

Summary of Russian project : Cultural Barriers to International Pro Bono

In 2008 Russia substantially changed the taxation of grants coming from foreign charity funds. As a general rule, all grants from foreign charity funds are not subject to any taxes provided that such charity fund is included into the list of approved charity funds. In the middle of 2008 Russian authorities decided to abolish the old list starting January 1, 2009. Despite their promises they failed to approve new list by the end of 2008 and thus starting January 1, 2009 all recipients of grants of foreign non-governmental charity funds were obliged to pay profit taxes on the amounts received.

International Research and Exchange Board (IREX) funded by U.S. Agency for International Development (USAID) approached D&L Moscow asking how to deal with this situation. We managed to find the solution that enabled IREX to continue making donations to Russian NGOs that would be exempt from profit tax – so administrative barrier was overwhelmed.

The proposed solution, however, put at question a number of standard provisions of grant agreements and the next barrier – a cultural one – was to advocate our position before Russian lawyer of IREX who took quite conservative approach that these provisions shall be deleted in order to make the solution viable. It was really the matter of culture – Russian legal experts tend to assume that something not directly prescribed in the law is forbidden whereas common law lawyers usually believe that unless something is not directly prohibited it is allowed.

A few months later I met John Kamin, legal advisor of USAID, at one of Moscow pro-bono committee meetings. He told me that IREX forwarded D&L memorandum to him with the pointed comments of their Russian lawyer, but John actually tended to agree with our conclusions. He thanked us for the work done and mentioned that it is sometimes difficult for him to work with Russian lawyers due to existing cultural barriers."

Deborah Ruff
Partner
Dewey & LeBoeuf
No.1 Minster Court
Mincing Lane
London EC3R 7YL
Direct: +44 20 7459 5145
General: +44 20 7459 5000
Fax: +44 20 7444 7445
druff@dl.com <mailto:druff@dl.com>
deborah.ruff@dl.com <mailto:deborah.ruff@dl.com>
www.dl.com <http://www.dl.com/>