

Doing law in Russia

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Many Canadian companies are interested in doing business in Russia – perhaps to sell into the Russian market or import from there, or maybe to manufacture in Russia under licence. To be safe they will need legal advice. Also, some Canadian law firms are showing interest in opening operations there, perhaps to help Russian or Canadian organizations operate in the other's country. This means an increasing need for Canadian lawyers to know more about the legal and business situation in Russia.

Interested parties will find many differences between the two countries. Despite the opportunities for benefit, these differences bring many opportunities for the unwary to develop serious, organization-destroying problems from a venture into Russia.

The legal situation looks straightforward on the surface. The Russian Constitution guarantees basic rights. The country has a Civil Code structure that will be largely familiar to Western legal practitioners. The Police and a system of Courts support its execution. Parliament, government and other democratic institutions form a legislative means of changing the laws. All laws and regulations are published regularly in print and electronically. Business activities call for legal support in tax and duties matters, contract law, licensing and litigation.

However, for the best part of a century, Russia's Communist government largely negated the concept of private property. In theory as well as in practice, the State owned all of the country's assets, including everything from natural resources to domestic real estate. The legislation system supported this status. Just imagine life without taxes, mortgages, contracts, stocks, export/import duties, business litigation or insurance.

Most of the system had to be changed to support the reestablishment of the private property concept, which Russia has undertaken over the last decade. In this respect the current legislative system has developed over the past ten years from almost nothing, and this level of change cannot be achieved painlessly. The system is often not balanced and tuned. One outcome is that authorities at different levels may base their decisions on differing interpretations of the law, e.g. while determining the basis for tax calculation. Numerous State controlling institutions may halt the course of business with an unexpected check-up. This results in losses in the form of unexpected taxes and fines, or lost business. Another outcome is that many laws are circumscribed through by-laws that often change or nullify the original idea.

Since the end of the Communist era there has been progress regarding legal rights, but still the concept is not as firmly established as it is in the West. In many cases, rights of property are held by those with the most power. Although the situation has improved somewhat, it is still possible for someone to buy a piece of property such as an apartment and believe that they have title to it – only to have the sale reversed on a legal decision.

As in probably any environment, Russian legislation is more than published laws. In this way, operating in Russia is much like doing business in any other country – each has its own language, culture and business practices. Doing business in another country will mean being able to operate in the local language, either through learning it or through translators. It is the same with the

business culture. One should not expect business practices or a legal environment that are identical to those in Canada.

Because of the complexity of the situation, Canadian lawyers wanting to advise their clients on legal matters will probably be best to avoid dealing with these issues themselves, and to engage local legal counsel to advise them and act on their behalf.

Picking a partner wisely is the key to long-term success. There are no golden rules for this. Certainly, do not get “married” until you are sure of the mutual benefits of cooperation. Set and discuss with your potential partner each parties’ goals and expectations from working together. As management theory suggests, cooperation works best when partners complement each others’ competencies.

Your first step is to make sure you have something to offer – such as relations with Canadian clients wanting to do business in Russia. Then, because you have demonstrated demand for your services, you are in a strong position for the next step – seeking out a supply of Russian legal talent. You may choose to do this through sub-contracting work to a Russian firm, or through hiring local talent and setting up an office.

To benefit from using your managerial experience while running an efficient Russian law office, it may be best for you to decide which management practices form the “roots” of your success, and insist that those be followed. However, you will better off to allow the “leaves” of the office management to develop in the local fashion.

You will need to be sure that you are setting your rates appropriately. You should not expect that Russian clients will gladly pay whatever rate you set simply because yours is a “Western” firm. Be sure that your services are worth your rates in this market.

Opportunities for lawyers in Russia include helping local companies with import and export. Given the short history of direct company-to-company contract relations, Russian companies may be interested in an introduction to the legal environment in the North American market. Russian organizations want advice on international contracts, licences, taxes and duties. They also need advice on offshore incorporation.

Success in Russia depends on many factors, one of which is the willingness to choose good local expertise and allow these people to do the work in the way that they think is best. Both parties will learn a great deal in the process.