

Practising Canadian law in Germany, a woman's perspective

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The Common Room – CBA National Women Lawyers Forum Newsletter
November 2010

My aim in writing this article is to explain my motivation in setting up a practice focused on providing Canadian legal services in Germany as well as the day-to-day experience of being in a foreign market and working with largely German staff. In order to focus on various issues, I have written this in a "question and answer" style.

Why set up my own law firm in Germany?

The simple answer is that I saw a market for Canadian legal services in Germany. The more complex answer is that I felt a strong urge to "do it my way" after practising in male-dominated partnerships in Canada, Germany and England for ten years. So, after obtaining three legal credentials (Ontario, 1986, England and Wales, 1991, and Germany, 1996) and obtaining dual German and Canadian citizenship, I took the plunge in 1996 and set up a very small office in a historical building in Munich's trendy Schwabing.

Did I have a business plan?

Of course, I always tell German clients planning to immigrate to Canada that they should have a reasonable business plan. The truth is that I didn't have one when I decided to set up my own office. I just acted on a strong hunch. Even in the initial phase, though, I had a firm grip on my expenses and had a clear set of projections of the level of work I needed to achieve my financial goals. Being in one of Germany's top firms had made me aware of international billing rates and how to make bids on legal work so I was able to avoid the trap of underselling my services. It also helped me to set up an appropriate organizational structure for my law firm.

How do I get clients?

The best business plan won't work if you cannot market your services. I came to Munich without any connections. To me, the ability to get clients depends on my ability to convince people that I am the one who can solve their business problems and that they will like working with me. In Germany, the majority of business clients are still men who have home-maker wives and the initial assumption is that women lawyers should do family law and not business law. These clients will only accept a woman lawyer if you can qualify yourself as an expert. As a result, I am a regular speaker at seminars with specific Canadian legal themes and write on Canadian legal issues. Similarly, I am a member of key business associations that focus on Canada.

During the past ten years Germany has also seen an influx of women in the business sector, whether taking over family businesses or managing international companies with headquarters in North America. I have built on this by running a women's network in Munich which puts together women of varying nationalities and ages and from all walks of life to create an exchange of ideas and experience. Just as with the traditional male model, these women have become valuable business contacts.

Where male colleagues will often focus on making contact with key management through the senior partner, I have found it effective to focus on the female office manager of the company as she is the person often asked to "find someone" by her male boss.

Another element is the ability to meet with potential and existing clients both in Canada, England and Germany. I believe that it is very important to have a sense of who you are dealing with aside from simply

email, fax or telephone communications if you are hiring someone with expertise in a foreign market.

A further factor now is longevity in the market. Clients look for lawyers who can show continuity of service. When I started, I knew that I would first have to prove myself to clients and colleagues alike. Now that I have run my firm successfully in Munich for almost 15 years, I can increasingly rely on “word-of-mouth” recommendations.

What makes practising Canadian law in Germany so different?

In a way, my firm in Germany is a type of “one-stop-shopping” for a whole variety of legal issues involving many Canadian jurisdictions. In order to serve my European clients effectively, I have built relationships with law firms all over Canada, both big and small. My job is to identify the problem and, based on my experience, put together a team of Canadian legal experts to solve it and ensure that we obtain the required results.

Examples of recent cases range from managing two teams of litigation experts in B.C. and Alberta in connection with a complex case on shareholder oppression for German stakeholders, to serving divorce papers through local counsel in Whitehorse for a German national, to migrating a property under the recent legislation in Nova Scotia with the assistance of a real estate lawyer in connection with a sale by the German heirs to a local paper mill, to purchasing an automotive parts manufacturer in Ontario for a German multi-national with a team of corporate lawyers and even setting up a farm in Northern B.C. for a German purebred sheep farmer with local counsel.

I believe that this model of cooperation is the way of the future. As a result, I am always interested in making new contacts in the Canadian legal community.

For my Canadian clients, I consult on everything to do with setting up and running a business in Germany. These are generally the result of referrals from the lawyers I work with on issues of Canadian law.

How is running an office different in Germany?

For starters, there are more holidays in Germany and, in particular, Munich than in North America. Employees in Germany are entitled to six weeks of paid vacation and two weeks of public holidays. My firm has steadily grown from one and one-half employee to eight full and part-time staff. Due to my own travel requirements, a big part of my time is involved in organizing the work load around the office to ensure quick turnover and consistent availability of qualified people.

Also, people are more formal here, using the “vous” form of address rather than simply “tu”. As the boss, I have personally experienced the pitfalls of encouraging too much familiarity too quickly.

From a financial point of view, employers in Germany are required to pay a high level of wages tax and social benefit contributions with the result that it is more expensive to run an office in Germany.

What are the main differences in the two legal systems?

In my experience, the main difference experienced by Germans is that it appears to be much easier to set up a company in Canada but it is much more complicated to litigate a case before the courts. Germany does not have procedures comparable to discovery of witnesses and discovery of evidence. These steps are very time-consuming and expensive and lead to considerable delays.

For Canadians, the German legal system with its commercial register courts makes setting up a company in Germany very complicated. Also, German employment legislation is often experienced as a hindrance in doing business.

How does being a woman affect my experience as a lawyer in Germany?

The German business environment is not set up to support women. It is harder to get a loan, harder to find appropriate office space, harder to obtain qualified staff and harder to get clients than for a male colleague. Our chancellor, Ms. Merkel is referred to as "*Mutti*" (Mommy) by the men in parliament when they don't approve of her policies. For me, this backlash was the motivation to establish my own firm and design an office that supports open lines of communication. It has also meant learning to be a tough negotiator and to be patient while I train the people I need. And it has meant that I never settle for less.