

Annual Report 2002



CENTER FOR INTERNATIONAL LEGAL COOPERATION



The Center for International Legal Cooperation (CILC) is a Dutch non-profit organization which provides Dutch expert assistance to developing and transition countries engaged in legal and judicial reform.

CILC's General Board includes representatives from all law faculties in the Netherlands, the Dutch Ministry of Justice, the Netherlands Bar Association, the Netherlands Association for the Judiciary, and Dutch institutes specializing in foreign law, such as the Van Vollenhoven Institute for Law, Governance and Development, and the Institute for East European Law and Russian Studies.

Using these and other resources, CILC can draw on a large pool of legal specialists to build expert teams for individual cooperation projects. To initiate and execute projects, CILC collaborates with an extensive international network of organizations. Major project funding sources include the Dutch government, the European Union, and the United Nations Development Programme. CILC's staff are highly experienced in project management, fundraising, and financing. Each of them also contributes regional and country knowledge and strong language capabilities. Access to expertise in specific fields is provided through CILC's affiliation with Dutch ministries, academic institutes and departments, and professional organizations.

The development of a project begins with meetings between CILC staff and potential project partners in a beneficiary country to assess needs. CILC then designs an action plan and seeks funding sources for its implementation. When CILC contracts to manage a project, it assumes responsibility for implementing the project, hiring the best-qualified experts, quality control, and reporting to the financing agency involved.

*Center for International Legal Cooperation
Annual Report 2002*

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I.

Message from the Chairman

Change of Directors

Farewell to Jan van Olden

After dedicating 17 years to CILC and its predecessor organization, Jan van Olden left CILC in 2002 to join Leiden University's Faculty of Law. Fortunately, his allegiance both to the field of international legal cooperation and to CILC will continue.

Jan helped shape the development of international legal cooperation from a mere idea in 1985 to a significant factor in Dutch-Indonesian relations. From 1992, Jan was one of the movers and shakers who expanded the scope of cooperation to include first the countries of the Commonwealth of Independent States (CIS), then the candidates for membership in the European Union, and later the world at large.

Jan also saw CILC evolve from a project management agency with only few competitors to one that successfully bids for contracts. CILC has had to get used to a market environment.

In another crucial achievement, under Jan's tenure CILC has striven to reach beyond everyday practice and contribute to a better understanding of key issues within the field of international legal cooperation. The CILC seminar on "Legal Development and Corruption," which took place in The Hague on December 10, 2002, is a case in point. Organized as a tribute to Jan, the seminar provided a forum for academics and practitioners to discuss corruption both as a target of cooperation projects and as a factor that can impact on their implementation and outcome.



PHOTO: ALEXANDER VINOGRADOV

Jan van Olden with his wife, Ties Molhoek, at the seminar in The Hague

Introducing Kees Kouwenaar

At the same time as we say goodbye to CILC's founding director, we extend a warm welcome our new director, Kees Kouwenaar.

Kees brings to the job 20 years of experience in international cooperation in higher education. He will enable us to go on doing what we are good at: designing, developing and executing international legal cooperation projects which assist development and transition countries in their struggle to improve their legal and judicial systems. Kees's task will be to guide CILC's progress as a competitive NGO that will never forget what its mission is or compromise its nonprofit status. And he will further CILC's role in promoting fruitful cross-fertilization between current practice in the field and thoughtful analysis.

Turbulent 2002

This edition of the CILC Annual Report covers an eventful year. The aftermath of the attacks of September 11, 2001, continued to reverberate around the world. In many countries, tightened security measures were introduced and terrorist suspects rounded up. Meanwhile, in Afghanistan the newly installed government faced a series of challenges.

Our own country, the Netherlands, made international headlines as well. In May, the first political assassination since 1672 shocked the nation. It rekindled debate over multiculturalism and led to a landslide parliamentary reshuffle.

The most far-reaching development of 2002 was, of course, the buildup to war with Iraq. Such dramatic situations can have a direct effect on our work. There will always be cases where CILC projects are obstructed by political events.

The developments in Iraq underscored the importance of the rule of law. Efforts will be needed to help the Iraqis, as well as other populations in the region such as the Palestinians, set up a legal system that lays the groundwork for social and political stability and prosperity.

Among the positive achievements of 2002 was the fact that the Rome Statute of the International Criminal Court (ICC) entered into force on July 1. There will be plenty of water under the bridge before the ICC is established

as an uncontested jewel in the crown of the international legal system. But the first steps have been taken, and the addition of the ICC reinforces the role of The Hague as “legal capital of the world” – a source of pride for CILC as it is for all Dutch legal organizations.

Ernst M. H. Hirsch Ballin
Chairman, CILC Executive Board and General Board

On July 1, 2002, the Rome Statute of the International Criminal Court (ICC) entered into force.

2.

CILC in 2002

In 2002, the Center for International Legal Cooperation (CILC) approved major changes in its governance structure, internal organization and external relations.

CILC's General Board voted to reduce its size. Currently a broad-based platform for the Dutch legal community, the new streamlined Executive Board will be better able to serve the professional organization that CILC wants to be. Law schools, government ministries and associations of judges, state prosecutors, lawyers and other legal professionals will continue to be represented on the Board of Trustees. The new charter will be finalized in 2003.

The cooperation between CILC and the Dutch Ministry of Justice became closer in 2002. CILC hopes that this trend will be maintained in 2003, and that it will be accompanied by closer cooperation with the Dutch Ministry of Foreign Affairs as well.



PHOTOS: ALEXANDER VINOGRADOV

Departing CILC Executive Board members Fred Soons and Tineke Cleiren

Articles published in the CILC newsletter, *Focus on International Legal Cooperation* (available at www.cilc.nl/focus.html), in 2002:

Focus No. 12 (February 2002):

- *Strengthening the Yemeni Judiciary: Introduction to a Complex Society*
- *Judicial Development in Moldova: Targeting Clerks for Overdue Training*
- *Interview with COLPI Director Arie Bloed: Political Commitment Can Make or Break a Project*

As always, CILC enjoyed warm relations with Leiden University, where the CILC office is located. CILC published issue No. 12 of its newsletter, *Focus on International Cooperation*, in February 2002 (see box on this page).

As the revised format of the 2001 Annual Report was favorably received, it has been retained for the current edition.

Internally, the key decision taken in 2002 was to concentrate all management responsibilities in the hands of a single director. In full agreement between the Executive Board and the then director, this move led to a change of directors, the departure of the senior finance manager and, as of 2003, the elimination of the position of deputy director. New job profiles gave project managers a clearer view of what is expected of them and how they can develop within the organization.

These steps will result in a leaner, more focused CILC. This transformation is critical if CILC is to operate suc-



PHOTO: ALEXANDER VINOGRADOV

CILC's staff

cessfully in an increasingly competitive project market that has little awareness of the actual cost of services. Nonetheless, maintaining a businesslike approach will neither distract CILC from its mission nor affect its identity as a nonprofit organization.

At the end of 2002, CILC bid a grateful farewell to two members of its Executive Board, Prof. Tineke Cleiren and Prof. Fred Soons, and welcomed new board member Roelof H. Haveman.

On December 10, CILC held a seminar in The Hague on “Legal Development and Corruption” in honor of its departing founding director, Jan van Olden.

Head Financial Administration Henk Gaasbeek, Project Manager Laura Lancée (Indonesia) and Project Assistant Susan Groen also left CILC to pursue their careers elsewhere. Their contributions to CILC are much appreciated. By year's end, CILC employed 13 people, who filled the equivalent of 10.1 full-time positions.

3.

Regions, Countries & Projects

This section provides an overview of CILC's international legal cooperation projects in 2002. CILC's activities are not restricted to a particular region. The geographical focus of the CILC project portfolio can shift over time depending on the projects undertaken. When CILC matches legal experts to a specific project, it briefs them on the political and socioeconomic conditions in the country with which they will be working. Reflecting this contextual approach, the individual projects described here are introduced with background information on the regions and countries in which they were implemented.

3.1 Europe (excluding CIS countries)

EU CANDIDATE STATES

2002 was the final year of negotiations for the largest expansion in the history of the European Union. Supported by the EU, the candidate countries made great strides in overhauling their legal and judicial systems. Recent years saw a shift in emphasis from legislative changes to structural and institutional reform, practical implementation and increased openness towards the media and the public.

The majority of EU candidates share a Communist past (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia), but this common denominator should not be overestimated. The countries have very distinct legal and judicial traditions. Following the collapse of Communism, they all embarked on the concurrent processes of incorporating EU laws (*acquis communautaire*) into their national legislation, and aligning their legal systems with those of Western European countries. However, they have made different choices along the way.

At its meeting in Copenhagen in December 2002, the European Council for-

EU accession countries
have very distinct legal
traditions.



Members of the verification mission to the Czech Republic with Judge Eliška Wagnerová, president of the Supreme Court (fourth from left), in Brno in February 2002

mally invited the ten front-line candidates (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia) to join the EU in May 2004. CILC is proud of its contribution to the efforts of eight of these future members to prepare for accession.

CILC PROJECT IN THE EU CANDIDATE STATES:

EU/Phare Horizontal Programme on the “Reinforcement of the Rule of Law” in the EU Candidate States

Ten EU candidates (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia) have received assistance under this EU-funded project. Launched in December 2000, it comprises four modules: independence of the judiciary; the status and role of the public prosecutor; court procedures and execution of judgments; and the safety of participants in court cases. CILC’s project partners are the Netherlands Helsinki Committee, the Bonn-based Stiftung für Internationale Rechtliche Zusammenarbeit (IRZ), the Italian Ministry of Justice, and the British Home Office. Dutch judge Paul Broekhoven serves as the key CILC expert on the project.

The execution of this complex project required repeated adjustments. Neither the planned horizontal approach nor the clear separation of the modules was sustainable in practice. The desk studies compiled for each country, based on documents available from the European Commission, needed to be supplemented by firsthand information. Due to these changes, the originally two-year contract was extended by half a year, and the project will now run through June 2003.

The first project phase was concluded in summer 2002

with the completion of a voluminous Final Report containing in-depth needs assessments for the individual countries and recommendations for assistance, which were approved by the judicial authorities in each country. The proposed activities – a series of workshops, seminars and study visits – have been implemented during the final project phase starting in fall 2002.

Like most EU-funded projects, this one was subject to tight budget constraints, stringent reporting requirements and slow handling of payments by the European Commission.

NEW CILC PROJECTS IN THE BALTIC STATES

Based on a preparatory mission in September 2002, CILC submitted a proposal to the Dutch Ministry of Justice for a project to assist the implementation at local level of the general part of Estonia’s administrative law. The project began in December.

Also in 2002, CILC submitted a proposal to the Dutch Ministry of Foreign Affairs for a project to assist the implementation of Lithuania’s new Civil Procedure Code. The proposal is still awaiting final approval.

SOUTHEAST EUROPE

The wars in former Yugoslavia in the 1990s dramatically revived the historical image of the Balkans as the powder keg of Europe. They also drove home the message that the rest of the continent must make every effort to help ensure stability and prosperity in its southeastern corner. Today’s hopes for a more peaceful future are anchored in the 1995 Dayton Accords, which ended the war in Bosnia; the 2001 Ohrid Framework Agreement for Macedonia; and the March 2002 Belgrade Agreement redefining relations between Serbia and Montenegro. Yet the evolution from the rule of force to the rule of law as a guiding social principle is far from complete. Relative stability has been achieved, but it continues to be threatened by domestic disputes and regional tensions. International support for local initiatives to strengthen the rule of law remains essential.

Developments in Serbia and Turkey will help determine the future of the Balkans.

Southeast Europe’s prospects will be critically influenced by the future direction of two key countries, Serbia-Montenegro and Turkey. Political turmoil in either country could destabilize the entire region.

CILC PROJECT IN SOUTHEAST EUROPE

Project Assessment and Development Mission to Serbia

CILC Senior Project Manager Eric Vincken conducted a project assessment and development mission to Serbia in June 2002. It was a followup to a United Nations Development Programme (UNDP) mission in 2001 to develop a project supporting reform of the Serbian system of magistrates' courts. The mission was carried out in cooperation with UNDP Access to Justice Advisor Rajesh Choudree. It resulted in a mission report and a project proposal to the UNDP.

3.2 Commonwealth of Independent States (CIS)

Founded in 1991 following the collapse of the Soviet Union, the Commonwealth of Independent States (CIS) is an alliance of 12 of the 15 sovereign nations which were formerly Soviet republics. The three Baltic states, which are set to enter the EU in 2004, were never CIS members. Within the CIS there is some sense of a shared regional identity and future, but it is overshadowed by bilateral tensions and rivalries. These affect the development of the rule of law which, conversely, is a prerequisite for their peaceful resolution.

Most of the CIS countries can point to impressive progress in their efforts to bring their legislation in line with international standards. At the same time, much remains to be done. Administrative law reform lags behind civil and criminal law reform. Some countries face problems implementing their new legislation, and it is not always easy to induce attitude changes in judges and other magistrates. Continued improvements are needed in many other areas as well, including the independence of the judiciary; reform of the Procuracy, or Public Prosecutor's Office, a legacy of the Soviet era; Judicial Training Centers; and open communication between the legal system and both the media and the general public.

CILC PROJECT IN THE CIS

Model Securities Legislation

Work on drafting a Model Securities Law for the CIS began in fall 1998. The project was originally scheduled to end in 2001 with the adoption of the landmark bill by the CIS Interparliamentary Assembly (IPA), but was extended through December 2002 to enable the drafting team to prepare implementation guidelines.

In 2002, the drafting team held two final meetings in the Netherlands to draw up the manual for the

implementation of the Model Securities Law in the individual CIS member countries, and to prepare a draft paper for a CIS convention on securities law. Funding in 2002 came from the European Bank for Reconstruction and Development (EBRD) alone, because the project cofinancer, the Eschborn-based Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), was unable to provide further support.

The conclusion of the project has not marked the end of CILC's involvement in drafting model legislation for the CIS. In December 2002, CILC won the contract from the EBRD in an open tender for a project to draft a new Model Law on Investor Protection. This project, initiated by the IPA, is a logical followup to the Model Securities Law.

THE RUSSIAN FEDERATION

In 2002, President Vladimir Putin made use of his extensive executive powers to advance the government's economic and legal reform program. Its aims are to clamp down on corruption, improve transparency and efficiency, and boost foreign investment. Key legislative changes have been adopted in the business and investment sector. When fully implemented, these laws will have a major impact on economic activity in Russia.

Inadequate enforcement of commercial legislation continues to hamper economic growth and undermine the rule of law in general. However, administrative changes increased the power of the central government to compel local authorities to enforce laws.

Numerous measures were taken to strengthen the judicial branch. The passage of important new procedural laws in the fields of criminal, civil and arbitration law was aimed at bringing court procedures in line with Western standards.

Nevertheless, the Russian judiciary remains weak, especially at regional and local level. It is only just beginning to assert its independence from other branches of power. In regional and city courts, judges are often insufficiently familiar with recently introduced legislation. Partly as the result of the positive development that Russian citizens and businesses are increasingly turning to

Mounting case backlogs are partly the result of a growing willingness by Russians to turn to the courts to resolve disputes.

the courts, the justice system is plagued by large case backlogs and trial delays.

To address these problems, the focus will be on providing professional training for judges and instituting an efficient court administration throughout the judicial system.

Complaints about human rights abuses by law enforcement bodies and bad prison conditions continued to be raised in 2002.

CILC PROJECT IN THE RUSSIAN FEDERATION

Implementation of the Russian Civil Code

Funded by the Dutch Ministry of Foreign Affairs, the project ran from the end of 1999 through September 2002. The project partners were Leiden University's Institute for East European Law and Russian Studies, the Moscow-based Research Center for Private Law (RCPL), the Russian Young Lawyers' Association and the Russian Foundation for Legal Reform (RFLR).

The activities undertaken during the project were successful, albeit more limited in scope than originally planned. As in 2001, the RCPL, an institute under the the Russian presidential administration, was assigned a heavy legislative drafting load. As a result, it could engage in only one project activity, which was to organize a large-scale two-day conference on the implementation of the Civil Code. Leading civil law specialists from the RCPL, the Russian High Arbitration Court and Leiden University attended the conference, held in Moscow in March 2002.

MOLDOVA

Moldova is the smallest CIS member state after Armenia and the poorest country in Europe. Wracked by political tensions and rampant corruption, Moldova is struggling to reverse its economic tailspin. The Communist Party's victory in the 2001 general elections, which led to the election by parliament of Communist leader Vladimir Voronin as the country's president, appeared to jeopardize the legislative and judicial reforms of recent years. In 2002, critics questioned the government's commitment to the rule of law.

CILC PROJECT IN MOLDOVA

Supporting Moldova's Judicial Development

Launched in November 1999, this UNDP project in Moldova was brought to a close in December 2002. As in 2001, institutional development efforts were ham-

pered by the domestic political situation. Therefore, the project focused on two other activities: developing and implementing a training program for court employees, and the organization of a conference on administrative law for judges. At the conference, a commentary on the Law on Administrative Jurisdictions was officially presented to Moldovan Minister of Justice Ion Morei.

One of the project beneficiaries was the Moldovan Judges' Association (MJA). In 2002, the MJA continued to publish its regular newsletter, *Themis*, with project support.

The status of the legislative frameworks defining the status of the Procuracy, which were developed before February 2001, remained in limbo in 2002. Work on the draft law on the Constitutional Court continued with a visit by a German expert in March 2002, followed by a working visit to the Romanian Constitutional Court in Bucharest in April. It was finalized in July at a meeting at the German Federal Constitutional Court in Karlsruhe.

In 2002, the project completed its efforts to supply the Constitutional Court and every court and prosecutor's office throughout the country with computers and software.

Now that the UNDP project has ended, CILC no longer has a resident representative in the Moldovan capital, Chisinau. But CILC will continue to be involved in the country. At the very end of 2002, the European Commission awarded a GTZ/CILC consortium the contract for an EU/Tacis project to support Moldova's civil and commercial judiciary.

UKRAINE

The judicial reform package passed by the Ukrainian parliament in 2001 did not include provisions for ensuring the independence of the judiciary or for meeting training needs. To fill this gap, in January 2002 a new law was adopted creating a state judicial administration as an independent body responsible for the organization of the courts. The law also foresees the establishment, under the aegis of the new body, of an Academy of Judges as a training facility for the whole judiciary. Although the law came into force in June, neither institution had materialized by the end of the year.

Parliament approved the fifth and final chapter of the new Civil Code, but President Leonid Kuchma abstained from signing it into law.

CILC PROJECTS IN UKRAINE

Strengthening the Capacity of the Judicial System of Ukraine (EU/Tacis)

Strengthening the Judiciary in Ukraine (Matra)

These two projects are combined here since both focus on training and they have the same beneficiary, the Ukrainian Supreme Court. In coordinating them and monitoring their progress, CILC took care to avoid overlap and create synergies.

CILC's partners on the EU-Tacis project, which was completed at the end of 2002, were the Ukrainian Legal Foundation, the Judicial Training and Study Center (SSR) in Zutphen, the Bonn-based Stiftung für Internationale Rechtliche Zusammenarbeit (IRZ), and the French École Nationale de la Magistrature (ENM). The goal was to improve the management and training capacity of the Supreme Court Training Center (SCTC) in the Ukrainian capital, Kyiv, and four regional training centers to be set up in the course of the project. In addition, training was to be provided for arbitration-court judges as well as judges of other courts.

Concurrently, CILC managed a train-the-trainer project funded by the Dutch Ministry of Foreign Affairs' Matra Pre-accession Program. The project partners were SSR and the Netherlands Helsinki Committee. The project achieved its aim of developing training materials in a train-the-trainer setup. More than 300 Ukrainian judges were trained in the seminars, the last four of which took place in 2002.

The Tacis project encountered several obstacles. Its terms of reference had been poorly formulated and were out of touch with Ukrainian reality. More important, political support for judicial reform failed to translate into concrete action. But thanks to the perseverance and commitment of the Western experts and their Ukrainian counterparts, the project was brought to a satisfactory conclusion.

In spring 2002, more than 300 judges were trained in six two-day training sessions in Kyiv and at the four new regional training centers in Odessa, Simferopol, Kharkiv and Lviv. The guest trainers from the EU coached their Ukrainian colleagues and evaluated the latter's performance as trainers. Parallel to the training program, five high-profile seminars were organized. The topics were election law, family law, land law and court management (two seminars).

Under the Tacis project, working groups engaged in drafting national policy papers on judges' training and training center management met for the last time in

November 2002. Recommendations that came out of the final project meeting in December were to be incorporated into the final versions due to be submitted to the Council of Judges in March 2003.

THE CAUCASUS

Like other former Soviet republics, the newly independent states in the Caucasus region have no democratic tradition. Their political institutions are fragile. The strong cultural and religious identities of the peoples of the Caucasus have led to often violent ethnic tensions as well as all-out war. Fighting continues in the breakaway Russian republic of Chechnya. The war between Armenia and Azerbaijan over the region of Nagorno-Karabakh ended in a ceasefire in 1994, but the Organisation for Security and Co-operation in Europe (OSCE) is still mediating a solution to the dispute.

Apart from Chechnya, the region has seen some improvement in political stability, following coup attempts and numerous other crises. Georgia joined the Council of Europe in April 1999, followed by Armenia and Azerbaijan at the beginning of 2001.

Vast natural oil and gas reserves are the focus of geo-strategic interests in the Caspian Sea basin and Central Asia. The Caucasus is destined to play a crucial role in the future transit of energy supplies from the Caspian region and Central Asian countries such as Turkmenistan.

Robert D. Kaplan wrote in *Eastward to Tartary*, "What Vietnam was to the 1960s and 1970s, what Lebanon and Afghanistan were to the 1980s, and what the Balkans were to the 1990s, the Caspian region might be to the first decade of the new century: an explosive region that draws in the Great Powers."

GEORGIA

Georgia achieved independence in April 1991, but was soon faced with economic collapse, political instability and armed conflicts in the breakaway regions of South Ossetia and Abkhazia.

The adoption of a new Constitution in mid-1995 finally ended the political and constitutional crisis in the country. The government embarked on legal and judicial reforms, leading to a new Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, Administrative Code

The Caspian region could one day become as explosive as the Balkans in the 1990s.

and Administrative Procedure Code. The judiciary underwent a personnel shakeup with most of its members being replaced after mandatory recertification was introduced. At the same time, judges' salaries were raised substantially.

Political unrest in 2001 stalled the legal reform process in Georgia. The crisis continued in 2002, with little prospect of stability ahead of parliamentary elections scheduled for November 2003.

CILC PROJECTS IN GEORGIA

Comprehensive Administrative Law Reform, Phase III

This project on the implementation of Georgia's General Administrative Code and Administrative Procedure Code built on previous cooperation between CILC, the German organization GTZ and Georgia. Key activities relate to the training of judges and civil servants, to the production of commentaries and to information of legal professionals and the public at large. The project began in February 2000 with funding from the Dutch Ministry of Foreign Affairs. It was extended to December 2002.

Most of the activities undertaken in the final year of the project followed up on similar activities in previous years. A commentary on the General Administrative Code was published. In May, a train-the-trainers seminar on administrative law was held in the Georgian capital, Tbilisi. A delegation of Georgian civil servants visited Germany and the Netherlands in June to gain an in-depth perspective on the practice of administrative law in the two countries. A seminar was organized with the Georgian Young Lawyers Association (GYLA) in December to train first instance-court judges in administrative procedure issues. Also in December and again in cooperation with GYLA, a seminar on access to information under administrative law was held for Georgian journalists. Under the project, newsletter articles and leaflets were published and radio broadcasts were produced to explain the codes to the public.

A highlight of this successful project was the productive cooperation with GYLA.

Implementation of the Georgian Civil Code

GTZ and CILC wound up the project, which had been extended, in March 2002. Begun in 1998, the project supported the implementation of the Georgian Civil Code, adopted the previous year. CILC had been instrumental in the drafting process. Project activities included the writing of a commentary on the Civil Code, provision of training and training material, and a public awareness

campaign. In the final months of the project, a seminar was held for public notaries and judges, and additional newspaper supplements, radio broadcasts and information brochures were produced.

Strengthening the Rule of Law in Georgia

Funded by the U.S. Agency for International Development (USAID) for the period 2001-2005, the project is being carried out by the Center for Institutional Reform and the Informal Sector (IRIS) at the University of Maryland. Its objective is to enhance the transparency and accountability of Georgian administrative and legal processes. Although CILC is a member of the consortium, it was not called upon to contribute to the project in 2002. CILC's eventual contribution will focus on the Code of Administrative Violations.

AZERBAIJAN

Oil-rich Azerbaijan was a Soviet republic until 1991. Its first years as an independent state were overshadowed by war with Armenia over Nagorno-Karabakh, and the resettlement of displaced persons from neighboring countries, who make up an estimated 12% of the population. Today, Azerbaijan enjoys relative political stability.

The cooperation with the Georgian Young Lawyers' Association to support the implementation of the General Administrative Code proved highly successful.

The Constitution, introduced in November 1995, provides for the division of powers between the executive, legislative and judicial branches. Many of the 975 laws passed since 1995 dealt with the legal and judicial system. Nine codes were adopted, including the Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, Code of Administrative Offences and Penitentiary Code. The institution of a legal framework was a precondition for membership in the Council of Europe, which Azerbaijan joined in January 2001.

Azerbaijan still has a long way to go. The judiciary is struggling to keep pace with the rapid legislative reforms. Full understanding and implementation of the new laws has lagged. Technical assistance aimed at strengthening the neglected judiciary is urgently required.

CILC TENDER FOR A PROJECT IN AZERBAIJAN

Modernization and Reform of the Legal and Judicial System in Azerbaijan

In June 2002, CILC took the lead in a consortium with Germany's ICON-Institute and the European Institute of Public Administration (EIPA) in Luxembourg for an EU/Tacis project on "Modernization and Reform of the Legal and Judicial System in Azerbaijan." Although CILC lost out in a photo finish to GTZ, which has long-standing experience in the country, CILC was proud of its bid.

In the second half of 2002, CILC explored possible projects under the memorandum of understanding signed by the justice ministries of Azerbaijan and the Netherlands.

3.3 Asia

Ever since its founding, CILC has played an active role in legal reform and development in Indonesia, even after the breach in Indonesian-Dutch relations and during the turbulent years that followed the downfall of the Suharto regime. In 2002, there were signs that the Indonesian context is slowly becoming more amenable to international projects focusing on improvement of the rule of law.

In addition to Indonesia, CILC has been active in Central Asia, Mongolia, China and Vietnam.

INDONESIA

President Megawati Sukarnoputri's sweeping reform program proceeded slowly in 2002 – some say too slowly. Indonesia still faces severe economic problems stemming from lack of public security, secessionist movements, corruption, legal uncertainty and weaknesses in the financial sector.

A number of legislative issues were hotly debated in 2002. Critics dismissed a broadcasting bill as an attempt by the government to regain control over the media. The new Election Law introduced a 2% electoral threshold. The right to strike was the focus of discussions over the revised Labor Law, which has been deterring many foreign investors. The same was true of the Presidential decree that raised the minimum wage. The debate over laws on decentralization continued.

In 2002, the Indonesian Supreme Court was preparing to assume administrative responsibility for the federal court system, previously run by the executive branch. The policy of placing the courts under one roof was launched in 2000 and must be implemented by 2005.

Corruption remained the greatest stumbling block to the legal reform process. A new law decreed the establishment of an Anti-Corruption Commission (ACC). It authorized the ACC to investigate and prosecute all corruption charges against

A new commission was authorized to fight corruption in the Indonesian public sector.

state officials, even cases which were previously dealt with by the Attorney General's office. The ACC has not been set up yet, however.

Renewed efforts were underway in 2002 to create a single national bar association, thereby preventing lawyers from exchanging their membership from one bar association to another in order to evade disciplinary measures.

In 2002, the first cases against Indonesia military officers accused of human rights abuses in East Timor were brought before the Ad Hoc Human Rights Court, set up in the Indonesian capital, Jakarta, in 2001.

CILC PROJECT IN INDONESIA

Framework for Legal Cooperation between Indonesia and the Netherlands

The Dutch Ministry of Justice commissioned CILC to implement this project as a continuation of the long-standing ties between Dutch and Indonesian lawyers. The aim is to maintain a foothold for further bilateral legal cooperation. The project encompasses a variety of unrelated activities, with the focus on support for the National Law Commission (NLC) in Jakarta.

As anticipated, the project got off to a slow start in May 2002, not least because the main counterpart, the NLC's Research and Opinion Section, was only formally set up the following July. As a result, the project will most likely be extended beyond its original end date of May 1, 2003, by half a year.

Planned project activities include the preparation of an annotated translation into Indonesian of the standard reference work *Introduction to Dutch Criminal Law* by D. Hazewinkel-Suringa, revised by Prof. J. Remmelink.

VIETNAM

UNDP Mission to Vietnam

Having previously cooperated in Eastern Europe, UNDP Access to Justice Advisor Rajesh Choudree asked CILC Senior Project Manager Eric Vincken to participate in UNDP's month-long multilateral donor coordination mission to Vietnam in November 2002. The purpose of the mission was to prepare UNDP's involvement in Vietnam's "Legal System Development Strategy Up to 2010," based on a comprehensive legal needs assessment.

3.4 The Middle East

CILC's focus in the Middle East is on Arab countries that have identified needs for legal reform.

Arab civilization is ancient, rich and fascinating. Historically, it has at times strongly influenced the West. Yet certain aspects of Arab culture are difficult for outsiders to understand. In one view, Islam is not only a venerable religion and bearer of culture, but may also pose an obstacle to development. The autocratic nature of many Arab regimes puzzles some observers. The existence of large Arab migrant communities in Europe adds to the complexity.

In the Arab world, heightened fear and tension predominated in 2002. In response to the tragic events of September 11, 2001, the United States waged war on international terrorism and overthrew Afghanistan's Taliban regime, which had supported Al Qaeda. Arab governments cracked down on domestic opposition and independent elements. The Israeli-Palestinian conflict escalated. With the failure of diplomacy to resolve the Iraqi crisis, by the end of 2002 a new Gulf war was imminent.

Civil society in many Arab countries is an umbrella for diverse initiatives, some of which are similar to their Western counterparts. Others are used by the government to promote its policies and mobilize public opinion. In addition, Islamic fundamentalists sometimes invoke the term civil society to obtain a legal basis for a greater share of the public arena. Democracy, the rule of law and human rights are enshrined in constitutions, legal codes and government declarations across the Arab world. Nevertheless, there are huge gaps in practice. This implementation lag is all the more reason for CILC to work towards strengthening the rule of law in the region.

YEMEN

CILC PROJECT IN YEMEN

Judicial Support Program

Careful preparations for CILC's first project in the Middle East continued through 2002. CILC and its local partner, the Forum for Civil Society, a Yemeni NGO, are carrying out the project on behalf of the Dutch Embassy in the Yemeni capital, Sana'a.

The project originated in a 1999 needs' assessment mission. Due to the country's pluriform legal system and cultural and religious diversity, the project kicked off with a six-month inception phase starting in September 2001, when CILC Senior Project Manager Abdeljalil Taktak went on a two-month mission to Yemen. He paid a return visit in January 2002. Judge Rosa Jansen from Utrecht, the Netherlands, and Judge Jean-Jacques Heintz from Mulhouse, France, joined him on a final mission in 2002, which resulted in a narrative situation report and a draft work plan for the proposed three-year project. The work plan set the goals of establishing model courts, running a train-the-trainer course for judges, opening a legal resource center, and providing support for the Supreme Court and selected high-ranking prosecutors.

Additional finetuning by the Dutch Embassy and CILC, along with coordination with other donors, followed in a mission late December 2002. During that same mission, the embassy announced the start of the implementation phase to the Yemeni Minister of Justice, Judge Ahmed Abdallah Akabat.



CILC delegation to Yemen on a visit to the court of first instance of southwest Sana'a

PHOTO: JEAN-JACQUES HEINTZ

3.5 Africa

The diversity of Africa's legal systems and legacies defies any attempt at generalization. Furthermore, they must be seen in the context of the alleged failure of the nation-state to take root in sub-Saharan Africa. For many analysts, the imported nation-state model is incompatible with traditional African power structures. What does this mean for the rule of law as the public instrument for conflict resolution under which the monopoly of power rests in the hands of public authority?

Honesty demands that we acknowledge both our inability to truly understand the problems of Africa and its legal systems and the general inadequacy of our proposed solutions. The best efforts at analysis will not amount to much more than some loose ideas.

"African state systems apparently function and dysfunction at the same time," says Theodore Trefon of the Brussels Centre of African Studies. He asks, "Should African state institutions be strengthened or circumvented?"

The president of the African Development Bank, Omar Kabbaj, believes that "sustainable economic growth and development are achievable in each African country, if Africa recommits itself to reaffirming the preeminence of the rule of law, and if it acts resolutely to promote justice for all of its people."

The establishment in 2002 of The Africa Law Institute as an independent, international think tank was a hopeful signal. CILC remains convinced of the need for international cooperation in support of efforts by African countries to improve their legal and judicial infrastructure as a prerequisite for development. Cooperation projects are particularly useful in countries where this infrastructure is already in place but at risk, and in countries that show signs of returning to some form of social stability.



Participants and Dutch experts after a course on juridical and socio-logical research methodology at the University of Mali Law Faculty

MALI

Mali's transition to democracy began under former president Alpha Konaré in the early 1990s. The focus has been on decentralization, which involves reforming the public administration and the justice system.

In 1997, the Malian government presented an ambitious long-term blueprint for judicial reform, the Programme Décennal de Développement de la Justice (PRODEJ). Its main objectives are to restore public trust in the judiciary and, as part of the decentralization policy, to devolve judicial powers to local bodies.

Providing better legal education is a further target. The quality of education offered by the state university's Law Faculty in the Malian capital, Bamako, had suffered as the result of repeated strikes by teachers and students over the past decade.

The government's efforts to decentralize power have led to land ownership disputes. The justice minister therefore decided to make the Law Faculty a center for policy-related information. Accordingly, a new emphasis was put on strengthening its research function.

Although many initiatives were taken under the reform plan, few were actually implemented. Starting in late 2002, the plan has undergone a reevaluation aimed at identifying additional funding sources for activities.

CILC PROJECT IN MALI

Legal Cooperation between Mali and the Netherlands

CILC executed this project, which got underway at the end of 1999, together with two Leiden University institutes, the Van Vollenhoven Institute (VVI) and the African Studies Centre (ASC). The project is financed by the

Dutch Ministry of Foreign Affairs. The project's aims are to upgrade the curriculum of the University of Mali Law Faculty, and to strengthen the teaching capacity at both the Law Faculty and the Institut National de Formation Judiciaire (National Institute for Judicial Training).

Support was also provided for the development of Law Faculty research activities as well as training in methodology. This resulted in nine research reports comparing formal law and local practices with regard to land tenure, decentralization and other current issues. The project was extended to mid-2003 to enable publication of the research reports.

ETHIOPIA

After 17 years of Marxist rule imposed by the Derg junta, in 1991-95 a transitional government embarked on transforming Ethiopia from a strongly centralized state under military control into a free and democratic federation. The first-ever multiparty elections were held in May 1995. The Federal Democratic Republic of Ethiopia was formally proclaimed the following August.

The 1994 Constitution provides for the separation of powers and establishes a federal structure comprising nine states, each with its own legislative, executive and judicial branches. The Constitution guarantees the independence of the judiciary at federal and regional level, as well as equal rights and freedom of expression for all Ethiopian citizens.

CILC PROPOSAL FOR A PROJECT IN ETHIOPIA

Justice System Reform Program

In November 2002, the Ethiopian government and the UNDP invited several international consultants to the Ethiopian capital, Addis Ababa, to discuss possible cooperation on the country's comprehensive "Justice System Reform Program." CILC Senior Project Manager Abdeljalil Taktak presented CILC's views to Ethiopian Minister for Capacity Building, Ato Woredewold Wold, Minister of Justice Ato Harka Haroye and other leading representatives of the government and the judiciary. CILC submitted a proposal for a baseline study of the justice system to the Ethiopian authorities in December.



PHOTO: KEES KOUWENAAR

Mandefrot Belay, director of Ethiopia's
Justice System Reform Program

APPENDIX I

Local Partners

BULGARIA

Institute for Political and Legal Studies (IPLS)
Ministry of Justice

CHINA

China Law and Development
Legal Affair Commission of the National People's
Congress
Supreme People's Court

COMMONWEALTH OF INDEPENDENT STATES (CIS)

Inter-Parliamentary Assembly of the CIS
Scientific Consultative Center for Private Law of the CIS

CZECH REPUBLIC

Czech Bar Association
Czech Union of Judges
Ministry of Justice
Supreme Court

ERITREA

Ministry of Justice

ESTONIA

Centre for Public Service Training and Development
(ATAK)
Estonian Law Center
Ministry of Justice
State Chancellery
University of Tartu

GEORGIA

Council of Justice of Georgia
Court of Appeal in Tbilisi
Georgian Young Lawyers' Association
Judicial Training Centre
Ministry of Justice
Parliament of Georgia
Prosecutor General's Office
Supreme Court of Georgia

HUNGARY

Ministry of Justice

INDONESIA

Hukum Online
Ministry of Justice
National Law Commission (Komisi Hukum Nasional/
KHN)
Universitas Parahyangan, Bandung
Working Group on Maritime Law

LATVIA

Ministry of Justice

LITHUANIA

Ministry of Justice

MALI

Clinique Juridique Deme So
Faculty of Legal and Economic Sciences, University of
Mali
Institut National de Formation Judiciare

MOLDOVA

Economic Court
Law Center of the Republic of Moldova
Ministry of Justice
Moldovan Constitutional Court
Moldovan Judges Association
Moldovan Judicial Training Centre
Office of the Prosecutor General
Penitentiary Department of the Ministry of Justice
Soros Foundation Moldova
State University of Moldova
Superior Council of Magistrates
Supreme Court

POLAND

Ministry of Justice

ROMANIA

Ministry of Justice

RUSSIAN FEDERATION

Foundation for Legal Reform
Highest Arbitration Court of the RF
Institute for Legislation and Comparative Law under
the President of the RF
Moscow State Academy of Law
Moscow State University, Faculty of Law
Research Center for Private Law under the President of
the RF
Young Lawyers' Association

SERBIA AND MONTENEGRO

Judicial Training Center of Serbia
Ministry of Justice of Serbia
Office of the Republic Prosecutors
Serbian Judges Association
Supreme Court

SLOVAK REPUBLIC

Ministry of Justice

SLOVENIA

Ministry of Justice

UKRAINE

Supreme Court of Ukraine
Ukrainian Legal Foundation

VIETNAM

Ministry of Justice
LSDS Executive Secretariat

YEMEN

Appeal Court Aden
Appeal Court Sana'a
Bar Association
Forum for Civil Society
High Institute for the Magistrate
Ministry of Human Rights
Ministry of Justice
Ministry of Parliamentary and Legal Affairs
Office of the Attorney General
Supreme Court of the Republic of Yemen

APPENDIX II

International and Dutch Contacts

DONOR ORGANIZATIONS

European Bank for Reconstruction and Development
(EBRD)
European Union (Takis and Phare programmes)
The Dutch Ministry of Foreign Affairs and Dutch
Embassies
The Dutch Ministry of Justice
United Nations Development Programme (UNDP)
United States Agency for International Development
(USAID)
World Bank

OTHERS (*)

African Studies Centre, Leiden University
Agence de coopération juridique internationale
(ACIJURIS), Paris
American Bar Association/CEELI, Washington D.C.
Antenna (European Institute of Public Administration),
Luxembourg
Association for European Law Enforcement
Cooperation (EULEC), Brussels
British Home Office, London
Catholic University of Leuven
Constitutional and Legal Policy Institute (COLPI),
Budapest
Council of Europe, Strasbourg
Council for the Judiciary, The Hague
Deutsche Gesellschaft für Technische Zusammenarbeit
GmbH (GTZ), Eschborn
Ecole Nationale des Greffes, Dijon
Ecole Nationale de la Magistrature (National School
for Judges and Prosecutors), Paris
E.M. Meijers Institute, Leiden University
European Institute for Public Administration (EIPA)
ICON Institute, Cologne
IRIS Center, University of Maryland
Istituto Affari Internazionali (Institute of International
Affairs), Rome
Netherlands Helsinki Committee, The Hague
The Italian Ministry of Justice
Stiftung für Internationale Rechtliche Zusammenarbeit
(IRZ), Bonn
University of Bremen

* The institutions that are represented on CILC's
General Board are listed in Appendix III

CILC's Executive Board and General Board

EXECUTIVE BOARD

Prof. E.M.H. Hirsch Ballin
(Chairman)
Prof. C.P.M. Cleiren (Leiden University) [until December]
Dr. R.H. Haveman [as of December]
Judge R.H.M. Jansen (Utrecht District Court)
Prof. A.H.A. Soons (Utrecht University) [until December]
H.J. Vriesendorp (Nuffic)

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Groningen University Law Faculty

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Leiden University Law Faculty

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Maastricht University Law Faculty

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Prof. J.H.M. van Erp

Ministry of Justice (The Hague)

J. Demmink
S.A. Kuipers

Netherlands Association of the Judiciary (The Hague) / Netherlands Training Center for the Judiciary (Zutphen)

Judge R.H.M. Jansen

Netherlands Bar Association (The Hague)

J.J.H. Suijver
L.B. Vossenbergh-Ferdinandus

Nijmegen University Law Faculty / Institute for Anthropology of Law

Prof. P.J.P. Tak
Dr. H.M.C. Slaats
Dr. M.K. Slaats-Portier

NUFFIC (Netherlands Organization for International Cooperation in Higher Education (The Hague))

H.J. Vriesendorp

Royal Association of Public Notaries (The Hague)

A.D.G. Heering

Tilburg University Law Faculty

Prof. A. Prechal
Prof. P.H.J. Essers

Utrecht University Law Faculty

Prof. M.L.P. Loenen
Prof. A.H.A. Soons

Van Vollenhoven Institute (Leiden)

Prof. J.M. Otto
Dr. B.M. Oomen

APPENDIX IV

CILC's Staff

BOARD OF DIRECTORS

Jan van Olden, Director (until June 1)
Kees Kouwenaar, Director (as of July 1)
Hester Minnema, Deputy Director/Policy Coordinator

PROJECT MANAGERS

Marieke Breimer
Renate Hartman (until March 1)
Anne-Marie Heemskerk
Laura Lancée (until December 1)
Marja Lenssen
Nicole Mathôt (until May 15)
Abdeljalil Taktak
Eric Vincken
Ko Winters

EU/PHARE HORIZONTAL PROGRAMME PROJECT ON THE "REINFORCEMENT OF THE RULE OF LAW" IN THE EU CANDIDATE STATES

Gert den Hollander, Project Manager
Susan Groen, Project Assistant (until July 5)

FINANCIAL ADMINISTRATION

Henk Gaasbeek, Head (until July 1)
Alenka Bajc
Lenie van Rooijen-Peet

SECRETARIAT

Mirjam Driessen, Documentation and Files
Annemarie Woudstra, Office Manager

APPENDIX V

Balance Sheet

AS OF DECEMBER 31, 2002

	December 31, 2002 EUR	December 31, 2001 EUR
Assets		
Inventory	19.300	25.703
Claims	676.373	538.972
Liquid assets	455.064	939.383
	<hr/> 1.150.737 <hr/>	<hr/> 1.504.058 <hr/>
Liabilities		
Net assets	432.587	409.389
Longterm liabilities	6.806	15.882
Current liabilities		
Other debts	507.545	408.165
Accruals and deferred income		
Amounts received in advance	203.799	670.622
	<hr/> 1.150.737 <hr/>	<hr/> 1.504.058 <hr/>

STATEMENT OF OPERATIONS

	Budget 2002	Actual expenditure 2002	Actual expenditure 2001
	EUR	EUR	EUR
Fees for projects	2.078.000	2.505.027	2.225.774
Direct costs	-1.755.000	-2.154.908	-1.965.354
Gross results projects	<hr/> 323.000	<hr/> 350.120	<hr/> 260.420
Indirect costs	-373.000	-473.062	-414.785
Net result projects	<hr/> -50.000	<hr/> -122.942	<hr/> -154.365
Other profits and losses	106.000	146.141	97.895
Annual result	<hr/> 56.000	<hr/> 23.198	<hr/> -56.470



PHOTO: ALEXANDER VINOGRADOV

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