



ABA Section of  
International Law  
*Your Gateway to International Practice*

# RESOLUTION OF RUSSIA-RELATED BUSINESS DISPUTES: **THE NEXT WAVE**

SEPTEMBER 21, 2009

The Ritz-Carlton, Moscow | Tverskaya Street 3



- Arbitration in Russia: The Current State of Play and Prospects for the Future
- Investment Treaty Arbitration: A Strategic Option or Legal Defense?
- Russians Abroad—The Experience of Russian Companies in Foreign Litigation and Arbitration
- Representing Foreign Parties in Russian Courts
- Related Civil and Criminal Proceedings in Russia



CONFERENCE STRATEGIC PARTNER:

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# Resolution of Russia-Related Business Disputes: The Next Wave

## PROGRAM AGENDA

All events to be held at The Ritz-Carlton, Moscow, located at Tverskaya Street 3, unless otherwise indicated.

7:30 AM

Breakfast

8:30 AM

Opening Remarks

**John Beyrle**, U.S. Ambassador to the Russian Federation, Moscow, Russia

8:45 – 10:15 AM

**Arbitrating in Russia: The Current State of Play and Prospects for the Future**

This panel will take a practical look at the pitfalls and advantages to arbitrating in Russia – whether through the International Commercial Arbitration Court (MKAS) or through other arbitration institutions emerging outside of Moscow – and will also address the following issues, among others:

- Techniques for successfully arbitrating in Russia:
- The next decade's leading forum for Russia-related international arbitrations ... and the winner is...?
- What lies beyond MKAS and Moscow? Arbitration institutes in St. Petersburg, the Russian Far East and other centers.
- Using Russian courts as a sword ... or as a shield in the arbitral process.
- Lessons learned from setting aside arbitral awards in Russia
- You have an award, but now what? Enforcement of arbitration awards in Russia.

*Speakers:*

**Boris R. Karabelnikov**, The Moscow School of Social and Economic Sciences, Moscow, Russia

**Alexander S. Komarov**, The International Commercial Arbitration Court, Moscow, Russia

**Dmitry Kurochkin**, Herbert Smith, Moscow, Russia

**Irina V. Reshetnikova**, Sverdlovsk Oblast' Arbitrazh Court, Ekaterinburg, Russia (*Invited*)

**William R. Spiegelberger**, Rusal United Co., Moscow, Russia

*Moderator:*

**Ilya Nikiforov**, Egorov, Puginsky, Afanasiev & Partners, St. Petersburg, Russia

10:15 AM

Networking Break

10:45AM – 12:15 PM

**Investment Treaty Arbitration: A Strategic Option or Legal Defense?**

Since 1989, Russia has ratified over thirty bilateral investment treaties and signed the Energy Charter Treaty. These treaties give investors the right to take host States to international arbitration for non-compliance with certain standards of treatment such as non-expropriation or non-discrimination. Disputes arising from violation of such standards are becoming everyday reality in Russia and its neighbors. Over the past year alone, OAO Tatneft launched an arbitration against Ukraine in a dispute about the takeover of an oil refinery, a jurisdictional hearing took place in The Hague in the largest recorded treaty arbitration instituted by Group Menatep against Russia, an arbitral tribunal partly upheld jurisdiction in a dispute brought by the Spanish shareholders in Yukos against Russia, the Russian shareholders in KOO Golden-East Mongolia were awarded emergency relief against Mongolia, Franz Sedelmayer succeeded in auctioning off Russia-owned premises of the former Soviet trading mission in Germany in satisfaction on the first ever treaty award against the State, and Inna Gudavadze, the widow of the Georgian businessman Badri Patarkatsishvili, brought a claim against Georgia arising from the Georgian investment law. While Russia is developing sophisticated legal defenses against multi-billion dollar claims, Russian investors are discovering the virtues of pursuing legal action against other States for violation of investment guarantees.

This session will explore the growing trend of disputes involving Russian parties and the Russian government. Among others, the following questions will be raised:

- How can Russian companies and individuals benefit from investment treaties?
- What should one expect in an arbitration proceeding involving Russian interests?
- To what extent should the political and economic reality of developing post-Soviet economies inform the content of investment treaty standards? Can social and economic instability excuse government misconduct?
- Are there means to bring investors to account under investment treaties and domestic investment laws?
- Does the Energy Charter Treaty have a future with or without ratification by Russia?

*Speakers:*

**Marya Baranova**, Ministry of Economic Development of the Russian Federation, Moscow, Russia

**Carolyn Lamm**, White & Case LLP, Washington, DC USA

**Barton Legum**, Salans LLP, Paris, France

**Noah Rubins**, Freshfields Bruckhaus Deringer, Paris, France

**Ivan S. Zykin**, Andrey Goroditsky & Partners, Moscow, Russia

*Moderator:*

**Yulia Andreeva**, Debevoise & Plimpton LLP, New York, New York USA

12:15 PM

Luncheon

**Lord Peter Goldsmith QC**, Debevoise & Plimpton LLP, former Attorney General of the United Kingdom (2001-2007), London, United Kingdom

1:15 PM – 2:30 PM

**Russians Abroad – The Experience of Russian Companies in Foreign Litigation and Arbitration**

Russian companies have become experienced players in the world of global litigation and arbitration. The stakes in some of these cases are astronomical. In one case pending in London, a published report indicates that legal fees alone are projected to exceed £90 million. Other cases involve more routine commercial disputes. In either event, lessons have been learned by Russian participants in litigation and arbitration abroad. Among other issues, the speakers will address:

- the dazzling series of chess moves in some of these cases, including anti-suit injunctions, battles over jurisdiction, forum non conveniens motions, asset freezing orders, and other tactical maneuvers;
- enforcement of Russian court orders and arbitration awards in foreign courts;
- the possibility of applying to U.S. courts to obtain liberal, American-style "discovery" in aid of litigation or arbitration proceedings pending in Russia; and
- practical considerations involved in litigating in Western courts, including costs.

*Speakers:*

**Charles C. Adams, Jr.**, Hogan & Hartson LLP, Geneva, Switzerland  
**Vladislav V. Egorov, PhD**, ALTIMO, Moscow, Russia  
**Marielle Koppenol-Laforce (M.E.)**, Houthoff Buruma N.V., Rotterdam, The Netherlands  
**Michael Swainston, QC**, Brick Court Chambers, London, United Kingdom

*Moderator:*

**Glenn P. Hendrix**, Arnall Golden Gregory LLP, Atlanta, Georgia USA

2:30 PM

Networking Break

2:45 PM – 3:45 PM

**Representing Foreign Parties in Russian Courts**

"Forget it. Don't even think about getting justice in a Russian court." This assessment of Russian justice, offered by a prominent Western mutual fund manager in 1995, continues to reflect the views of many foreign companies doing business in Russia. How accurate is this assessment? A panel of distinguished advocates will give their perspectives on representing foreign enterprises in Russian courts. The session will provide useful insights to non-Russian companies or their counsel contemplating or facing litigation in a Russian court, as well as practical tips to Russian lawyers on representing foreign clients in the domestic courts.

*Speakers:*

**Igor Basargin, PhD**, Inco Alliance, Moscow, Russia  
**Maxim Kulkov**, Goltsblat BLP, Moscow, Russia  
**Alexander Muranov**, Muranov, Chernyakov & Partners, Moscow, Russia

*Moderator:*

**Vladimir Gladyshev**, Gladyshev & Partners, Moscow, Russia

3:45 PM

Networking Break

4:15 PM – 5:45 PM

**Related Civil and Criminal Proceedings in Russia**

More and more cases in Russia involve both civil and criminal aspects. Corporate "raiders" attempt to seize companies through a combination of regulatory action, civil litigation and criminal investigations. Because Russia does not recognize corporate criminal liability, many white collar cases involve criminal prosecution of corporate employees and parallel civil or administrative cases against the corporation. Moreover, Russia provides victims with the opportunity to pursue a civil claim within the context of a criminal case ("grazhdanskii isk"). Therefore, litigating in Russia requires understanding both systems and how they interact. This panel will examine the relationship between civil and criminal litigation through discussion of the following issues:

- Preclusive effect of rulings in criminal cases on related civil litigation and vice versa;
- Strategic considerations involved in deciding whether to pursue civil or criminal remedies;
- Remedies for presentation of false evidence in civil litigation;
- Admissibility in a criminal case of evidence gathered by a private investigator and evidence developed in a civil case;
- Opportunities for corporate victims to obtain civil recovery in criminal cases; and
- Remedies for fraudulent conveyances of disputed property to ostensible "good faith purchasers."

*Speakers:*

**Olga Istomina**, Moscow City Collegium of Advocates, Moscow, Russia  
**Igor Piskarov**, Moscow State University Law Faculty, Moscow, Russia  
**Pyotr Skoblikov**, MVD Academy, Moscow, Russia  
**Alexander Strakh**, Microsoft Corporation, Moscow, Russia

*Moderator:*

**Thomas A. Firestone**, Law Enforcement Section, Embassy of the United States, Moscow, Russia

5:45 PM

Closing Remarks

**Carolyn Lamm**, American Bar Association President, White & Case LLP, Washington, DC USA

**Anton Ivanov**, Chief Justice, Supreme Commercial (Arbitrazh) Court of the Russian Federation, Moscow, Russia (*Invited*)

7:00 PM

Spaso House Reception – *Ticketed Event*

*"Bus transportation to be provided"*

**NOTE: Simultaneous translation in Russian and English will be provided for all sessions.**



# REGISTRATION FORM

Online registration is strongly encouraged. Pre-registration closes on Monday, September 7, 2009.

**TO REGISTER ONLINE, CLICK HERE.**

If you cannot register online, please follow the next ten (10) steps to complete your registration.

## I. Registrant Information

ABA ID # (if applicable):

Name:

(TYPE or PRINT your name CLEARLY as you wish it to appear on badge. If you are handwriting this form, please attach your business card for clarity purposes.)

Firm/Organization:

Address:

City:  State/Province/Region:  Postal Code:

Country:  Telephone:  Fax:

E-mail:

## II. Guest Information

One guest is allowed per full-paid registrant. Guests may attend ticketed events ONLY but must have purchased a ticket for entry. Guests will NOT be permitted into any CLE/CPD programming session. Guests must register as a conference attendee to attend CLE /CPD programs.

Name of Guest:

(TYPE or PRINT your name CLEARLY as you wish it to appear on badge.)

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City:  State/Province/Region:  Postal Code:

Country:  Telephone:  Fax:

E-mail:

### III. Conference Registration Fees

Fees include admission to Monday night's Closing Reception at Spaso House and to all CLE/CPD programs on Monday.

#### Registration Fees

#### Early Bird by September 7<sup>th</sup>

Check one of the following options:

(See note below)

- |                          |                                     |        |
|--------------------------|-------------------------------------|--------|
| <input type="checkbox"/> | ABA Member                          | \$ 500 |
| <input type="checkbox"/> | Young Lawyer (35 years and under)   | \$ 325 |
| <input type="checkbox"/> | Full-time Government/Academics/NGOs | \$ 95  |
| <input type="checkbox"/> | Full-time Law Student               | \$ 95  |
| <input type="checkbox"/> | CIS-only Practitioners *            | \$ 325 |
| <input type="checkbox"/> | Non-Member (non-CIS)**              | \$ 600 |

**NOTE:** For attendees registering before September 7, 2009, the rate includes a ticket to the Closing Reception at Spaso House, subject to availability on a first come, first served basis. Attendees registering after September 7, 2009, will not be admitted to the Closing Reception at Spaso House.

\* Practitioners practicing only in the Commonwealth of Independent States (CIS) and not licensed as a member of the Bar of any non-CIS country.

\*\* Non-members of the ABA who are licensed to practice law in a jurisdiction outside the CIS.

**NOTE:** Please note that a **VISA** is necessary for entry into Russia from the United States and many other countries. Further information can be obtained from the Russian Embassy (<http://www.russianembassy.org/>) or through a **VISA** service.

### IV. Ticketed Event for Guests of Early Bird Registrants ONLY

Tickets are not refundable within the 72 hours preceding the event or after the event has taken place; *tickets are limited and subject to space availability on a first come, first served basis.*

Qty: \_\_\_\_\_ Monday, Guest Ticket for Closing Reception at Spaso House at \$130 each      Total Amount: \$

### V. Purchase Extra Conference Materials

Conference Materials will be provided to registrants on CD-Rom at no extra cost. If you would like to purchase an additional CD-Rom or are unable to attend the meeting but would like to purchase the CD-Rom, please indicate the number below and submit payment.

Yes, I would like to purchase an additional CD-Rom at \$80 each      Qty: \_\_\_\_\_      Total Amount: \$

### VI. Make Your Payment

**Note:** Refunds will not be issued for cancellations received after September 7, 2009.

#### PAYING BY CREDIT CARD:

Please include the following information when making payment via credit card. Return this form by mail, fax (202.662.1669) or email to [WanlundA@staff.abanet.org](mailto:WanlundA@staff.abanet.org).

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**2009 Moscow Dispute Resolution Conference**  
**Attention: Annie Wanlund**  
**740 Fifteenth Street, NW**  
**Washington, DC 20005 USA**

**PAYING IN RUBLES:**

The Section is working with a local partner in Russia to offer the option to make payment in Rubles. Further details will be forthcoming. In the meantime, if you are interested in this option, please contact Jenny Abreu via email at [abreuJ@staff.abanet.org](mailto:abreuJ@staff.abanet.org).

## VII. REFUND POLICY

Cancellations must be made in writing and received by the Section office by September 7, 2009, for a full refund of fees, less a \$100 administration fee. No refund of registration or fee for a ticketed event will be granted after that date *except in the case of medical emergency or extenuating circumstances approved by the Section in its sole discretion.*

When a completed registration form and payment have been submitted to the Section office either by mail or fax, the registration is considered to be a firm commitment and you will be expected to pay the registration and any ticketed event fees, unless a written cancellation is received as set forth above.

Any refunds issued will be processed to the credit card on file for individuals who made registration payment via credit card.

## VIII. TRAVEL INFORMATION

Please note that a **VISA** is necessary for entry into Russia from the United States and many other countries. Further information can be obtained from the Russian Embassy (<http://www.russianembassy.org/>) or through a **VISA** service.

Should you require overnight hotel accommodations, a block of rooms is being held at The Ritz-Carlton, Moscow at a special low per night group rate. The Ritz-Carlton, Moscow is located on Tverskaya Street. Click [here](#) for more information about the hotel.

You are encouraged to make your airline reservations online via the American Bar Association (ABA) travel site where you automatically receive specially negotiated ABA airfare and car rental discounts from a variety of carriers. This site makes it easy to view and purchase low fare options including web fares. Simply visit [www.abanet.org/travel](http://www.abanet.org/travel) to make your travel arrangements. If you have not used this site before, it only takes a few moments to establish a username and password allowing you to immediately book your reservations.

## IX. MCLE/CLE CREDIT AND CPD HOURS

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You will be required to fill in your **State License Number** on the MCLE/CLE sign in sheet at the 2009 Moscow Dispute Resolution Conference. Please come to the meeting with your license number(s) for those states you will be obtaining MCLE/CLE credit.

Please check on of the following options:

- I would like MCLE/CLE credit.

Please check here if you will need MCLE/CLE credit in one or more of the following states:

- DE                       NY                       PA                       TX

- Other State(s) not listed (please specify):

**MCLE/CLE credit has been requested.** For delegates where MCLE/CLE is mandatory, a Certificate of Attendance will be provided onsite.

**CPD hours may be requested:** For delegates from countries where CPD hours is mandatory, a Conference Certificate of Attendance will be provided onsite.

For questions regarding MCLE/CLE credit and CPD hours please visit the registration desk at the Conference.

## X. LET US KNOW IF YOU REQUIRE ASSISTANCE

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