petersburg

Thanks to days that never end, summer is without a doubt the ultimate time to experience the delights of Russia’s former capital.

Founded by Peter the Great in the early 18th century, St. Petersburg has long been revered for its majestic architecture, diverse and fascinating history and cultural delights, all of which will impress even the most seasoned travellers. As a city steeped in Russian history, plenty remains of the previous tsardom, which has helped maintain it as a destination of choice for those with a keen interest in the nation’s past.

The St. Petersburg International Legal Forum is held for the fourth year running at Palace Square, right in the heart of the city. The square boasts excellent views of the Winter Palace and General Staff Building, but most visit to see the 47.5 metre high Alexander Column, erected after the Russian victory in the war with Napoleon’s France. The Square can transport visitors back to Russia’s turbulent past, especially considering the pivotal role the location played during both the 1905 and 1917 revolutions.

Since 1865, May 27 has been St Petersburg’s official ‘Dyem Goroda’ (City Day). There’s no holding back on the celebrations, with parades, public concerts, fireworks and historical displays it would be impossible to miss. Falling on the same week, between May 24 to 26, is the 14th annual Isadora Duncan Festival, celebrating the life of the famous American dancer who spent the majority of her years in the Soviet Union.

While it might not be in full swing until mid-June, visitors can hope for a chance to experience the annual phenomenon widely known as White Nights. This is when the city’s northern position results in near round-the-clock daylight, transforming St Petersburg literally into the city that never sleeps.

Winter Palace

For the art critics in attendance this week, St. Petersburg provides an assortment of galleries and world-renowned collections. As one of the oldest and largest museums in the world, the State Hermitage offers a fantastic opportunity to marvel at Rembrandt’s La Danse, Da Vinci’s Litta Madonna and the gallery’s three million other pieces. The artwork isn’t the only attraction; located in the Winter Palace, visitors are also able to wander around the former imperial residences of the Russian tsars.

Others may prefer spending time at Arts Square, which boasts a number of cultural highlights including the Philharmonic Hall and the State Russian Museum, well known for its collection of Russian art. While there, wander among tree-lined alleys and admire 18th century marble work in the museum’s summer gardens.

St. Petersburg is able to offer a number of interesting and unique attractions, including the iconic Church of Our Saviour on Spilled Blood. The striking interior is seriously impressive, especially the mosaic icons and jasper shrine to Tsar Alexander II, who was assassinated at the site. And if that’s not enough, there’s the Peter and Paul Cathedral, the tallest Orthodox Church in the world, and St. Isaac’s Cathedral; worth a visit for its size alone.

In a city well known for its opulence, a visit to one of St. Petersburg’s many majestic palaces is essential. UNESCO World Heritage Site Peterhof Palace, also known as the Russian Versailles, is sure to impress thanks to its impeccable gardens, splendid cascades and commanding views of the Baltic. Just as impressive is the flamboyant Tsaritsy Selo, which boasts the infamous Amber Room, a luxurious chamber adorned with over six tonnes of amber, which wouldn’t look out of place in the pages of a fairy tale.

Other attractions include the Fabergé Museum, the Museum of Soviet Arcade Games (all of which still work), the Mariinsky Theatre, the Imperial Porcelain Factory and the Komarovo Botanical Gardens, the oldest in Russia.

Those in need of retail therapy will be pleased to hear that St. Petersburg offers a vast selection of shops, most of which are centred on or around the Nevsky Prospekt, a bustling street that runs through the heart of the city. Look out for the Kazan Cathedral, Singer House, The Russian National Library and the Gostiny Dvor. For a more sophisticated shopping experience, head over to The Passage, an 19th Century arcade and home of the Komissarzhevskaya Theatre.

There are various ways to get around St. Petersburg, including canal tours under the city’s 314 bridges, earning it the title ‘Venice of the North’. There’s also a tram service and reliable Metro, which is not only one of the world’s deepest of its kind, but offers something different in the form of artwork, opulent chandeliers and marble columns. Public transport closes at around midnight, so do ensure that if you are out in ‘St. Partysburg’ you make alternative means back to your hotel. If you do want to sample what the city has to offer after hours, then look out for the legendary avant-garde bar Fish Fabrique, The Barrel, a slick cocktail bar that holds karaoke contests on Wednesdays; XXX, a popular Russian nightclub that plays plenty of hits from the 1980s, and Purga, a club that parties like it’s New Year’s Eve every night.

Visitors looking to unwind after

For the art critics in attendance this week, St. Petersburg provides an assortment of galleries and world-renowned collections

For the ultimately authentic Russian drinking experience, visit the St. Petersburg Vodka Museum

...
The ongoing crisis in the Russian economy has had a significant impact on the practice of applying bankruptcy law and on its development. This is amply demonstrated by the increase of around a 30% growth in bankruptcy cases in 2014.

Against this backdrop, a number of regulations have been adopted to enhance the guarantees for both creditors and debtors in connection with the latter going bankrupt. Federal Law No. 476-FZ dated December 29 2014 has introduced the institution of individual bankruptcy for the first time in Russian history. These provisions take effect on July 1 2015. For a creditor to initiate a bankruptcy procedure against an individual, the debt must be no less than RUB 500,000 ($9,827). Some types of obligations, such as those arising out of credit relationships, do not require the applicant to obtain a court decision to confirm the debt. However, should the debtor file for bankruptcy, no minimum amount of obligations is established. Establishing the institute of individual bankruptcy has a certain impact on consumer credits. It became evident that borrowers under foreign currency loans from a number of banks have already warned the banks that, after July 1 2015, they intend to use the bankruptcy procedure because they are not able to meet their obligations.

However, there are a number of other aspects that are relevant to foreign companies. Legal entities are especially prominent in failing to meet their obligations towards banks. Where such pledgers and sureties initiate their own bankruptcy, this will substantially weaken the creditors’ guarantees. The last two years saw an important surge in the number of disputes in which claimants seek to recover losses from the directors and collective executive bodies of business entities. A 69% increase has also been seen in the number of lawsuits seeking to have controlling persons held liable based on article 10 of the Federal Law on insolvency (bankruptcy). Bankruptcy may prove to be the tool which controlling persons use to terminate their obligations to recover losses or reduce the amount of liability.

For the time being, there are no grounds to anticipate individuals initiating bankruptcy proceedings on a wide scale, since the legislation has become quite cumbersome; in addition, to implement the relevant procedures would require substantial expenditures. Moreover, about 80% of the amounts in arrears with individuals are classified as unrecov-erable. However, even at this early stage, companies should keep in view the risk that individuals they are dealing with may go bankrupt.

Important changes have occurred in the regulation of the bankruptcy of credit institutions. The separate Federal Law on insolvency (bankruptcy) of credit institutions has now ceased to be effective. Instead, detailed provisions regulating the bankruptcy of this category of debtors have been included in the general bankruptcy law. The main changes aim in the first place to protect creditors’ interests. For instance, special attention is given to early reaction and to preventing unlawful actions committed by the bank’s executive bodies from having negative consequences.

Legislators have strengthened the protection of pledged creditors’ rights. For instance, independently of the procedure implemented in bankruptcy proceedings, pledged creditors have obtained the right to vote to elect a court-appointed administrator or a self-regulating organization, or to suspend the receiver.

Russian bankruptcy changes to protect creditors’ rights

Yulia Litovtseva, head of bankruptcy and anti-crisis protection of business, Pepeliaev Group

An important factor in the development of law enforcement practices with regard to bankruptcy matters is the abolition of the Russian Supreme Commercial Court. The Supreme Court has assumed its responsibilities, becoming a single body for both commercial and general jurisdiction courts. Positions previously stated by the Supreme Commercial Court may see significant changes. Based on our experience of providing support in bankruptcy cases, the company, its contracting parties and controlling persons could avoid many adverse consequences by paying heed to bankruptcy legislation in their day-to-day operations. As things stand, one of the most important ways to minimise risks for anyone doing business is to ensure they comply with the requirements of the Federal Law on insolvency (bankruptcy).
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Homburger provides high quality legal advice and representation both domestically and internationally in significant transactions, disputes and complex legal matters to businesses and entrepreneurs.
The opening day of the St Petersburg International Legal Forum features a number of panels on topics bound to be of interest to lawyers and in-house counsel around the world. The highlight for the day is the plenary session, which will feature a number of high-ranking government officials from Russia and elsewhere in Europe.

However before the plenary session, the forum will feature several interesting morning discussions. From 10.00 am to 1.00 pm in Hall V, there will be a conference on alternative views on legal education – an especially relevant topic given the debate on how to best educate lawyers following the global financial crisis.

It will address questions such as whether the government or another body should ensure the quality of legal education, whether Russian law schools should try to significantly improve their international academic ratings and whether masters or postgraduate programmes have met their goals within the legal education framework.

The panel discussion is structured, with each speaker sharing their views on four questions about how to improve Russian legal education for five to seven minutes, after which there will be a discussion between the panellists and the audience. The moderator, Mikhail Schwarz, associate professor of the law faculty at Saint-Petersburg State University, will then provide a seven to ten minute summary of the discussion.

Speakers include Andrei Dontsov, a partner at White & Case; Andrey Egorov, first deputy chairman of the board of the Alexeev Private Law Research Centre under the President of the Russian Federation; and Olga Shepeleva, senior legal officer, Global Network for Public Interest Law.

Islamic update

Another three-hour session will focus on Islamic finance instruments. It will run from 10.00 am to 1.00 pm and is in Hall IV.

Moderated by Maksim Tafintsev, chairman and chief executive officer of the Arab Lawyers Association, and Linar Yakupov, president of the Association of Regional Investment Promotion Agencies, the panel will focus on strategic approaches to these products.

This is especially interesting because Russia is planning to develop an Islamic finance market, with the Russian State Duma reviewing a draft law. The country is also expected to issue a sovereign sukuk as early as next year.

The panel will discuss development of Islamic finance in Europe, as well as the prospects for forming an Islamic banking industry in Russia. Moving further afield, it will also highlight the Eurasian Economic Union (EEU’s) potential and implications for Islamic banking in Russia. To ensure that the market is liquid, panellists will also highlight possible mechanisms of attracting public and business funds to the economy through Islamic financial companies. It will also address sukuk issuance by Russian regions.

However it will also outline some challenges to developing this market in Russia. Like other jurisdictions looking to establish Islamic finance markets, the country must amend legislation and supervisory practices to create conditions that allow the formation and growth of Islamic banking in Russia. More specific changes include facilitating the registration of property rights in transactions as well as establishing a system for supervising Islamic banking operations, as well as additional risk management schemes.

Another panel – beginning at 11.00 am and ending at 1.00 pm in the White Hall – will focus on the EEU, evaluating its impact one year after signing the treaty that established the common market with a population of 180 million. Members include Russia, Belarus, Kazakhstan and Armenia, with Kyrgyzstan to become a member in the near future.

The panel discussion features representatives from the EEU, the Eurasian Economic Commission and the deputy ministers of justice from Armenia and Russia. They will discuss the transition from the EEU from the Eurasian Economic Community, which was terminated from January 1 2015 – when the EEU was launched.

Other discussion topics include legal developments in the EEU, such as a Eurasian dispute resolution mechanism. The speakers will also address the development of a competition law across the common market to ensure that the market remains competitive – particularly in the cross-border commodities markets.

Bankruptcy focus

Also beginning at 11.00 am in Hall I, panellists will discuss innovations in managing the operations of non-credit financial institutions. Following a global focus on bank resolution, speakers will consider bankruptcy and resolution of non-credit financial institutions; the Bank of Russia is developing mechanisms that ensure their continuity because they carry out essential roles in either the financial markets or in their socio-economic functions.

It will also address a mechanism for pre-trial settlement of disputes between citizens and financial institutions as a draft law is in the State Duma, which includes a provision that the ombudsman will not worsen the situation of an individual compared to his position before the appeal.

Moving to Asia’s emerging markets, there is also a brief presentation on Thai law. Speakers include Vonghep Arbakhaiwattanee, director of the international affairs division of Thailand’s Ministry of Justice, as well as Vitaya Suriyawong, director-general of the department of corrections.

The plenary session is the day’s highlight. It will take place in the Amphitheatre from 1.30 pm to 5.00 pm, and will discuss the mission of law in an era of change. It will feature hugely prominent speakers, and will be moderated by Veniamin Yakovlev, adviser to the president of Russia, who from 1992 to 2003 was chairman of the Supreme Arbitration Court of the Russian Federation.

Panellists include Dmitry Medvedev, prime minister of Russia; Wolfgang Brandstetter, federal minister of justice of Austria; John Finnis, professor of law and legal philosophy emeritus at the University of Oxford; Andrea Orlando, minister of justice of Italy; Miguel de Serpa Soares, under-secretary for legal affairs and UN legal counsel; and Renaud Sorieul, secretary for the United Nations Commission on International Trade Law (Uncitral).
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