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Russian Participants of the American Lottery, Accused of Fraud, Sued Colin Powell

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As hard as it would be right now to find a Russian who does not have a relative or an acquaintance living abroad, it would be just as difficult to find someone who does not have a relative or acquaintance who has tried their luck in the Green Card Lottery (as it is commonly called). I myself also have one very close relative, and also a lot of acquaintances, who have participated in this lottery, successfully – they obtained the desired green card.

I remember how shocked they were having received a notice of getting into the semi-finals. Having recovered from the shock, they fitfully threw themselves into collecting any conceivable or inconceivable certificate – about health, material status, the absence of police convictions. They were nervous that one of the certificates would not be given to them or that some of the papers would not be acceptable, but none of them could conceive that the Americans would suspect them of forgery.

We have taken from infancy the idea that the United States is a righteous nation and that the principle of innocent until proven guilty is unquestionable - but when it came out that the American consulate accused some of the participants in the lottery (semi-finalists) of forgery, our conviction was shattered. *Inostranets* gave a detailed account of these happenings, at that time. So, for those, who haven't read it or who forgot, we will

offer a review. An American lawyer, Kenneth White, accidentally became a witness to a conflict in the US Embassy in Moscow. The Russian passionately tried to prove that he had signed the primary petition himself, in order to participate in the Diversity Visa program (the official name for the Green Card Lottery), but the consulate bureaucrats did not believe him and refused to grant him an immigration visa. Afterwards, there followed numerous attempts to get an expert signature analysis, in a specialized laboratory of the INS, and just as many refusals by the embassy. The refusals were explained simply: the State Department of the USA has entrusted the consular officers with performing this task. The employees, of course, are not experts, but have had some training and they can manage the task.

It is well known that not everyone has a stable signature. Because of that, a bank will request that a person show a passport. For some reason, the American consulate services do not consider such a simple concept - and they really insist on it. They refused to send off samples of signatures to the laboratory and did not give any possibility for those suspected of forgery to obtain independent expert analysis themselves. They were not given the originals of the "dubious" signatures, which are stored at the embassy. Besides that, it is not noted that over the year or even two, which have passed from the moment of signing the lottery application until the interview in the embassy, the look of a signature can change somewhat.

How many people have been refused a visa on the grounds of suspicion of forgery is hard to tell. Some believe there are hundreds of them. The exact number is known only to the American Embassy and, obviously, the State Department, but despite the numerous requests, they refuse to share this information.

For sure, it is known only that nine people did not agree to settle for the groundless accusations and sued. One could say - "So what, you didn't win the lottery? I've bought many useless lottery tickets in my life." But this may be countered by the fact that the American lottery ticket was not a cheap purchase for the refused semi-finalists. The non-returnable consular application fee alone is \$325, plus the expenditures on the medical examination, and the collection of various other documents for the trip to Moscow for the interview, which ended so infamously.

Of course, everybody who risked these expenditures could not be absolutely certain of success, but a suspicion of forgery - this is not just an ordinary loss that we have encountered often, this loss is followed by certain consequences. Even if the suspicion of forgery is put aside - although this would not be simple to do - in the eyes of the American government, they are people who intend to immigrate. As a rule, the Americans do not grant these people any kind of visas - not student visas, not business visas, not tourist visas. During the interview of one of the current losers, simultaneous with the refusal to grant him an immigration visa, the consular officer voided his standing tourist visa.

But this is not all. As the attorney, Kenneth White, assured an *Inostranets* correspondent, all the refused plaintiffs, who became his clients, are united by one

circumstance: having feared that their primary petition to participate in the lottery would not arrive to the Lottery Center in America in time (applications arriving earlier or later than the strictly established time interval are not accepted into the lottery), they had sent the signed petitions in advance to their acquaintances or relatives in the US, for the purpose of having them send the petition to the addressee at just the right time. These petitions reached the lottery from within the US, and not from Russia, which possibly gave the consulate grounds for suspicion. However, there is one other simple circumstance, which the American Consulate refuses to acknowledge: the format of the paper used in America is different from the format of Russian paper - the paper on which the Russians signed their petitions. The Russian paper is a little longer and notably narrower. Such paper (format A4) can only be acquired in America through an advance order, in a large quantity, and this has been confirmed by American professionals specializing in stationary.

The American Consulate also refused to test whether the primary petitions have the applicants' fingerprints on them. It would have been too strange if the participants of the lottery, having put on gloves, enclosed a clean piece of Russian format paper into an envelope and, without having signed it, sent it to a relative in the US so that the latter could proceed to commit forgery.

Even if the stated suspicions of the suit are inaccurate - that the US consular officers used the signature rule of the lottery as a pretext for the refusal of elderly or youthful applicants, or of people in undesired professions - the will of the accused to demand justice makes sense. They conceive of justice in the following way: there should be a forensic signature analysis, and American visas must be granted, followed by a public apology. This class-action suit was prepared and sent to the federal court of Washington, DC by the law firm of White and Associates, on behalf of the victims. The lawsuit is an impressive volume, which contains the detailed accounts of the issue.

The following are some episodes from the lawsuit: In August - September 2001, three appeals of embassy decisions had been sent to Julia Furuta-Toy, the head of the Department of Immigration Visas of the American Embassy in Moscow. The first contained many sample signatures, made by those who had been refused, at about the same time when they signed their petition to participate in the lottery. The second request contained the opinions of two independent experts, confirming the authenticity of the signatures. The third contained a request to send the samples of the dubious signatures to the INS laboratory. To all of this, Julia Furuta-Toy replied that the signature samples, made in the same time period as the lottery petition signatures, are very useful, however insufficient to prove that the person who attended the interview with the consular officer is the person who signed the petition. Also, she noted that the postmarked stamp (on the envelope which contained the petition) is a fact which speaks to the origin of the petition. She also refused to send the samples to the INS Laboratory, explaining the signature differences are very obvious and, therefore, there doesn't need to be an expert analysis.

Finally, some of the signatures were sent to the INS Laboratory, however by fax, but the lawyers never received any opinions from the experts. Here is a passage, dated the beginning of November, from a reply to the lawyer's petition to the Visa Section of the US State Department: "The embassy made a request to the INS Laboratory to compare the signatures of these six petitions with samples provided by your clients during the visa interviews. In all of these cases, however, a consular officer in Moscow confirmed the fact that the petitioner did not use his usual signature on the petition, as is demanded by the terms of the lottery (22 C.F.R. 42.33 (b)(1)) and, therefore, they were refused a visa. Because it is not a judiciary, but a factual issue, we have no right to appeal the decision. A test of the fingerprints on the petition would also not suffice for a reversal of the decision."

The list of the eleven respondents is impressive. It is enough to say that it is headed by the US Secretary of State, Colin Powell, followed by the Consular Issue Aid of the Secretary of State, the Director of the Visa Division of the State Department, and last, the American Ambassador to Russia, Alexander Vershbow. The lawsuit was filed in the middle of December, and the law firm received a confirmation of the acceptance of the lawsuit for a review. In a few months, a judge must schedule a date for the hearings and must suggest to the representatives of both sides to try to settle outside of court. What will come of all this, we will find out with time, and will report to our readers.

However, it evokes suspicion, why now, all of a sudden, eight years after the Americans invented their lottery, that this collision suddenly happened. Why wasn't anyone accused of signature forgery before? The lawyer, Kenneth White, replied to an *Inostranets* correspondent, "Before the year 2000, I only encountered a similar case once. Back then, we appealed to John Connerly, the head of the Immigration Visa Department, on behalf of my client, who was also refused a visa based on the fact that she herself had not signed the primary petition. And we received an answer: We will conduct a test of the authenticity of her signature, however, consider the fact that if the result is negative she will never be granted a visa to the US."

"Did she agree with this?"

"My client agreed and received a visa to the US, but I still do not know whether the samples of her signatures were sent to the INS Lab or whether an expert analysis was conducted. It is possible that the fact that she was not afraid of the expert analysis by itself became sufficient evidence of her righteousness. In any case, back then, nobody attempted to stop us or prevented the truth from being established. I feel a strong conviction that the situation drastically changed beginning with the DV-2000 lottery. Sadly, we do not know the names of all the victims. It is possible that the judge will give an order to the US State Department to provide a full list of those who have been refused a visa on the basis of the suspicion of forgery. Without waiting for this order, we are attempting to get this information ourselves and seek to draw public attention to these events. And many people have responded. Many of those who became part of the class-action lawsuit joined this process after having read about it in *Inostranets*. And the fact of the filing of the lawsuit does not end the list of the plaintiffs. In other words, everyone

who participated in DV-2000, DV-2001, DV-2002, who were baselessly accused of forgery, can join in this lawsuit, completely free of charge. Now we are preparing the documents of three other victims in order to include them in the class-action petition. This will help them recover their good name and will make our suit more solid and will allow us to shield people in the future from this injustice of the US State Department and the American Embassy in Moscow.”

“You cannot be sure that you will win this case and, therefore, you cannot guarantee future participants will receive better treatment. How can they insure themselves against such happenings? Maybe it would be worth it for them to have their signature notarized?”

“No, I don’t think so, because the embassy is suspicious of those who send their petition for the lottery through American friends or relatives. It shouldn’t be done. The petition should be sent directly from Russia.”

“How feasible is our talk of the future, after the terrorist attacks of September 11th and the occurrence of the spread of the anthrax through the mail? Many of those who are seeking a green card have been disappointed and believe that the lottery can be canceled altogether. What can be heard in Washington about this?”

“So far, such a decision has not been made, although it is true there are many in congress who side with more stringent immigration politics, however, there is no need to panic in advance.”