

## CONFERENCE REVIEW NOTES

### LAW, POLITICS AND ECONOMY IN THE MODERN WORLD: CHALLENGES OF THE XXI CENTURY

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#### 1. Background and Objectives of the Euro-Asian Law Congress

The Euro-Asian Law Congress was inaugurated in 2007 at the initiative of the Association of Lawyers of Russia. It was established as a specific forum for representatives of the state, business, social groups and the professional legal community to discuss vital legal issues and in this way to promote efficient Euro-Asian cooperation. The idea of the Congress was born when Russian lawyers were searching for opportunities for further professional development and they wanted their research results to be effectively implemented in practice. The Congress now serves as an umbrella organization working on a regular basis. Unlike traditional conferences and seminars, it has created permanent bodies – committees, commissions, working groups – standing for the entire period between the sessions of the Congress and presenting their results at a subsequent session of the Congress.

The participants at the Euro-Asian Law Congress are law researchers and practitioners from member states of the Eurasian Economic Community and the Shanghai Cooperation Organization, and politicians and representatives of public authorities and business. The main forum for their work are the sessions of the Congress, which are held annually in Yekaterinburg, Russia. The objective of the Congress is to consolidate research and professional resources to develop solutions to current global problems in the fields of law, economics and politics. The sessions of the Congress determine the

priority issues and focus the participants' special attention on them, thus the projects of high priority are outlined and Expert Groups are formed. The experts carry out further research and project work throughout the ensuing year and submit their results for discussion at the next session of the Congress. Preliminary studies on the projected topics are carried out in the format of working groups and seminars within the BRICS Law Institute. The problem-focused approach helps to build up professional networking and attracts a large number of specialists interested in the research.

In addition, one of the main achievements of the work taken up by the Congress is the progressive cooperation of Russian law schools and legal professionals with their colleagues from BRICS countries. Much of this collaboration is performed through the BRICS Law Institute, which was founded on June 17, 2015 in Yekaterinburg. The Memorandum on the establishment of the BRICS Law Institute was signed by the representatives of the leading universities of Yekaterinburg, Sao Paulo, Brazil, Beijing, China, Jodhpur, India and Pretoria, South Africa. The Institute carries out research and educational projects in the field of comparative and international law in relation to the jurisdictions of the BRICS countries and operates mediation groups and ad hoc arbitration to the extent provided for by the national law of the partner states and international agreements.

Over the last ten years the Euro-Asian Law Congress has made a significant contribution to the cooperation between Russia and its international partners. Thus, through the efforts of the specialists of the Ural State Law University, the BRICS Law Institute and foreign experts the concept of employment regulations of the Eurasian Economic Community was worked out along with tax and budget legislation, and certain steps to develop EurAsEC legislation on the securities market were taken. The virtue in this, when it comes to the systematic work of the Congress, is the possibility for the Sverdlovsk Region to take the lead in international cooperation in the field of law: together with the geographical and geopolitical advantages of the region it "builds a legal bridge" between Europe and Asia.

## **2. Overview of the Tenth Session of the Euro-Asian Law Congress**

The Tenth Session of the Euro-Asian Law Congress took place in Yekaterinburg on June 9–10, 2016. The venue was the main building of the Sverdlovsk Regional Government. The topic of the Tenth Session was *Law, Politics and Economy in the Modern World: Challenges of the XXI Century*. The event involved more than 600 people with a record high number of international participants. The session enabled the participants to engage in working groups and join seminars on related issues, to introduce their organizations, and to partake in the debates and discussions. The Tenth Session of the Congress was attended by representatives of Russian federal and regional authorities, eminent legal scholars, leading experts from the BRICS countries, as well as those from Azerbaijan, Belarus, Hungary, Germany, Israel, Italy, Kazakhstan, Kyrgyzstan, Macedonia, Poland, Serbia, the USA, Uzbekistan, France, Sweden, Estonia and Japan.

The participants discussed issues related to the role of law in the development of national economies and in international economic relations, debated the effective legal mechanisms and political processes in intergovernmental cooperation, and expressed their understanding of the socio-economic and political-legal nature of the challenges of the twenty-first century.

### 3. Program and Summary of the Tenth Session

The Congress was opened by Pavel Krasheninnikov, the Chairman of the Association of Lawyers of Russia. Krasheninnikov noted that new demands and challenges have been placed on the world's political agenda and thus the expertise of qualified specialists in the field of international law is highly required. He illustrated these new challenges with the example of the "meldonium scandal," which resulted in dozens of the best Russian athletes being barred from participating in the Olympic Games. He remarked, "The goal of Russian lawyers is to tackle the problem... [through] effective legal instruments."

One of the most prominent lawyers of Russia – Veniamin Yakovlev, the Co-Chairman of the Association of Lawyers of Russia and an adviser to the Russian President – noted that the Congress took global issues to the floor of its annual sessions. "To foster cooperation between Asia and Europe is a key task of the global legal community and the leading role of law is to settle internal and international conflicts," he noted.

The meeting of an *expanded coordinating Council of the BRICS Law Institute* was also scheduled the first day of the Congress. Veniamin Yakovlev, in addition to his position just mentioned, Chairman of the Academic Council at the BRICS Law Institute, Viktor Perevalov, Chairman of the Executive Committee of the Euro-Asian Law Congress and Research Supervisor of the BRICS Law Institute, and Danil Vinnitsky, Director of the BRICS Law Institute and Director of the Eurasian Research Center for Comparative and International Finance Law, headed the meeting. The meeting brought together representatives of the BRICS countries whose aim was to discuss a list of four key issues:

1. International law of tax contracts in the BRICS countries.
2. Coordination of prospective research projects, academic and practice arrangements for BRICS law experts.
3. The crisis of WTO regulations and additional legal mechanisms for supporting stable development and potential conflict resolution in the modern world.
4. Economic integration of states and legal aspects of the creation of exclusive tax zones.

The work of the Congress continued in the forum of group meetings, where the experts debated international law and policy as well as domestic legal regulations in the core areas.

The Expert Group *Politics. Law. Security* discussed the threats to the security of the Russian Federation; models of world patterns and threats to international security; foreign policy and international law resources for the minimization of national

security threats; problems relating to the protection of private interests and those interests of the state and society vis-à-vis the Internet; and other related issues.

The Expert Group *Constitutional regulation of political and economic processes in Eurasian region states* coordinated by Professor Marat Salikov touched upon the following issues: the main approaches of the constitutional modernization of political and economic systems in Eurasian region states; the correlation and interference between constitutional law and political science; the protection of basic political and economic rights through the means of constitutional justice; the dynamics of the organization of political parties in Eurasian region states; the constitutional mechanisms of political conflict resolution in Eurasian region states, among others.

As stated by the Expert Group *International and national standards on regulation of business activities*, the top priority areas of business activity regulations are national and international investment regulations, international standards of banking activities, insurance activities, audits and security markets.

The members of the Expert Group *Development of civil and administrative justice in the post-Soviet Union region* shared their views on development trends of judicial organization in the sphere of civil and administrative justice. Additionally, they discussed the question of national and cross-border bankruptcy in a period of economic crisis and the issues of national and international enforcement procedure, mediation and notary mechanisms.

The presentations by the Expert Group *Impact of politics and economics on the realization of labor law functions* focused on labor law as the form of realization of social policy and an economic support mechanism. The experts suggested legal solutions for the modernization of labor law and social security law in the modern political and economic conditions, and for state policy on population employment and legal means of impacting the labor market.

Discussing *Private law in modern Russian economic policy*, the experts expressed their views on modern trends in the development of private law within the national legal system along with the priorities of private law in the current economic conditions. They consider that political and economic factors influenced the development of private law.

The members of the Expert Group *Criminal law culture: modern status and prospects* were involved in debates on the criminal legal culture as an essential part of world cultural rights.

The members of the Expert Group *Cooperation between legal systems: modern international law discourses* brought to the floor the issues of international integration, international security and responsibility, and the protection of human rights.

The second day of the Congress was organized into round tables aimed at deeper group discussion in various research fields. Specifically, the Congress participants touched upon three priority topics:

1. Modernization of the legislation on control and surveillance activities, and the legislation on administrative violations in the Eurasian legal space.
2. High legal education and tools to ensure its quality.
3. Russian and Chinese investments.

The Tenth Session of the Euro-Asian Law Congress was the forum for youth organizations – All-Russian NGO “For quality education,” All-Russian Public Movement “Volunteers of Victory” and the Sverdlovsk regional public organization “The association of students of the Sverdlovsk Region.” Their meeting was supported by the Commission on Quality Education Council of the Ministry of Education and Science of the Russian Federation for Youth Affairs. The young people and future lawyers discussed the topics of legal education in Russia and the quality of education in the Urals Federal District, which are relevant and crucial for them. In the framework of the session two youth round tables were arranged – *The role of law in addressing contemporary global crises and Legal education in Russia: development trends*.

The last day of the Congress provided the opportunity for the Expert Groups to sum up the results achieved and to present them at the closing plenary session. In their closing remarks the Congress participants summarized the effective and beneficial work of the two-day gathering and expressed hope for the Congress materials to become an actual and legitimate tool for the productive and effective collaboration of the BRICS countries. The speakers highlighted the importance of the Congress for Russia’s leading position in the Euro-Asian region, and the increasing role of the cooperation among international lawyers in the solution of specific professional problems.<sup>1</sup>

#### **4. The Results of the Meeting of the Coordination Committee of the BRICS Law Institute and of the Expert Group on Legal Support to Inter-State Partnership and Integration on Economics, Finance, Taxation and Customs**

The central event of the Tenth Session was the annual meeting of the Coordination Committee of the BRICS Law Institute and the Expert Group aimed at promoting the results of their prior research.

At the core of their discussion was the issue of national sovereignties in international relations. The Coordination Committee and the Expert Group analyzed the impact of the coordination of national sovereignties and outlined possible paths for promoting the rule of law concept in the framework of forming an inclusive global legal order. They believe that this will prevent shocks connected with sporadic political crises and enhance the proactive role of the BRICS countries as a bridge between developing and developed countries. Based on the scientific analysis carried out over the past few years by the members of the Coordination Committee Session of the BRICS Law Institute and the Expert Group, the following areas were identified as key directions that could contribute significantly to a global legal order:

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<sup>1</sup> Detailed program and materials of the Tenth Session “Law, Politics and Economy in the Modern World: Challenges of the XXI Century” is available at the Euro-Asian Law Congress official website (Dec. 20, 2016), [http://www.lawcongress.ru/programma/delovaya-programma/%D0%BE%D0%B1%D1%89%D0%B0%D1%8F%20%D0%BF%D1%80%D0%BE%D0%B3%D1%80%D0%B0%D0%BC%D0%BC%D0%B0%20\(%D0%B0%D0%BD%D0%B3%D0%BB%D0%B8%D0%B9%D1%81%D0%BA%D0%B8%D0%B9%20%D0%B2%D0%B0%D1%80%D0%B8%D0%B0%D0%BD%D1%82\).pdf](http://www.lawcongress.ru/programma/delovaya-programma/%D0%BE%D0%B1%D1%89%D0%B0%D1%8F%20%D0%BF%D1%80%D0%BE%D0%B3%D1%80%D0%B0%D0%BC%D0%BC%D0%B0%20(%D0%B0%D0%BD%D0%B3%D0%BB%D0%B8%D0%B9%D1%81%D0%BA%D0%B8%D0%B9%20%D0%B2%D0%B0%D1%80%D0%B8%D0%B0%D0%BD%D1%82).pdf).

a) establishing an effective global system for the settlement of cross-border economic disputes along the format of the BRICS countries forum;

b) promoting an inclusive global framework that preserves the effectiveness of national sovereignty and legal policy without external interference in respect of genuine economic practices, including when states decide to foster economic development through special economic zones;

c) promoting joint action by the BRICS countries in order to enhance the effectiveness of global justice and achieve solutions that broaden the legitimacy of international solutions and adapt them to the needs of both the developed and the developing countries, respecting the rights of the latter to pursue their right to economic development;

d) establishing a Permanent Forum for Discussion on Economics, Finance, Taxation and Customs among experts under the aegis of the Coordination Committee of the BRICS Law Institute and the BRICS Legal Forum.

The Coordination Committee of the BRICS Law Institute and the Expert Group had been successfully working on the four issues, and the results of their joint research were brought together at the Tenth Session of the Congress.

#### ***4.1. The Importance of Supplementing WTO Regulations with Alternative Mechanisms for the Support of Sustainable Economic Development and Settlement of Economic Disputes in the Modern World***

Recent developments show that the global instruments of WTO regulations do not appear to be particularly effective in the field of finance, taxation and customs. In particular, unilateral measures, such as economic sanctions or compensation for lower taxation, produce negative effects on the legal framework established under the WTO agreement. In the absence of effective mechanisms to settle cross-border economic disputes, the format of BRICS could be used as an international forum for settling cross-border economic disputes of differing character, which supplements those already available under WTO regulations. Moreover, the modern global economic system suffers from a crisis of trust. Global regulators of economic activity have a dubious or disputed status in international law. Such unclear status renders their regulatory mechanisms ineffective, which fail to take into consideration the sovereign interests of developing countries. While acknowledging the global impact of the recent recommendations and decisions offered by the OECD and the G20, it can be noted that, in the situations of distinct contradiction to the interests of more developed and less developed countries, the outputs rarely favor or fully take into account the economic interests of the latter. Consequently, there are clear and urgently serious reasons to institutionalize the format of BRICS as an international organization and a counterbalance to the OECD to more effectively consider the interests of more-developed and less-developed countries towards building the new architecture of the global economic and legal order.

#### ***4.2. Special Economic Zones in BRICS***

Under the conditions of implementing the Base Erosion and Profit Shifting Action Plan (BEPS Action Plan), special economic zones are becoming the focus of attention

especially in regard to the assessment of the tax regime which they provide for their residents. On the one hand, the risk is recognized that they (special economic zones) may be used in harmful tax competition between jurisdictions and may be used for tax evasion/avoidance in cross-border situations in contradiction to the growing participation or commitment of jurisdictions to automatic exchange of tax information. On the other hand, properly constituted and monitored special economic zones can be effective mechanisms for intervention in the economy and for economic development through the offering of justified tax incentives. The BRICS countries reflect in their economic systems the features of both developed and developing countries; for this reason there are grounds to believe that they are a proper international forum for finding the appropriate balance between the regulation of the activities in special economic zones and the implementation of the BEPS Action Plan as recommended and approved by the G20 and the OECD.

#### ***4.3. The Practice of Regulating Taxation of Cross-Border Investments in BRICS***

The analysis shows that in regard to many aspects the BRICS countries have comparable economic advantages or, on the contrary, disadvantages: with respect to many activities and economic sectors BRICS are net exporters of capital and technologies and for others net importers of capital and technologies. Being positioned between more-developed and less-developed economies adds legitimacy to the call by BRICS for an agenda for the development of an international legal system in order to derive a coordinated approach and necessary legal regulation for the global economy. However, analysis of the legal policy of regulating international investment and tax relations shows that the positions of BRICS countries which are reflected in their bilateral treaties (tax and investment) and also in the commentaries to the OECD and UN Model Conventions (in particular, in respect of tax matters) have serious differences that quite often are not sufficiently stipulated, neither by these states' individual interests realized nor by their common interest to act as a joint forum that represents not only the developed countries but also those which are striving to develop. This statement can be supported by some particular examples (given in the supplementary materials of the Congress). The discrepancies may produce difficulties when defining a uniform position of the BRICS states on the issues of developing a multilateral instrument when implementing Actions 14 and 15 of the BEPS Action Plan approved by the OECD and the G20. Nevertheless this unity, or at least the coordinated position, is important so that the approaches of the OECD non-member states are implemented at the stage of establishing the global system of regulation of direct taxation and the situation in which many major countries of the world were dismissed from developing the rules of world trade (as happened in the development of the GATT rules and later those of the WTO) is not repeated.

#### ***4.4. Creation of a Permanent Format of Expert Discussions***

On the basis of the discussions held, the members of the Coordination Committee of the BRICS Law Institute and the Expert Group came to a conclusion on the effectiveness

of the format chosen and on the importance of holding expert discussions on an annual basis. The founders and other participants in the BRICS Legal Forum offered (beginning at the Third Forum, which will be held in India) to coordinate the topics and directions of the research conducted and in 2017 to hold a joint meeting of the Coordination Committee of the BRICS Law Institute and the BRICS Legal Forum in Russia, in Yekaterinburg, where the format of BRICS was implemented for the first time in 2009. It is also proposed to inform interested state authorities and public and business associations about this forum of expert work, which is of an open character and invites the involvement of all interested parties in the organization of a competent dialogue, and to facilitate the discussions between state authorities, experts, practitioners and civil society activists.<sup>2</sup>

### Conclusion

The Tenth Session of the Euro-Asian Law Congress was a milestone in the development of a legal framework in the top priority areas of the Euro-Asian region. During the two-day discussions among the highly qualified Expert Groups a broad range of topics were raised and effective legal solutions and mechanisms were suggested. The Congress program enabled the participants to become engaged in effective collaboration and determination of topics for joint research projects and upcoming discussions.

All speakers emphasized that the Expert Group discussions within the framework of the Congress were a significant step towards creating beneficial partnerships in legal areas encompassing joint research projects and extended professional cooperation. The Final Summary of the discussion within the Meeting of the Coordination Committee of the BRICS Law Institute and the Expert Group on Legal Support to Inter-State Partnership and Integration on Economics, Finance, Taxation and Customs is a concrete result of the Congress. The document enables the international legal community to take further steps in creating an effective legal framework for the operation of international and national political and economic systems.

The main idea of the Euro-Asian Law Congress is to launch a large-scale collaboration in the field of law and policy with the concentration on the issues particularly important to the BRICS countries. Moreover, the annual and systematic work of the Euro-Asian Law Congress significantly contributes to the strategic goals of Russia's entry into the global governance arena.

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<sup>2</sup> Final Summary of the discussions is available at the official website of the Euro-Asian Law Congress (Dec. 20, 2016), available at [http://www.lawcongress.ru/fotogalereya/1%20-%20Summary%20of%20the%20Discussion%20-%209%20-%2010%20June%202016%20\(1\).pdf](http://www.lawcongress.ru/fotogalereya/1%20-%20Summary%20of%20the%20Discussion%20-%209%20-%2010%20June%202016%20(1).pdf).