Regulation of the legal profession in the Russian Federation

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1. How many categories of lawyer are there in your jurisdiction?

Lawyers in Russia fall into two main groups:

- Organised bar members (members of the advocatura or advocates). An advocate is a person who has received advocate status and the right to perform legal practice under the Federal Law "On Advocacy and the Bar in the Russian Federation".
- Lawyers who are not members of any advocacy body or governed by any professional rules.

The main difference between these two types of lawyers is that only advocates are allowed to represent clients in criminal matters.

There is also an informal division between private practice lawyers and in-house lawyers. Advocates can work in both groups, but they are less common in the in-house lawyer category.

2. What are the requirements to obtain a practising certificate/licence? How often must this be renewed?

There are currently no legislative restrictions applicable to lawyers who work in law firms and law departments at companies (in-house), as long as they do not provide legal services in criminal cases (if they are not advocates). However, in practice, a higher degree in law is a common requirement for any legal position.

To obtain advocate status, the following pre-requisites must be met:

- An educational qualification (higher or academic degree in law).
- Legal practice experience (two years of legal practice or apprenticeship at advocacy body).
- No criminal record.
- Full legal capacity.

A person who meets these requirements must then pass a special examination to obtain advocate status. A practising licence confirming advocate status is valid for an unlimited period of time.

3. Are there any limitations on lawyers advising throughout your jurisdiction?

As a general rule, there are no limitations on lawyers advising throughout Russia. However, certain requirements may be set by law, for example, only advocates can represent clients in criminal matters (see Question 4).

4. Are there any written codes of conduct or handbooks, or rules and/or principles that lawyers are required to abide by?

There are no general rules applicable to lawyers who are not advocates. Rather, procedural matters are regulated by procedural codes governing different types of litigation (criminal procedure, civil procedure, arbitrazh (commercial) and administrative procedure), which are obligatory for any participant of a relevant procedure.

Advocates' activities are regulated by the Federal Law "On Advocacy and the Bar in the Russian Federation" and by the Code of Ethics. The code consists of two sections: one describes general principles and terms of professional conduct of advocates and the other covers the basic rules for disciplinary proceedings.

Note that the Federal Bar Chamber (FBC) is currently working on a draft recommendation on advocates' behaviour on the internet. The draft will also be considered by regional bar chambers.

5. What is the key legislation governing the legal profession in the jurisdiction?

The key legislation is the Federal Law "On Advocacy and the Bar in the Russian Federation", as well as federal laws regulating separate legal professions, for example, judges, notaries and so on.

6. Who has the right to conduct litigation in court?

There are no special requirements regarding the right to conduct litigation in court. However:

- Only advocates can represent clients in criminal cases (including litigation in court).
- A party to a procedure in the Constitutional Court of the Russian Federation must be represented by an advocate or someone with an academic degree in law.
- A representative in an administrative procedure must have a higher degree in law.

Rights and duties of representatives in court are stipulated by the procedural code applicable to each type of litigation. In general, each person participating in a case is entitled to, among other things:

- Access the case materials.
- Participate in the examination of evidence.
- Pose questions to other participants.
• File motions.
• Make statements.
• Give explanations to the court.
• Present arguments with regard to all matters that arise during consideration of the case.

PROFESSIONAL STRUCTURES

7. How are law firms in your jurisdiction usually organised?

Law firms are usually organised as limited liability companies (LLCs), advocacy bodies (collegiums and bureaus) and representative offices or branches of international law firms in major cities (for example, Moscow and Saint Petersburg).

It is also possible to practise law without establishing a law firm. Advocates may elect to practise law as a sole practitioner, while other practising lawyers may provide legal assistance on the basis of separate agreements with their clients (acting as sole practitioners or on behalf of their law firms).

8. Are multi-disciplinary practices (MDPs) allowed in your jurisdiction?

Multi-disciplinary practices (MDPs) are generally allowed. However, advocates cannot engage in other forms of paid employment that may require their direct (personal) involvement in the sale of goods, performance of work or provision of services. In addition, they cannot provide legal services or participate in organisations that provide legal services beyond their duties as advocate. Such restrictions do not apply to legal business conducted by other practising lawyers.

9. Are alternative legal service providers common? If so, to what restrictions are they subject, if any?

There are no general requirements imposed on persons providing legal services except certain requirements for advocates (see Question 2). Legal consulting can be performed by lawyers individually or as part of a law firm.

Advocates must provide some pro bono services in accordance with the Federal Law "On Free Legal Assistance in the Russian Federation". An advocate's participation in pro bono services is organised by regional bar chambers. In practice, other lawyers who are not advocates (especially acting on behalf of leading international and Russian law firms) provide legal assistance on a pro bono basis at their own initiative, but are not required to do so.

10. Do restrictions apply to foreign lawyers/law firms practising in your jurisdiction?

Registration

Foreign advocates who practise law as advocates in the Russian Federation must be registered by the Ministry of Justice on a special register, maintained as prescribed by the Ministry of Justice. They cannot practise as advocates within the Russian Federation unless they have this registration. In addition, foreign advocates cannot provide legal assistance within Russia on matters involving state secrets of the Russian Federation.

Foreign lawyers can generally provide any type of legal support, although foreign lawyers, as well as any lawyers who are not advocates, cannot represent clients in criminal matters.

Bar admittance

To be included in the register foreign advocates must submit to the Ministry of Justice a licence or certificate confirming their status in the foreign country.

Qualifying tests

There are no additional legal tests for a foreigner to practise law in Russia, apart from general requirements applicable to foreign citizens who want to work in Russia (such as obtaining permission to work, which in most cases involves passing a test on knowledge of the Russian language, history and compliance with migration control rules).

Local description

There are no requirements regarding how foreign lawyers should describe themselves.

CLIENT PROTECTION

11. Is there a national regulator of the legal profession?

The Ministry of Justice is the government authority that supervises the legal profession. The Ministry:

• Exercises control over the activity of advocates and advocacy bodies.
• Maintains the register of advocates (including the register of foreign lawyers).
• Establishes certain procedures to be followed and fees to be paid for criminal legal aid in relation to advocates appointed by the state.

In addition, the Federal Bar Chamber (FBC), headquartered in Moscow, is an association of all regional chambers. The FBC is authorised to represent advocates and regional bar chambers in their relationships with federal governmental agencies in relation to decision-making that affects the interests of the advocates' community, including disciplinary matters. Decisions of the FBC are binding for all regional bar chambers and advocates.

12. Is there a register of qualified lawyers and, if so, how can it be accessed?

The regional offices of the Ministry of Justice keep registers of advocates in regions of the Russian Federation. The information from regional registers is publicly available at the online register of all advocates of the Russian Federation maintained by the Ministry of Justice: http://lawyers.minjust.ru.

13. Is membership of a national bar association, law society or similar mandatory?

A lawyer must be a member of one of the regional bar chambers to be recognised as an advocate. The FBC's headquarters is located at 43 Sivtsev Vrazhek Lane, Moscow, 119002 (see also www.en.fparf.ru).

14. Is there an independent disciplinary tribunal, and what disciplinary powers do the relevant regulatory bodies have? What sanctions are available?

Disciplinary cases are reviewed by the qualifications commission and the council of the regional bar chamber in which the advocate who may have committed an offence is registered. A breach of the
15. Is indemnity insurance mandatory for practising lawyers? If so, what is the minimum level of cover required and are there any mandatory terms?

An advocate must arrange professional indemnity insurance (Federal Law “On Advocacy and the Bar in the Russian Federation”). In practice, however, advocates are not obliged to arrange professional indemnity insurance until a special federal law governing compulsory professional indemnity insurance is adopted, which has not happened yet.

16. What are the rules on conflicts of interest?

An advocate cannot act as a consultant, defence counsel or legal representative to parties with conflicting interests in the same case; the advocate can only facilitate the reconciliation of such parties. An advocate must not accept commissions from two or more people to act as their defence counsel in the same criminal case if:

- Those people have conflicting interests.
- They do not have a conflict of interest, but take different stands in relation to the same facts of the case.
- At least one of the defendants is a minor.

Other lawyers do not usually provide legal assistance on a conflict of interest, for reputational reasons, despite the absence of mandatory requirements on this issue.

17. What actions must a lawyer take when a conflict arises?

An advocate cannot accept commissions from two or more persons with contrary interests (see Question 16). However, if, due to specific circumstances, a conflict of interest arises, advocates who jointly provide legal assistance to such clients under an agreement must obtain, from all the parties involved in the dispute, permission to continue providing these services.

18. Can a lawyer act for either of the clients between whom a conflict arises?

An advocate can only facilitate reconciliation between such clients (see Question 16).

19. To whom should complaints about lawyers’ professional conduct be made?

Complaints should be made to the regional bar chamber at which the advocate is registered (see Question 14).

20. Can lawyers/law firms hold client files, money or property in the event of a dispute about their retainer or fees?

The law does not provide for this, but the legal services agreement is a civil law contract, which can provide for the retention of funds for the payment of fees in certain circumstances.

21. What do client engagement communications typically include? Are there any mandatory provisions that must be included? Are there separate provisions for contentious and non-contentious business?

There are no mandatory provisions on client engagement communications, apart from the general requirements that apply to civil law agreements. As a result, the terms and conditions governing the provision of services depend on the terms set by the legal services agreement between the lawyer and the client.

Note that government procurement legislation and major companies’ policies on tenders may impose certain additional requirements regarding the choice of legal services provider, as well as specific terms and conditions of service (for example, requirements regarding the law firm’s location, qualifications, pricing, payment conditions and so on).

22. Does a legal professional have any on-going obligations in relation to the client?

When performing professional duties, advocates must (Code of Ethics):

- Execute their official functions honestly, reasonably, in good faith, competently, and in a principled and timely manner.
- Actively defend clients’ rights, freedoms and interests by any means not prohibited by law.

Most practising lawyers and law firms provide legal support based on similar principles, to maintain their reputation. In addition, leading international and local law firms have their own internal rules and corporate standards regarding the provision of legal services to clients.

23. Can a legal professional refuse to accept an instruction or cease to act?

Yes, in certain circumstances. An advocate cannot act in accordance with the wishes, requests or instructions of his or her client if they would lead to a violation of the law or a breach of other rules.

24. Do clients have direct access to all lawyers?

Yes, usually, but this will depend on relations between the law firm or lawyer and the client.

25. Are lawyers bound by client confidentiality rules?

Legal professional privilege covers any details of the legal assistance provided by an advocate to his or her client. It is common practice for other practising lawyers and law firms to enter into non-disclosure agreements with clients, which may provide for certain confidentiality rules in relation to third parties (except law enforcement authorities).
26. Are there any exceptions to the client confidentiality rules?

Exceptions to the client confidentiality rules apply in certain circumstances provided by law, which allow investigations to be undertaken by authorised bodies in relation to practising lawyers and even advocates. Such investigations can be undertaken upon a court order.

Money laundering legislation also provides for some exceptions to the client confidentiality rules. However, any investigation undertaken at a citizen's residence (including any lawyer's premises) must be subject to a court order.

27. Are communications with lawyers protected from disclosure (that is, privileged) in judicial or other proceedings?

Legal professional privilege covers any details of the legal assistance provided by an advocate to his or her client. In particular, non-disclosure rules apply to:

- The fact that the client has solicited an advocate's assistance, including the client's name.
- All evidence and documents collected by the advocate when handling the case.
- Information that the advocate receives from the client.
- Information about the client that the advocate acquires in the process of providing legal assistance.
- The content of the legal advice directly given to or intended for the client.
- The advocate's actions in relation to the case.
- Terms and conditions of the agreement on legal assistance, including the terms of financial settlements between the advocate and the client.
- Any other information relating to the legal assistance provided by the advocate.

An advocate cannot be summoned and examined as a witness in court (as well as any administrative procedure) about any circumstances that he or she may become aware of in the context of legal assistance sought from or provided by him or her.

28. Do in-house lawyers have the same legal professional privilege protection as lawyers in private practice?

No, legal professional privilege only covers the professional activity of lawyers with advocate status.

FEES

29. How are fees regulated? Is there a tariff system?

The terms and amount of the fee payable by a client for legal assistance provided are stipulated by the agreement between the lawyer and client.

Legal assistance may also be provided to the client free of charge under the Federal Law “On Pro Bono Legal Assistance in the Russian Federation”.

Legal services provided by advocates in the course of an ex officio appointment by an investigative authority, prosecutor or court are paid in accordance with tariffs set by the Ministry of Justice.

30. What types of fee agreements are most commonly used for contentious and non-contentious business? What formal requirements exist for fee agreements?

The most common types of fee arrangements are hourly rates and capped or fixed fees for either a case or certain stages of a case.

There are no formal requirements for fee agreements. Fee setting is governed by the general principle of freedom of contract.

An advocate's fee is set by agreement of the parties and can take into account (Code of Ethics):

- The volume and complexity of the work.
- The time needed for its completion.
- The lawyer's experience and qualifications.
- Deadlines.
- Other circumstances.

However, when ordering the reimbursement of legal costs, courts, at their own discretion, tend to reduce the amount of such expenses on the grounds that they are excessive or there is an absence of sufficient economic justification.

CLIENT MONEY

31. How is the holding of client funds regulated?

This depends on the terms and conditions stipulated by the legal services agreement concluded between the lawyer and the client.

32. Are there rules on money laundering affecting the legal profession?

Yes, a lawyer providing legal services who has any reason to believe that transactions or financial operations are performed or may be performed to legalise (launder) income or finance terrorism must notify the authorised body (the Federal Service on Financial Monitoring).

NOTARIES

33. Are notaries required for share purchases or transfers, real estate purchases or leases, or company formation?

Share purchases and transfers in relation to non-public limited liability companies, as well as corporate acts regarding company formation, must be verified by a notary. Transactions involving joint rights to real estate are also subject to notarised verification. The notarisation of any other real estate transaction is not required.

34. Are notary fees fixed or a percentage of the transaction value?

The calculation of the notary fee depends on the type of notarial act. The official notary fee is a fixed sum or percentage of the transaction value with a minimum or maximum range determined by the Russian Tax Code.

In addition to the official notary fee, notaries frequently request payment for notary services performed on the basis of a separate agreement between the client and the notary.

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35. Can notaries work within law firms?

No, they cannot work within law firms; notaries can only work within state notary bodies and private notary offices.

36. Is there a national regulatory body for notaries?

The Ministry of Justice supervises notaries. There is also the Federal Notary Chamber, which is made up of regional chambers of notaries. Private practice notaries must be members of the regional chamber of notaries in the region in which they operate.

ONLINE RESOURCES

W http://pravo.gov.ru/
Description. Official governmental website (in Russian) for the publication of up-to-date legal acts and federal laws.

W www.ved.gov.ru/eng/investing/
Website maintained by the Ministry for Economic Development of the Russian Federation. It contains general information on investing in Russia, including capacity of the market, rates of return and so on.

W www.veb.ru/en/
Description. Official website of the Bank for Development, which is responsible for providing investment, foreign economic, insurance and consultative support for projects in Russia and abroad. These projects are aimed at developing infrastructure, innovations, special economic zones, environmental protection and providing support for exports of Russian products, works and services, as well as supporting small and medium-sized enterprises.

W www.rdfi.ru/Eng_Index/
Description. Official website of the Russian Direct Investment Fund, directed at co-investments with global investors.

W www.nalog.ru/eng/
Description. Official website of the Federal Tax Service containing general information on starting business in Russia, including registration of legal entities, representations of foreign companies, basics of the tax system and so on.

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