

Effective Methods of Preventing the Escalation of Disputes and Constructive Resolution of Disputes in Advocacy

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Abstract: This article examines the theoretical and practical aspects of preventing the escalation of disputes and ensuring their constructive resolution in legal practice. In the context of increasing complexity of legal relations, disputes arise not only from legal but also from psychological, social, and economic factors. The study analyzes the nature, types, and dynamics of conflict, as well as the mechanisms of escalation. Particular attention is given to the communicative and interest-based approaches to dispute resolution, as well as to negotiation, mediation, and conflict transformation methods. The article draws on the works of Lewis A. Coser, Roger Fisher, and William Ury to explain the constructive role of conflict and interest-based negotiation models. It is

that psychological competence, emotional intelligence, and adherence to professional ethics are essential for effective dispute management. The article concludes that preventing escalation not only enhances legal efficiency but also preserves social relationships and strengthens trust in the legal system.

Keywords: Dispute resolution, conflict escalation, advocacy, mediation, negotiation, legal ethics, conflict management, psychological competence.

Introduction: In the context of building a state governed by the rule of law and a civil society, the role of the legal profession is invaluable. The activities of a lawyer are primarily aimed at the legal, fair, and effective resolution of disputes arising between individuals, society, and the state. In judicial practice, disputes are formed not only under the influence of legal, but also psychological, social, and economic factors. Scholars emphasize that conflict is an inherent element of social interaction and can perform both destructive and constructive functions depending on how it is managed. Conflict, in its essence, represents a confrontation of interests, goals, or values arising in the process of social interaction. According to Lewis A. Coser, conflict can contribute to social development by revealing hidden contradictions and stimulating change.[1] This perspective is particularly relevant in legal practice, where constructive conflict resolution can lead to fair and sustainable outcomes.

The professional skills of a lawyer are determined not

only by the application of legal norms, but also by the ability to develop psychological and conflictological competence, adhering to the professional ethics and etiquette of a lawyer, to know the mechanisms for preventing the escalation of conflict, methods of constructive conflict resolution and their practical application, elimination, establishing constructive dialogue between the parties and achieving a fair solution. In the process of legal relations, it is very important to observe the norms of professional ethics of a lawyer in the constructive settlement of disputes. Lawyer: Must treat the court with respect, maintain courtesy towards participants in the process, not disclose confidential information, and not abuse the client's trust. Violation of the rules of professional ethics entails disciplinary liability. One of the key approaches to preventing escalation is the communicative approach. Effective communication, including active listening, empathy, and neutral language, helps to reduce emotional tension and build trust between parties. Research shows that

communication strategies significantly influence the outcome of disputes and the likelihood of reaching an agreement [2]. In this regard, lawyers must develop strong interpersonal skills to facilitate constructive dialogue.

Problems encountered in practice in the activities of a lawyer: The following problems can be observed in the activities of a lawyer: restrictions on the collection of evidence, interaction with investigative bodies, low legal awareness of clients, as well as digitalization processes create new opportunities and new requirements in the activities of a lawyer.

To consider the conflicts that sometimes arise in the activities of a lawyer, the escalation of the conflict and effective constructive methods of constructive elimination of the escalation of this conflict, it is advisable to first consider the essence of the conflict, the reasons for its occurrence, the mechanism of the dynamics of its development, types, and then consider the conflict, effective constructive methods of constructive elimination of the escalation of the conflict.

The complexity and diversity of conflict forms determine the diversity of approaches to studying this situation.

Conflict is the most extreme way to resolve contradictions in interests, goals, and views arising in the process of social interaction, and usually these contradictions are accompanied by negative emotions that deviate from universal human values, rules, and norms.

Conflict, in its general understanding, is the most acute way to resolve contradictions, goals, and interests arising during social interaction.

Types of disputes;

- Internal personal (contradictory) conflict; occurs at the level of individual consciousness within the individual.
- Interpersonal conflicts occur between two or more members of one or more groups.
- Intergroup conflicts: a clash between one group and another.

Types of disputes by content and essence.

Conflicts can be destructive and constructive in their content.

Constructive conflicts are related to important aspects of the organisation's and its members' life activities, and resolving these conflicts leads the organization to an effective and high stage of development.

Conflict scholars have different approaches to the constructive consequences of certain conflicts. In their

opinion, "sometimes a conflict arising between two people encourages them to draw the right conclusions in the future and not repeat such actions, to be resourceful and vigilant. Or, at first glance, interpersonal conflict based on reproach causes a person to constantly work on themselves and correct their behaviour." Such conflicts are called constructive due to their consequences.

The essence of conflict lies in the confrontation of its participants, accompanied by negative emotions. Often, this contradiction goes beyond social norms and rules.

Destructive conflicts - The consequences of a destructive conflict are often negative, leading to interpersonal antagonism, stress on the nerves of the parties, and they can even get sick. Conflict can lead to escalation. Destructive conflicts lead to negative consequences, turning into deep hostility, as a result of which the effectiveness of a group or organisation sharply decreases.

Functions of conflict.

Destructive function;

Negative mental state of the participants. Temporary losses. Injuries to participants (incorrectly developing conflicts with physical violence).

Stress and illnesses. Disruption of the system of interpersonal relations (until the end of the relationship). The effectiveness of the participants in the conflict decreases. It negatively affects personality development. Deterioration of quality. Difficulties in the restoration of cooperative relations.

Constructive function of conflict;

Eliminates the contradiction completely or partially (in more than 65% of cases, contradictions can be completely resolved). Allowing for a deeper assessment of individual psychological characteristics of people (in approximately 10-15% of conflict situations, after the conflict ends, the relationship between opponents will be better than before). Allows for ease in mental tension. Personality development serves as a source of interpersonal relationships (with successful conflict resolution). Improving the quality of individual activity. Raising the prestige of others (in the defence of just goals). Conflict is a method of self-affirmation and personality formation. Conflict is a means of activating social life.

Highlighting unresolved problems. Conflict is an impetus for revision, the development of conventional views. Unification of the group in the search for effective solutions to problems, and confrontation with an external enemy. Optimisation of interpersonal relationships.

In a destructive conflict, attention is focused on personality and positions. In a constructive dispute, attention is paid to the subject of the dispute.

Causes of conflict: Conflict of interests, internal tension caused by conflict situations, psychological imbalance, focusing on emotions rather than information, emotional tension-burning, use of conflict agents, resolving disagreements through conflict, natural conflicts of interest between people, underdevelopment of effective communication skills of the individual, contradictions in views, sharp differences in viewpoints, excessive self-esteem, rigidity (stubborn, stubborn), hostility, intolerance of others' opinions, infantilism (infantile human nature), emotional immaturity, underdevelopment of adaptive and emotional intelligence, reflexive passivity of the individual.

Conflict stages:

- awareness of the conflict;
- manifestation of conflict behaviour;
- deepening of the conflict;
- conflict resolution;
- post-conflict (post-conflict, possibly, especially if the conflict is resolved through compromise).

Dynamics of conflict development:

- formation of a conflict situation;
- understanding of the conflict (reflection);
- manifestation of conflicting behaviour;
- escalation of conflict;
- constructive resolution of the conflict.

When communicating with people during a lawyer's career, it is important to take into account the psychological characteristics of the individual so that communication is effective and does not lead to conflict. It is necessary to adapt to the interlocutor, to study him psycho-emotionally. It's important not to expect too much from it during communication and interaction. The reason is that each person is a separate individual, each person has their own individual characterological features, temperament, behavioural model, worldview, health, thinking ability, and views.

The concept of conflict escalation and its role in legal relations.

Conflict escalation is a process of gradual intensification and escalation of confrontation between parties, in which the destructive influence of the parties intensifies, emotions prevail, and the possibility of compromise decreases. The concept of conflict transformation goes beyond resolution by addressing the root causes of conflict and restructuring

relationships between parties. According to modern conflict resolution theory, transformation aims to create long-term stability and prevent future disputes [3]. This approach is particularly relevant in legal practice, where maintaining relationships may be as important as resolving the dispute itself. It is characterised by the transition from disputes to threats, the loss of empathy, the formation of an "enemy image," and the dominance of emotions over reason. Escalation usually manifests itself in the following stages:

Main stages of escalation:

Stagnation: positions clash, and frequent disagreements arise. Conflict of interest; Loss of trust; Formation of an aggressive position; Absolute contrast.

Debates: Polarisation of thought, transition to words, searching for gaps in arguments.

Actions: "It's useless to talk," move to specific steps against the opponent.

Images and coalitions: seeking support, creating a negative image of the enemy.

Loss of status: Mass attacks, discrediting.

Threat strategies: ultimatums, demonstration of power.

Limited Strikes: Damage to the opponent is considered more important than personal gain.

Disintegration: Attempting to completely destroy the enemy.

Together into the abyss: A common antagonism where both can perish.

Escalation Features:

Cognitive impairments: Inability to objectively analyze a problematic conflict situation, re-cognitive analysis, weakening of self-reflection, generalization ("always," "never"), black and white thinking.

Emotional enthusiasm: As a result of underdeveloped emotional and adaptive intelligence, the inability to control emotions, anger, resentment, and fear suppresses rational thinking.

Transition from essence to personality: Transition from discussing the problem to insulting. Personalisation (moving from issue to person);

How to stop the escalation (de-escalation): Transition to communication: Lower the emotional atmosphere, focus on interests, not positions.

Finding a common goal: Finding points of contact.

Involve an intermediary: Use a third, neutral party.

Awareness of cognitive impairments: Refusal of thinking with an "enemy image" based on a cognitive

analysis of a problematic conflict situation.

In legal practice, escalation can lead to prolongation of the judicial process, high costs and complete disruption of relations between the parties, and the exacerbation of psychosomatic diseases. Therefore, a lawyer must develop a management strategy in the early stages of the dispute.

Theoretical foundations of conflict escalation prevention.

Prevention plays an important role in conflict management theory. Scientific sources emphasise that preventing conflict is more effective than eliminating it.

1. Communicative approach. Effective communication is a key factor in preventing escalation. A lawyer must adhere to the following principles: Active listening, empathy, neutral and respectful speech; Recognition and control of emotions. These methods create an atmosphere of trust in the parties, bring them to a psychologically plastic state, allow cognitive re-analysis of the conflict situation, and limit the escalation of the conflict.

2. Interest-based approach. In legal practice, conflicts of interest is of particular importance. Conflict of interest is a situation in which a lawyer can simultaneously provide legal assistance to persons with conflicting interests. In such situations, the lawyer must refuse to accept the case or stop serving one of the parties. This is a requirement of professional ethics and ensures the independence and impartiality of the lawyer. Focusing on the interests, not the positions of the parties, creates the basis for constructive negotiations.

Methods of constructive dispute resolution in the activities of a lawyer.

1. Negotiations.

Negotiation is one of the most effective means of pre-trial dispute resolution. During the negotiations, the lawyer: Establishes the real interests of the parties; Develops alternative options; Reduces emotional stress; Explains legal consequences. The advantage of negotiation is speed, low costs, and the ability to maintain relationships.

2. Mediation.

Mediation is the process of resolving a dispute with the participation of an independent and neutral mediator. In many countries, the institution of mediation is enshrined at the legislative level. During the mediation process, the lawyer: Protects the client's interests; Provides legal advice; Correctly formalises the terms of the agreement.

3. Conflict transformation.

This method is aimed not only at resolving the conflict, but also at eliminating its causes. In the transformation of conflict, Mutual trust is restored; Relationships will be restructured; The likelihood of future conflicts is reduced.

4. Psychological Competence of a Lawyer.

Psychological stability and the level of emotional and adaptive intelligence of a lawyer are important in conflict management. The following skills are of particular importance: Stress management, recognition of verbal and nonverbal signals, proper response to aggression; Maintaining a balance between determination and diplomacy. Psychological competence allows a lawyer to objectively assess the situation and choose the optimal strategy. A critical factor in effective dispute management is the psychological competence of the lawyer. Psychological competence includes the ability to understand emotional states, recognize non-verbal signals, and respond appropriately to aggressive behavior. Emotional intelligence, as described by Goleman [4], enables individuals to regulate their emotions and maintain constructive communication even in high-conflict situations.

In addition, ethical considerations play a crucial role in dispute resolution. Lawyers must adhere to professional ethics, including confidentiality, impartiality, and respect for all participants in the process. Ethical violations not only undermine trust but also contribute to conflict escalation. At the same time, conflicts may take destructive forms, leading to escalation. Conflict escalation is a process of intensification of confrontation, characterized by emotional dominance, loss of rational thinking, and reduced willingness to compromise. As noted in conflict theory, escalation often involves cognitive distortions, such as black-and-white thinking and overgeneralization, which hinder objective analysis [5]. In legal practice, escalation may result in prolonged litigation, increased costs, and deterioration of relationships between the parties. Therefore, ethical behaviour is both a legal and psychological requirement.

5. Practical recommendations.

For the prevention and constructive resolution of conflict escalation in the activities of a lawyer, the following practical measures are recommended: Conducting a dispute analysis for each case; Drawing up a map of the parties' interests; Assessment of the possibility of a pre-trial settlement; Informing the client about the real legal consequences; Strict adherence to ethical norms; Professional development and improvement of mediative, conflictological and

psychological skills.

CONCLUSION

Preventing the escalation of disputes and ensuring their constructive resolution is a key condition for achieving legal justice and maintaining social stability. Modern legal practice requires lawyers to combine legal expertise with psychological, communicative, and negotiation skills. The application of communicative and interest-based approaches, as well as negotiation, mediation, and conflict transformation methods, allows lawyers to manage disputes effectively and prevent their destructive development. Strengthening psychological competence and adherence to professional ethics further enhances the ability of lawyers to achieve fair and sustainable outcomes. Thus, the development of conflict management skills should be considered a priority in legal education and professional training, as it contributes not only to the effectiveness of legal practice but also to the preservation of social harmony.

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