

Freeing Europe's social conscience

Law firms' pro bono engagement is currently spread unevenly across Europe. But if practices overcome fears and technical reservations, their involvement will benefit themselves, individual lawyers and society as a whole, argues MICHAEL CHEROUTES

Working for free might seem an odd way of expanding a legal practice, but the experience of law firms with a history of pro bono work is simple: it makes paying clients and the wider community realise what the practice has to offer.

International law firms have gradually come to realise that pro bono work benefits everyone – not just the clients that receive legal advice, but the lawyers whose experience and profile are boosted by giving it, and the law firm, which gains by having better, higher-profile practitioners as a result.

But there are still some firms that unnecessarily see obstacles rather than opportunities and it is for forward-thinking practices to convince the more sceptical of the benefits of participating in pro bono schemes.

Acting for pro bono clients not only allows a law firm's lawyers to make unique contributions to their communities in a way that only they as legal professionals are equipped to do, it also introduces them to new client networks and distinguishes them from competitors. At the same time, as corporate social responsibility (CSR) programmes rise up international corporations' agendas, pro bono work is growing in significance as these clients demand that their lawyers be as socially committed as they are themselves.

I am the international pro bono co-ordinator at a Washington DC-based global legal practice where my role is to inculcate lawyers in the firm's eight European and four Far Eastern offices with the idea that pro bono is a serious issue. The firm already has flourishing pro bono programmes across the US, as well as in Germany and the UK. And, for the future, we have potentially

found good pro bono projects in Moscow, Paris, Poland and Hungary. Indeed, even in China the value of pro bono work is gradually gaining recognition.

Uneven spread

However, pro bono engagement is not spread evenly across Europe, with lawyers in some countries far less involved than their colleagues at even their own firms in other jurisdictions. In several continental European states, many law firms eschew pro bono projects in fear that they could endanger future work by representing pro bono clients against a sovereign government from which they hope later to gain instructions.

Meanwhile, in Germany certain bar regulations, interpreted narrowly, restrict lawyers from giving legal representation in, for example, litigation matters, without charge.

Yet these are not insurmountable obstacles to a goal that stands to help Europe's societies and its law firms.

Regarding the first scenario – alienating potential paying clients – these fears are unfounded. From my vantage point of more than 20 years' experience working with clients in Europe, I have found them perfectly well-equipped to distinguish between lawyers and different kinds of legal work and to choose the best practitioners for the job in hand. They do not seek to 'punish' firms that have represented clients against them.

In relation to the second point, rules that may look restrictive still leave open opportunities for many other types of representation. Counselling and assisting non-governmental organisations (NGOs) with their

'business' issues permits them to do a better job of handling real estate, employment and governance problems, which contributes to NGOs' success in serving their charitable missions.

Seeking to encourage pro bono in Central and Eastern Europe, in spring 2006 I spent three months working full-time in Budapest with the Public Interest Law Institute (PILI), an international human rights organisation that promotes public interest advocacy, (for which I am now a board member). The arrangement was organised by the International Senior Lawyers Project (ISLP), a New York-based NGO that identifies and supports opportunities for experienced lawyers to help on international projects.

Clearing house model

To encourage regional law firms to engage with pro bono schemes it is necessary first to go out and find good clients who offer meaningful work and a chance for lawyers to gain the satisfaction of donating their time to useful and important issues. The PILI's opening move was a simple one – we approached the NGO community and said to them: "We have a pool of lawyers who are willing to help you."

Our next step was to identify the kinds of problems NGOs have that lawyers are well able to help solve, before then showing those organisations the benefit of having legal assistance to meet their goals.

The 'clearing house' model was our way of repeating this learning process on a grander, more ambitious scale. Originated by the PILI, with advice and help from several international law firms, the clearing house works by helping NGOs to break down their often complex legal problems into individual, manageable pro bono projects that firms are able to undertake based on their own particular resources and expertise.

NGOs participating in the project range from the Helsinki Foundation for Human Rights to local tenants' rights

epilogue

organisations and Ashoka, a group that sponsors 'social entrepreneurs' to find innovative solutions to social problems. The spread of NGOs involved means that there are many projects, and these are of a sufficiently large range of practice areas, so that nearly every type of lawyer or law firm that wants to get involved in pro bono work via the clearing house is able to do so.

Building on its success in Hungary, in October last year PILI held the first European Pro Bono Forum, organised with financial support and active participation from international law firms. Twenty-two countries were represented, with 54 staff from 38 NGOs matched almost one-to-one by 60 lawyers from 24 law firms.

As well as legal practitioners and NGOs, the event also attracted representatives from blue-chip giants Phillip Morris and General Electric, along with academics from universities in Hungary, the Netherlands, Turkey and the US. Its purpose was simple: to provide a forum to bridge the gap between lawyers who want to do pro bono work but don't know where to start, and NGOs that need pro bono legal advice but don't know where to find it.

Eurocentric agenda

The forum did this by addressing the most important aspects of setting up successful pro bono programmes and by providing an environment in which lawyers, law firms and NGOs could exchange information and ideas. The event also included panel discussions and speeches from both sides of the equation. Topics included the challenges particular to European jurisdictions faced by pro bono schemes, the successes and failures of existing law firm programmes, the experience of PILI's Hungarian pro bono clearing house project, and discussions with NGOs more specifically to identify their legal requirements.

The conference was a great success, and all the organisations involved in

putting together the event are seeking to build on the experience to define a more distinctly Eurocentric agenda and discussions for this year's forum, which is scheduled for Budapest on 6-7 November 2008. The organisers hope this will include a greater number of continental European-based speakers. Though many were involved in the last event, where they discussed the challenges and opportunities faced by pro bono projects, there is much more room for the forum to become a good venue for collaboration among European firms.

Ultimately, it will also feature the results of research that will be conducted by PILI into the specific challenges faced by law firms engaging in pro bono projects in Central and Eastern Europe, including the cross-border legal environment for international regional co-operation.

Overall, there are three key points regarding pro bono work. First is to practise what you preach. For example, my firm's pro bono programme entails an expectation that every one of its more than 1,000 lawyers commit to a minimum of 20 pro bono hours a year.

The pro bono contribution that results is vastly more than 20,000 hours, because the firm commits full-time lawyers to organising the effort, and many of the firm's practitioners from around the world spend more time on pro bono work each year than the minimum expectation.

Multiply the more than 70,000 hours our practice spent in 2007 by the rates charged by the firm – in addition to similar efforts made by other international law firms – and it doesn't take an accountant to realise that the legal profession's contribution to the public good is real and substantial.

Size no barrier

The second key point is that pro bono work is not just something for international law firms. Regardless of its size, a practice – indeed, even sole

practitioners – can always contribute something to society from the privileged position of being lawyers.

Projects relevant to smaller firms might include, for example, acting in landlord and tenant disputes, employment law cases, representing ethnic minority groups in cases of racial discrimination, or simply helping the small business sector in a community by offering legal services to companies too small to afford representation.

Organisations such as PILI are encouraging European bar associations to set aspirational targets for pro bono work. It would be welcome to see even greater participation from all types of organisations of German and French lawyers, because of the large numbers of practitioners in those countries and the influence they command in the region. However, in all European states, not just the major western economies, there are large and talented law firms actively involved in complex and challenging commercial work. The value of that experience and leadership on pro bono work cannot be overstated.

It is crucial to remember that in seeking to promote pro bono activity in continental Europe, organisations such as the PILI and international law firms welcome participation that is in accord with the structure and ethos of the national and regional legal communities. For example, in Hungary, our research into pro bono activity revealed that far from being an idea that originated in Britain or the US, Hungarian lawyers have their own long history of pro bono that had not been as visible in recent decades as it had historically.

The conversation with Hungarian lawyers was more a discussion about rekindling their interest than about lighting it from the cold. Similarly, many other countries in continental Europe have their own histories of public interest advocacy that provide a good base on which to build a stronger commitment to pro bono work. ■