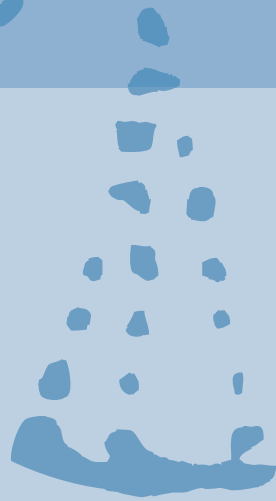


CENTER FOR INTERNATIONAL  
LEGAL COOPERATION

# Annual Report

## 2004



CENTER FOR INTERNATIONAL LEGAL COOPERATION



## MISSION STATEMENT

*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.*

*The Board of Trustees has seats for representatives of the various Dutch law faculties, ministries, professional bodies and other institutions and organizations whose work is relevant to CILC's mission.*

*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 2004*



# *Annual Report* **2004**



CENTER FOR INTERNATIONAL LEGAL COOPERATION



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# Introduction

This Annual Report is CILC's 20th and my first as chairman of the Center for International Legal Cooperation. Our predecessor organization, the Netherlands Council for Cooperation with Indonesia in Legal Matters, was founded on May 1, 1985. It changed its name in 1993 to underscore the broadening of its scope of activities to all development and transition countries.

CILC has come a long way since 1985 and 1993. The sailing has sometimes been close to the wind, with an odd tempest or two to keep us alert. Over the years, CILC has learned to steer a steady course despite uncertainties and complexities that affect its work. To cite just a few examples:

- CILC is a non-profit foundation for the enhancement of the rule of law, but it must function like a business with financial targets.
- Most of the contractors CILC works for are public agencies that are still focused on input finance and marginal cost subventions, while the idealistically motivated experts whom CILC contracts for projects receive very modest fees.
- Beneficiaries, experts and contractors are often unaware of the cultural differences between them.
- CILC navigates between predominantly nationally oriented justice sectors and the international cooperation and development community with its global perspective.

The challenges may be considerable, but so is our satisfaction when we meet them. For CILC, 2004 has been a year of facing – and to a great extent overcoming – a number of challenges. And that is all the more reason

to celebrate our 20th anniversary in the most appropriate way: by hosting a seminar that will bring together members of the legal and judicial sector and international cooperation professionals to discuss a timely issue of interest to both communities. At the November 2005 seminar, they will consider rule of law enhancement from the perspective of the “sectoral development policy” concept.

At the end of 2004, the aftermath of the tsunami drove home the message of global interdependence and responsibility. The disaster devastated the lives and property of tens of thousands of people in Aceh, Sri Lanka, Thailand and the other affected areas. But the massive humanitarian response from individuals and governments around the world was heartening.

It is only natural that terrible events like the tsunami garner more public attention than the slow, hard work of structural development. But dramatic or not, the concerted efforts of organizations like CILC are also very much needed in today's world.

Marten Oosting  
CILC Chairman

# 2.

## CILC in 2004

The restructuring of CILC's management, governance and work processes in 2003 paid off in 2004. CILC has become a leaner organization while at the same time attracting more projects.

The most notable change in 2004 was the handover of the chairmanship. Ernst Hirsch Ballin stepped down in April and Marten Oosting, a member of the Dutch Council of State, took over as chairman. Arie Ijzerman, Deputy Director-General at the Dutch Ministry of Justice, joined the CILC Executive Board in September.

Another important governance change was the appointment in May of Judge Bert Maan as chairman of CILC's Board of Trustees, also known as the Council for International Legal Cooperation (*Raad voor de Internationale Juridische Samenwerking*). Following the addition of a seat for the Dutch Company Lawyers' Association in 2003, the Board of Trustees expanded further in 2004 with new seats for the International Criminal Court and the Royal Dutch Organization of Court Bailiffs.

CILC also underwent staff changes. Project Manager Marja Lenssen became Program Manager for the TMF-funded "Rule of Law Facility." Marieke Breimer left CILC for the Council for the Judiciary, and Ko Winters moved to Estonia as Resident Technical Advisor on an EU/Phare Twinning project. Niels Roovers joined CILC to manage projects in the Czech Republic and elsewhere. Tamara van Vliet was hired as CILC's first assistant project manager. Relieved of some of their administrative and logistical burdens, the project managers can now focus more on the legal and intercultural dimensions of project management and project development.

Partially seconded to Leiden University's Grotius Centre for International Legal Studies in The Hague, Senior Project Manager Servaas Feiertag worked on the development of a master's degree program for the judiciary in West Africa, and other regional initiatives.

CILC began offering student internships on a regular basis in 2004. Vishal Kumar assisted on several projects in the first half of the year. He also researched and wrote a report on the role of a CILC project manager. Soeradj Pultoo and Wouter Huizer gathered information on current legal and judicial developments in the countries in which CILC is active. The country profiles in this Annual Report are partly based on their work.

### Relations

In 2004, the Dutch Ministry of Justice and the Dutch Ministry of Foreign Affairs remained unequivocal in their commitment to rule of law enhancement in transition and development countries. A case in point was the ministries' joint support for CILC's efforts to reestablish a firm basis for legal and judicial coopera-



PHOTO: ALEXANDER VINOGRADOV

Ernst Hirsch Ballin and his wife, Pauline, at the November 2004 seminar which paid tribute to the former CILC chairman

tion with Indonesia. CILC's relations with the ministries continued to be excellent at both operational and leadership level.

The same was true of CILC's close contacts with Dutch law faculties and their deans, who strongly supported CILC's work.

Joining CILC's network of experts from the law faculties, the judiciary and the prosecution service are a growing number of lawyers in private practice. It is highly encouraging to see how many lawyers are thinking beyond their personal careers, launching initiatives to support their colleagues in other countries, and offering their assistance on future CILC projects.

As in the past, in 2004 CILC maintained very cordial relations with a wide variety of partner organizations and institutes including the Institut International de Paris La Défense (IIPLD), the German Foundation for International Legal Cooperation (IRZ), and the T.M.C. Asser Instituut in The Hague.

CILC welcomed the opening of the Hague Institute for the Internationalization of Law (HIIL) in 2004. The establishment of the new institute bolsters the role of The Hague as the "City of Peace and Justice," and CILC looks forward to working with it.

In 2004, the European Commission granted CILC "mandated body" status for the EU/Phare Twinning projects.

### Projects

After initially rejecting it, in March 2004 the Dutch Ministry of Foreign Affairs approved CILC's amended proposal for a "Rule of Law Facility" under the ministry's Theme-based Program for Development Cooperation (TMF). CILC was awarded a three-year grant to carry out activities in China, Ethiopia, Georgia, Indonesia, Mali and Yemen that would be too small-scale or ad hoc to fit into the broader programmatic approach of most donor organizations. In 2004, start-up activities for five of the six countries were undertaken or prepared, and a needs assessment of Indonesian law faculties was produced. In the case of Ethiopia, the TMF-funded activities were postponed until completion in early 2005 of CILC's comprehensive baseline study and work plan for the country's Justice System Reform Program.

CILC repeatedly secured funding from the Ministry of Foreign Affairs' Matra program: Three Matra-funded projects were running in 2004 and four new ones were approved in December 2004.

*Focus on International Legal Cooperation*

## **CILC NEWSLETTER**

**[[WWW.CILC.NL/FOCUS.HTML](http://WWW.CILC.NL/FOCUS.HTML)]**

Articles published in 2004:

### *Focus No. 15 (May 2004)*

- *Ethiopia's Justice System Reform Program: A Major Overhaul Requires Careful Planning*
- *Thank You, Hester!*
- *Judicial Reform in Yemen*
- *Work in Progress: Georgians Invest Hope in Dynamic New President*
- *Outgoing CILC Chairman's Farewell*
- *Focus on Partner Organizations: The Plenary Meeting of Executive Officers of Estonia*
- *CILC Conference on "Law and Development"*
- *New MLGD Program*

### *Focus No. 16 (November 2004)*

- *Baltic Tigers Move Fast on Legal Reform*
- *Introducing CILC's New Chairman*
- *Assistance to Romania: The Fight Against Trafficking in Human Beings*
- *Rule of Law Facility. Spreading the Wealth: Dutch Development Aid for Diverse Activities*
- *Newly Appointed CILC Board of Trustees Chairman: Experience-based Know-How*
- *Legal Education Reform in Indonesia: Scouting the Territory*
- *CILC Seminar on Dutch Indonesian Cooperation*
- *Focus on Partner Organizations: German Foundation for International Legal Cooperation (IRZ)*
- *CILC Seminar on Legal Infrastructure as an Element of a Strategic Development Approach*
- *Work in Progress: The Case for Transitional Justice*
- *Arbitration Courts in Russia: Training for Commercial Judges*

CILC is also actively participating in Nuffic's Netherlands Programme for Institutional Strengthening of Post-secondary Education and Training Capacity (NPT). Project proposals were submitted for Rwanda and Uganda in 2004 and accepted in 2005.

Recent projects have reaffirmed CILC's presence in countries with which it has a long tradition of cooperation, such as Russia and Indonesia. At the same time, CILC has increased its presence in Africa.

Many of CILC's projects reflect the rising (or reviving)

interest of beneficiaries and donors in issues such as legal education, alternative dispute resolution and execution of judgments.

### Conferences & Publications

CILC's newsletter, *Focus on Legal Cooperation*, is published twice a year. Issue No. 15 came out in May 2004, followed in November by No. 16. Both can be downloaded in PDF format from the CILC website [www.cilc.nl].

For the third year in a row, towards the end of the year CILC hosted a well-attended seminar aimed at stimulating debate on a timely issue. On this occasion the subject was "Legal Infrastructure as an Element of a Strategic Development Approach." The seminar took place on November 1 and was organized in special tribute to Ernst Hirsch Ballin as CILC's outgoing chairman of the Executive Board.

The papers delivered at CILC's seminar on "Law and Development" in December 2003 were published in April 2004. The publication is available on the CILC website in PDF format. The papers from the 2004 seminar on "Legal Infrastructure as an Element of a Strategic Development Approach" will be published in spring 2005.

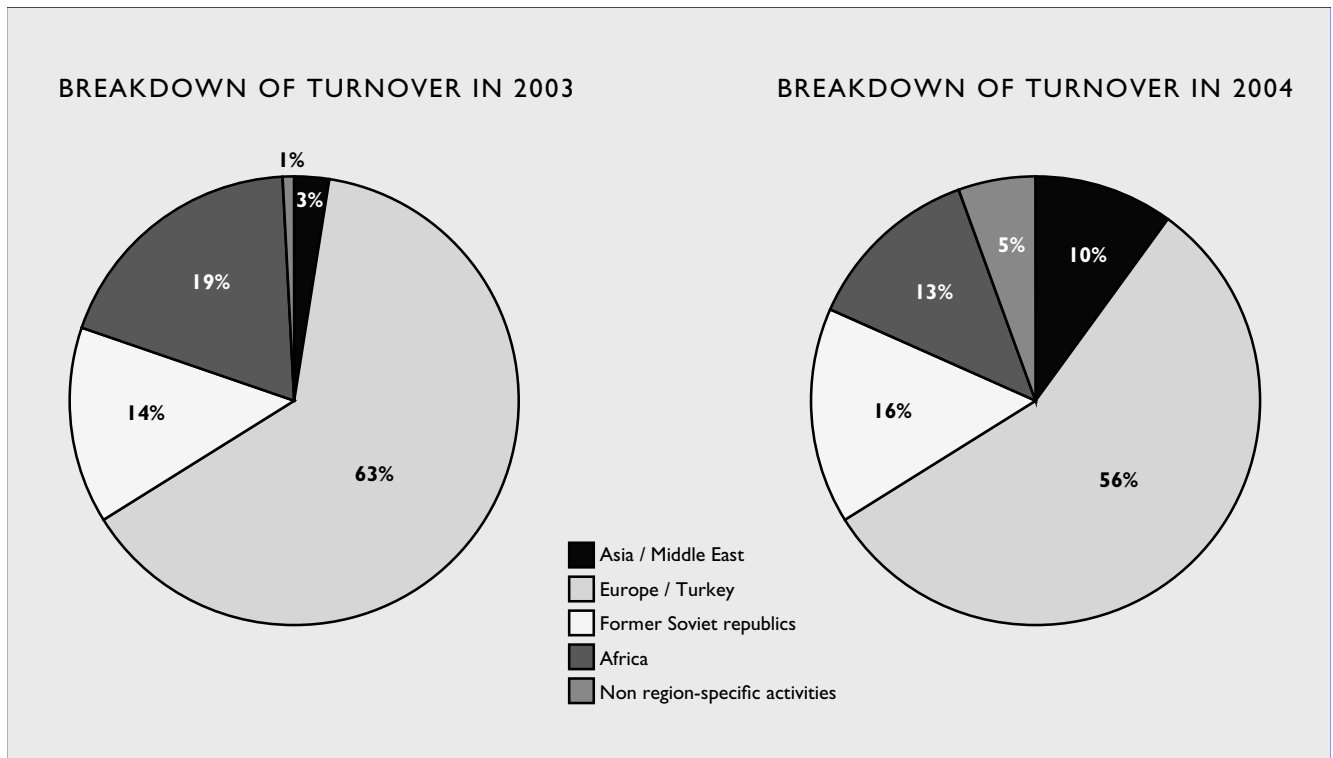
CILC staff were invited to participate in diverse conferences and workshops. Senior Project Manager Eric Vincken gave a presentation on Georgia at the annual



PHOTO: ALEXANDER VINOGRADOV

Prof. Gregor van der Burght addressing the CILC seminar on Dutch-Indonesian cooperation in May 2004

conference of the Van Vollenhoven Institute's Association for Law and Administration in Developing and Transition Countries (Aladin) in April 2004. In June he took part in a seminar on Moldova at Clingendael (the Netherlands Institute of International Relations).



# 3.

## Regions, Countries & Projects

This section provides an overview of CILC's international legal cooperation projects in 2004. 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 sociopolitical 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

#### EU ACCEDING STATES

On May 1, 2004, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia joined the European Union. Of course, the process of enhancing the rule of law in the formerly Communist new member states did not end on the eve of their accession. The adaptation of laws and regulations can only slowly be absorbed into the daily practice of the courts and prosecution offices in these countries.

The new EU members have distinct legal and judicial traditions, but nevertheless there are some common denominators. These include how administrative law is approached (i.e., how governments deal with their people), the role of European jurisprudence in day-to-day court practice, and attitudes towards the concept of lifelong professional training for judges.

The need to further strengthen the rule of law did not end with accession.

#### CZECH REPUBLIC

Following the 1989 "Velvet Revolution" and the peaceful breakup of Czechoslovakia, the Czech Republic became an independent state in 1993. Western-oriented from the beginning, it joined NATO in 1999 together with Hungary and Poland, and acceded to the EU in May 2004.

In addition to enshrining civil rights, the Czech Con-

stitution, which came into effect upon the country's independence, defines the relations between the executive and legislative branches, and provides for an independent judiciary. The Czech legal system has undergone major changes over the past decade to make it compatible with those of other European countries and establish a legislative framework for a market economy. Significant legislative changes in civil procedural law and criminal procedural law were adopted in August 2001. In April 2002, the new Act on Courts and Judges created the Judicial Academy of the Czech Republic and advisory judicial councils, new rules for the evaluation of judges' professional competence, and new procedures for the selection of judicial trainees. Legal obstacles to the functioning of the Judicial Academy were initially raised, but these were resolved.

In 2003, a new, modern administrative law system was introduced under which regional courts act as first instance courts for all administrative matters, and a Supreme Administrative Court acts as the second instance.

## CILC PROJECTS IN THE CZECH REPUBLIC

### *Strengthening the Role and Use of Jurisprudence in the Czech Republic*

At the request of the Dutch government, in 2003 CILC joined up with EMP, a foundation based in both the Netherlands and the Czech Republic, to implement a project in the Czech Republic in conjunction with the Judicial Academy in Stráž pod Ralskem and the Dutch-Czech Hugo Grotius Foundation. The aim of the project, which is funded by the Dutch Ministry of Foreign Affairs' Matra program, is to increase the use of case law. The target groups are legal academics, lawyers and judges. Activities in 2004 included incorporating case law into



The Judicial Academy of the Czech Republic, Stráž pod Ralskem



Czech judges attending a workshop in Brno in February 2004

the curricula of Czech law faculties and the Judicial Academy, raising awareness on case law through workshops for judges and lawyers, and supporting *Jurisprudence*, which publishes commentaries on judgments of Czech courts and of the European Court of Justice. The journal's website [[www.jurisprudence.cz](http://www.jurisprudence.cz)] was launched in 2004. In addition, the previously free of charge publication switched to being subscription-based.

### *Strengthening the Judicial Academy and the Czech Judiciary's Knowledge of EU Law*

In January 2004, CILC's proposal for this Matra project was approved by Senter International, a Dutch government agency which in 2004 became part of the Dutch Ministry of Economic Affairs. The project assists the Judicial Academy in setting up a curriculum for Czech judges and prosecutors on the effects of EU legislation on their daily practice; establishing a permanent pool of trainers; and developing its role as a regionally deployed training institution.

Following a three-month inception phase, good progress was made on all three project aims in the course of the year. The commitment of Czech justice officials will remain a key factor in the achievement of the project goals by June 2005.

## ESTONIA

Along with neighboring Latvia and Lithuania, Estonia regained its independence from the Soviet Union in 1991. Estonia became a member of the Council of Europe in 1993. The three Baltic states joined NATO on March 29, 2004, and acceded to the EU on May 1.

The process of integrating the *acquis communautaire* into Estonia's legal system continues, and related training for legal professionals is still required. After Estonia intro-

duced some of Europe's most advanced administrative legislation in 2002, the next step was to familiarize local officials with the new laws. Separate administrative courts were established in 2000 and 2001, and their responsibilities were redefined in 2001. The Courts Act of 2002 introduced many reforms, including the establishment of the Training Council, which approves all training programs for judges and prosecutors, and the Court Administration Advisory Council.

## CILC PROJECTS IN ESTONIA

### *Implementation of Administrative Law Reform in Estonia*

The project, which began in December 2002 and was extended through the end of 2004, produced a handbook (in Estonian and in Russian), to help local public administrations apply Estonia's new administrative law framework. In addition, training courses for municipal secretaries were organized. The Dutch Ministry of Justice funded the project.

The draft handbook was ready at the end of 2003. The final version of the Estonian-language handbook was officially presented to the Dutch ambassador, Joanna van Vliet, at a conference in Tallinn in April 2004. The first round of training courses was held in Tallinn and Tartu in fall 2003, followed in fall 2004 by courses and seminars in other towns.

The Russian edition of the handbook was published in December 2004 for Russian-speaking communities in the northeast of the country.

A handbook on Estonian administrative law was prepared for civil servants.



Estonian Law Center

### *Professional Recognition Legislation in Estonia*

Estonia sought Dutch cooperation on an EU/Phare Twinning Light project aimed at aligning Estonia's professional recognition regulations with EU standards. The project began in November 2003 and ran through September 2004. Dutch experts conducted various assessment missions to Estonia in January and March, and advised the authorities on how to remedy the remaining shortcomings in the regulatory framework. A study visit to the Netherlands and Germany was organized in April. The project was concluded with the publication in English of information material on professional qualifications and their international recognition.

### *Building Competence in EU Law in the Estonian Judiciary*

CILC is working with the Estonian Law Center Foundation (ELCF) in Tartu to train Estonian judges, public prosecutors and their future trainers in EU law. The two-year EU/Phare Twinning project, contracted to CILC by the Dutch Ministry of Justice, was launched in July 2004. A Resident Technical Advisor (RTA) to the ELCF was appointed for the first year of the project.

In August, CILC experts Judge Paul Broekhoven and Marlies Bos from the T.M.C. Asser Instituut analyzed ELCF's training needs and institutional capacity. The first round of training courses (at three different levels: specialist, advanced and expert) was held in September and October. The second round of courses took place from November 2004 through February 2005.

## HUNGARY

Hungary chose to adapt rather than completely rewrite its Communist-era Constitution. The 1989 revision introduced the protection of individual legal rights, checks on the authority of the prime minister, and the principle of parliamentary oversight. The judicial system was reorganized under a 1997 constitutional amendment, which also created the National Council for the Judiciary. Hungary has a Constitutional Court, a Supreme Court, courts of appeal, and county and local courts. Hungary joined NATO in 1999 together with the Czech Republic and Poland, and acceded to the EU in May 2004.

## CILC PROJECTS IN HUNGARY

### *Hungarian Judges' Visit to the Netherlands*

At the behest of the Dutch Ministry of Justice, in April 2004 CILC organized a study visit to the Netherlands for

a group of Hungarian judges. The visit focused on human resource and management strategies for the judiciary and the public prosecution service.

### *Hungarian Study Visit on Crime Prevention*

Under the same memorandum of understanding on bilateral partnership, in October 2004 CILC organized a study visit to the Netherlands for Hungarian criminal justice experts. Led by the Hungarian Ministry of Justice's Ministerial Commissioner for Criminal Policy, the delegation visited Dutch projects on prevention of domestic violence, child abuse and street crime, and on providing victim support.

## **LITHUANIA**

The three Baltic states were sovereign countries from 1918 until their forcible annexation by Stalin in 1940. Unlike Estonia and Latvia, Lithuania had once been an independent nation, as a powerful medieval Grand Duchy, which was later incorporated into a union with neighboring Poland. After regaining independence from the Soviet Union in 1991, together with the other Baltics Lithuania became a member of the Council of Europe in 1993. It joined the EU on May 1.

Lithuania has nearly completed its legal and judicial reforms. The 2002 Law on the Courts did much to reinforce judicial independence and improve the functioning of the justice system. The judiciary needs to be further strengthened through additional training, especially in the application of EU law. The country has also made significant progress in most areas of legal approximation, including competition, economic and monetary union, free movement of goods and services, company law and transport, and in the enforcement of court decisions. The main challenge now is to strengthen public administration capacity and boost public sector efficiency.

### **CILC PROJECTS IN LITHUANIA**

#### *Implementation of the New Lithuanian Code of Civil Procedure*

Begun in September 2003, this Matra-funded project builds on a previous CILC project on civil law in the

Baltics. Its purpose is to assist the implementation of the 2003 Code of Civil Procedure by providing training for judges, judicial officers and their trainers. CILC organizes the training activities together with the Lithuanian Ministry of Justice and the Lithuanian Association of Judges. Lithuanian judges' trainers went to the Netherlands on a study visit in November 2003. In 2004 three training sessions were held in the capital, Vilnius. A training manual is being developed under the project, which is due to run through April 2006.

#### *Training Program in EU Administrative Law for Lithuanian Administrative Court Judges and Legal Staff*

CILC carried out the EU/Phare Twinning Light project for the Dutch Ministry of Justice from the end of January through July 2004. Five seminars were organized for Lithuanian administrative court judges and legal staff. The subjects were tax law, competition law, agricultural law and energy law, and general EU administrative law. In April, a Lithuanian delegation participated in a training seminar on competition law held by the Academy of European Law (ERA) in Lisbon. A manual in Lithuanian on EU administrative law, including a list of EU legal terminology, was produced as part of the project.

## **POLAND**

Although the Civil Law Codification Commission was established to modernize Poland's civil legislation, the EU accession process forced it to focus on implementing the *acquis communautaire*, leaving no time to tackle the fundamental recodification of the Civil Code. When asked by the Polish Ministry of Justice in mid-2003 to draw up a timetable for preparing the new Civil Code, the Commission's drafters expressed interest in reviewing the recent experiences of other countries, particularly the Netherlands and Germany (with regard to the new Law of Obligations).

### **CILC PROJECT IN POLAND**

#### *Support for the Drafting of the New Polish Civil Code*

At the request of Poland's Civil Law Codification Commission, in 2003 CILC submitted a proposal for a three-year Matra-funded project to support the Commission's work on recodification of the Civil Code. The project will build on the activities of Prof. Paul Meijknecht from the Dutch Ministry of Justice during his four-year secondment to the Polish Ministry of Justice. Final approval for the project came in December

Together with its Baltic neighbors, Lithuania joined the EU on May 1, 2004.



2004. The project will get underway in March 2005 with an opening conference in The Hague.

## SLOVENIA

Slovenia is the only ex-Yugoslav republic in the EU, which it joined on May 1, 2004. Slovenia seceded from Yugoslavia in June 1991 and, after defeating the Serb-dominated Yugoslav People's Army in a ten-day war, quickly won international recognition. Formerly the richest and most liberal republic within the Yugoslav federation, independent Slovenia has made a smooth transition towards pluralist democracy and a market economy. Its policies were geared towards EU accession from the beginning. With a per capita GDP higher than that of Greece and close to Portugal's, and an unemployment rate lower than in Germany or France, Slovenia is one of the most prosperous new EU member states.

Slovenia adopted a gradual approach to legal and judicial reforms. Judicial backlog and the execution of judgments are the main problems in connection with the functioning of the rule of law. The European Commission's 2002 *Regular Report on Slovenia's Progress Towards Accession* found little change in the number of unresolved cases since the previous year's report. The Slovenian Ministry of Justice and the Supreme Court addressed the issue in a joint report published in May 2002. Its plan of action for further improvements emphasized the introduction of alternative forms of dispute resolution and simplification of court procedures.

Slovenian courts may be able to reduce case backlogs by offering ADR.

### CILC PROJECT IN SLOVENIA

#### *Court-Annexed Alternative Dispute Resolution (ADR) Programmes, the District Court of Ljubljana, Slovenia*

This CILC-managed EU/Phare project for the Ljubljana District Court started in October 2004 and will run through July 2005. Judge Wilma van Benthem is the Resident Team Leader in Slovenia. The project provides technical advice and training for judges and mediators on the implementation of court-annexed mediation, focusing on the Ljubljana District Court's current pilot program. The project makes use of the expertise gained from the court-annexed mediation programs

in the Netherlands, and the possibility of Slovenia's introducing a nationwide approach to mediation will be explored.

## EU CANDIDATE STATES AND OTHER COUNTRIES

Bulgaria and Romania will join the EU in 2007, provided they meet the conditions known as the Copenhagen criteria: stable institutions guaranteeing democracy, the rule of law, human rights and protection of minorities; a functioning market economy and the capacity to cope with competition; and the ability to meet the political and economic obligations of membership. The EU is giving the two countries maximum support in the pre-accession process. In addition, many individual member states, such as the Netherlands, are offering bilateral assistance.

2004 was also a momentous year for other countries that hope to become part of the EU further into the future. Macedonia's Stabilization and Association Agreement (SAA) with the EU went into effect on April 1, 2004. Croatia was awarded EU candidacy status on June 18. On December 17, the EU agreed that accession talks with Turkey could finally begin in 2005. The Copenhagen criteria will apply to these three countries as well.

### CILC PROJECT IN SOUTHEAST EUROPE

#### *Improving Criminal Investigation, Collaboration and Network-building Against Trafficking in Human Beings in Southeastern Europe*

CILC is partnering with the German Foundation for International Legal Cooperation (IRZ) on this project to assist Romania's efforts to combat human trafficking, which the Romanian government has prioritized in its fight against organized crime. The project is funded by the EU's anti-crime program AGIS.

The project aims at strengthening regional cooperation and achieving sustainable results. The three project components are: to bolster cross-border law enforcement cooperation on both sides of the Romanian-Serbian and Romanian-Hungarian borders; to provide training for Romanian prosecutors in international anti-trafficking laws and in investigatory techniques; and to promote networking between Romanian police and prosecution services and NGOs in order to protect and assist trafficking victims. Project activities in these three areas were planned in workshops held at the kickoff meeting in Budapest in May 2004. The project is scheduled to end in November 2006.

## MACEDONIA

Macedonia declared its independence from former Yugoslavia in September 1991. The 1991 Constitution was amended in 1995 to placate Greek concerns about potential territorial claims. In 2001, a peace accord brokered by the international community ended an ethnic Albanian insurgency and provided for constitutional amendments designed to strengthen minority rights.

The Supreme Court is the country's highest judicial institution. The Republican Judicial Council of the Republic advises the parliament on judicial nominations and dismissals.

Signed in 2001, Macedonia's Stabilization and Association Agreement with the EU went into effect in April 2004.

### CILC PROJECT IN MACEDONIA

#### *Court Modernization in Macedonia*

The Macedonia Court Modernization project, funded by the U.S. Agency for International Development (USAID), began in 2002 and ends in 2007. It works with the Macedonian judiciary and with NGOs to enhance judicial capacity and improve court organization, including a focus on increased transparency and accountability. Since 2003, CILC has been providing Dutch and other European short-term expertise on a case-by-case basis. Over the course of 2004, Dutch experts undertook missions on civil procedure, judicial education and the civil enforcement system.

## SERBIA & MONTENEGRO

Soon after Slobodan Milošević's election in 1989 as president of the Republic of Serbia in former Yugoslavia, a constitutional amendment virtually abolished the autonomy of the Serbian provinces of Kosovo and Vojvodina. Socialist Yugoslavia broke up in 1991 with the secession of Slovenia, Croatia, Macedonia and Bosnia-Herzegovina. The remaining republics, Serbia and Montenegro, formed the Federal Republic of Yugoslavia in 1992.

Following the NATO intervention in Kosovo in 1999, the UN entrusted the governance of Kosovo to the UN Interim Administration Mission in Kosovo (UNMIK).

In 2003, the Federal Republic of Yugoslavia was renamed Serbia and Montenegro under the Constitutional Charter, which redefined the status of the two constituent states and provided for joint responsibility for defense and foreign policy. In the new state union there are five federal ministries, a federal parliament with limited

powers, and a federal court with constitutional and administrative functions.

Serbia has a Constitution dating from 1989, a legislative assembly and a directly elected president. The judicial system comprises municipal courts, district courts, a Supreme Court, a Constitutional Court, specialized commercial courts and a commercial high court.

Montenegro has a Constitution dating from 1992, a legislative assembly and a directly elected president. Montenegro does not have specialized commercial courts.

### CILC PROJECTS IN SERBIA

#### *Strengthening Administrative Justice in Serbia*

In cooperation with the Serbian Judges' Association, in March 2003 CILC submitted a proposal for this project to the Dutch Ministry of Foreign Affairs' Matra program, for which Serbia had become eligible at the beginning of the year. The project covers legislative advice, judges' training, the strengthening of court administration, in particular the recently established Administrative Court, and support for a publication on administrative justice. The project was approved in the final days of 2004 and will run from January 2005 through 2006. As nearly two years have passed since the original proposal was drafted, the first task will be to reexamine and if necessary adapt the project to current needs.

#### *Serbia Rule of Law Project*

The National Center for State Courts (NCSC) in the United States asked CILC to provide an EU law expert for an NCSC project in Serbia. In October 2004, Prof. J. A. Winter, Dean of International Affairs at the Free University of Amsterdam Law Faculty, worked with Serbian law faculties on the development of EU law programs. In the first half of 2005 he will advise the law faculties on the programs' implementation and hold guest lectures on EU law.

A Dutch expert is advising Serbian law faculties on their European law programs.

## TURKEY

After the defeat of the Ottoman Empire in 1918, Mustafa Kemal Atatürk led the Turkish national liberation struggle and founded a modern, pro-Western secular republic in 1923. Under Atatürk's 15-year presidency,

Turkey embarked on sweeping political, legal and social reforms. A new Constitution was adopted, followed by the adoption of the Penal Law, the Civil Code and the Law on Obligations.

The military has played an influential role in domestic politics, staging coup d'états in 1960, 1971 and 1980, and conducting a brutal war against Kurdish separatists in the southeast.

Turkey joined the Council of Europe in 1949 and ratified the European Convention on Human Rights in 1954. Joining the EU has been a major foreign policy goal since 1963. The EU's decision in December 2004 to open accession negotiations with Turkey in 2005 is set to have far-reaching consequences for the country. As in the case of other candidate countries, the reform process in Turkey will receive strong EU support.

Over the past few years, Turkey adopted a series of legislative reform packages ("harmonization laws") in quick succession. Important changes have been made to the judicial system. In June 2004, the Grand National Assembly adopted a law amending the Code of Criminal Procedure and abolishing the Law on the Establishment and Trial Methods of State Security Courts. Some of the competencies of these abolished courts were transferred to newly created Serious Felony Courts responsible for the criminal prosecution of predominantly terrorist and narcotics offences. In 2004, the Turkish parliament also adopted a new Civil Code, the Law Amending the Code of Civil Procedures, a new Penal Code, and a new Code of Criminal Procedure. The Law on the Establishment of the Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal was also adopted. Draft laws on the Establishment of the Judicial Police and on the Execution of Punishments are awaiting passage. Other structural changes included setting up a countrywide family courts system. Progress has been made on aligning the rights of the defense with EU standards. The Justice Academy was established in 2003, and the training of judges and prosecutors began in 2004. The higher courts, such as the Court of Cassation, have delivered judgments applying the amended provisions adopted under the various reform packages.

#### CILC PROJECT IN TURKEY

##### *Establishment of a Turkish Association of Judges*

In cooperation with the Turkish Ministry of Justice, in September 2004 CILC organized a seminar in Ankara aimed at promoting the establishment of a Turkish as-

sociation of judges. Justice Maja Tratnik, representing the Slovenian Association of Judges and the European and International associations of judges and Judge Gert Vrieze, representing the Netherlands Association for the Judiciary (NVvR), delivered presentations at the seminar, which was funded by the Dutch Ministry of Justice. The seminar contributed a great deal to raising awareness among Turkish judges of the desirability of founding an association of judges.

In late 2004, the EU offered to start membership talks with Turkey in 2005.

## 3.2 Commonwealth of Independent States (CIS)

The Commonwealth of Independent States (CIS) is an alliance of 12 of the 15 former Soviet republics that gained independence following the collapse of the Soviet Union in 1991. (The other three successor states, Estonia, Latvia and Lithuania, were never CIS members.) In September 2003, Russia, Belarus, Kazakhstan and Ukraine signed an agreement establishing a Single Economic Space (SES) aimed at integrating their markets.

Established in St. Petersburg in 1995, the Interparliamentary Assembly is a consultative institution for parliamentary cooperation within the CIS. Its many initiatives range from model laws to recommendations on legislative issues in the CIS member states.

While most of the CIS countries have made impressive progress in bringing their legislation in line with international standards, much still 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 judicial independence; 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.

The CIS Interparliamentary Assembly develops model legislation and recommendations on legislative issues.

## CILC PROJECT IN THE CIS

### *Model Investor Protection Law for the CIS*

Legislative experts and representatives of the national parliaments and the CIS Interparliamentary Assembly (IPA) worked with an international group of CILC experts to draft a Model Investor Protection Law for the CIS member countries. Funded by the European Bank for Reconstruction and Development (EBRD), the project ran from February 2003 to December 2004, when the model provisions were adopted on first reading by the IPA's Standing Committee on Economy and Finances. A series of meetings were held by the international drafting team and by the IPA working group in the course of 2004. An analysis of existing legislation in the member states and a concept paper resulted in recommendations on investor protection regulations in relevant legislation, rather than a consolidated model law.

## THE RUSSIAN FEDERATION

The Russian Federation has its constitutional basis in the 1993 Constitution and the 1997 Federal Constitution Law, ratified in 2004. Civil and criminal legislation date from the mid-1990s. The Code of Administrative Offenses went into effect in 2001. Administrative law reform initiatives continue to meet opposition from governmental structures as well as from the private sector.

In 2004, President Vladimir Putin further strengthened executive power and tightened control over the State Duma, the media and regional authorities. He was reelected in March with 71% of the vote. The presidential election drew international criticism for failing to meet democratic standards.

Steps to reform Russia's judicial system have been taken over the last few years and the judiciary is slowly as-

serting its constitutionally mandated independence from other branches of government. Nevertheless, the courts, especially at regional level, are still subject to political manipulation. Large case backlogs and trial delays are common. At the Sixth All-Russian Congress of Judges in November 2004, President Putin addressed the need to improve judicial mechanisms and increase public trust in the justice system. He cited pretrial and trial settlement of disputes through negotiation and out-of-court settlements, as well as alternative dispute resolution (ADR).

For the Russian economy, the lack of clear rules, ineffective law enforcement and sometimes inconsistent government decisions pose obstacles to further growth.

Despite the major improvements in human rights since Soviet times, human rights organizations and the Council of Europe have criticized the police and the prison system. Human rights violations resulting from the Chechen conflict also caused grave concern.

## CILC PROJECTS IN THE RUSSIAN FEDERATION

### *Civil and Administrative Law Reform in Russia*

Based on an identification mission by Project Manager Anne-Marie Heemskerk and Senior Project Manager Eric Vincken, CILC submitted a proposal in September 2003 to the Dutch Ministry of Foreign Affairs' Matra program for a project on drafting civil and administrative legislation to strengthen legal protection for companies and individuals in Russia. Final approval for the three-year project came in December 2004.

Starting in 2005, the project will be carried out in

President Putin is a proponent of public administrative reform.



Moscow



conjunction with Russia's Presidential Council for the Codification of Civil Legislation and the Higher Arbitration Court of the Russian Federation. Dutch civil and administrative law experts will provide assistance to the legislative drafters. The civil legislation concerns property law and trade in immovable goods, corporate law and the general part of the law of obligations. The legislation on administrative procedure will focus on economic cases heard by Russia's arbitration (commercial) courts.



Prof. Alexander Makovsky,  
Research Center for Private  
Law, Moscow

#### *Assistance to Arbitration Courts in the Russian Federation*

This EU/Tacis project was awarded in February 2004 to a consortium led by the German Foundation for International Legal Cooperation (IRZ) and including the British Council, Russia's Institute for Law and Public Policy (ILPP), and CILC. Under the 34-month project, which got underway in March, Russian arbitration (commercial) court judges, administrators and clerks receive training in substantive areas of law and in court administration. CILC's role is to provide short-term experts, organize a study tour, and manage the component on training court administrators. CILC has a longstanding relationship with the Russian project partner, the Supreme Arbitration Court of the Russian Federation. In June 2004, CILC experts participated in the project planning conference in Berlin. The training program began in September when, in cooperation with Russian experts, CILC experts conducted seminars on contract law in Moscow and Bryansk.

## **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. Moldova's Constitution went into effect in 1994. New civil, criminal and administrative legislation entered into force in the past few years. Legislation on the judiciary was passed in 1995

and 1996, and on the prosecution service in 2003.

Communist leader Vladimir Voronin became president in 2001 after his party regained power in parliamentary elections. In 2002, critics questioned the government's commitment to the rule of law. The judicial reform process appeared to have stalled but in 2003 it received new impetus with the passage of legislation to reorganize the courts into a three-tier system, which went into effect in June. The tribunals were replaced by regional courts of appeal and the existing court of appeal was abolished. The Supreme Court was enlarged and a separate chamber for economic disputes established. In an address to parliament in October 2003, President Voronin sharply criticized judicial corruption and announced the creation of a working group on judicial reform.

## **CILC PROJECTS IN MOLDOVA**

### *The Civil and Commercial Judiciary Project*

This EU/Tacis project for Moldova was launched in January 2003. Originally set to be completed by the end of 2004, it was extended through July 2005. Its focus is on the implementation of recent legislation, court management and court infrastructure. Key activities include a training program for judges on the new Civil Code, consultancy on judicial administration issues and the provision of equipment to various Moldovan courts and bailiff offices.

The Eschborn-based Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) is the lead partner. As Mid-Term International Project Advisor, CILC's Eric Vincken advises the project director and undertook three missions to Moldova in 2004. In addition to a number of short-term consultancy missions on judges' training and court administration, in April CILC organized a study visit by court presidents to the Netherlands and Germany on court administration. CILC experts participated in a conference on insolvency law in March 2004, and in July in a conference on the enforcement system, which was moderated by the Mid-Term International Project Advisor.

### *Feasibility Study on Court Administration*

At the request of the United Nations Development Programme (UNDP), CILC Senior Project Manager Eric Vincken prepared a feasibility study and proposal for a project on court administration in Moldova, which CILC submitted to UNDP in July 2004. The feasibility study showed that court administration

in Moldova is inadequately regulated, its quality depends on individual court presidents, and there is no clear division of regulatory competencies between, for example, the Ministry of Justice and the Superior Council of Magistrates. Proposed activities related to case administration, including software and process model descriptions, assessment of justice costs, legislation on the ministry's Judicial Department, a state plan for structuring court administration, and alternative dispute resolution. The project is expected to be implemented as of 2005 by the Moldovan Center for Legal Studies and Policy.

## UKRAINE

After a highly criticized presidential election in October 2004, a peaceful mass protest movement, the "Orange Revolution," forced the Ukrainian authorities to hold an election rerun, which was won by opposition leader Viktor Yushchenko. The challenges faced by the new president include balancing the demands between radical and moderate reformists as well as between the eastern and western parts of the country.

Judicial reform legislation in 2001 did not make adequate provision for ensuring judicial independence or meeting training needs. To fill this gap, under a new law in 2002 a State Judicial Administration was created as an independent body responsible for court organization, and an Academy of Judges was established under its aegis.

The new Civil Code and Commercial Code both came into force on January 1, 2004.

Enhancing good governance will be a key challenge for the new government. Ukraine ranked 85 out of 102 countries surveyed in the Transparency International's Corruption Perceptions Index of 2002.

### CILC PROJECT IN UKRAINE

#### *Implementation of the Ukrainian Civil Code*

In March 2004, at the request of the Center for Judicial Studies in Kyiv, CILC submitted a joint proposal to the Dutch Ministry of Foreign Affairs' Matra program for a

project to support implementation of Ukraine's new Civil Code. The three-year project was approved once the final administrative details were resolved in November, and will begin with an inception mission in January 2005. It provides training for judges, notaries and lawyers, in cooperation with Ukrainian training institutions, to further their understanding of the code and the proper application of its provisions. The project will also include a public awareness campaign. The project will be implemented in cooperation with the various Ukrainian state institutions responsible for the training of mentioned legal professionals.

## 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 OSCE is still mediating a solution to the dispute.

With the exception of Chechnya, the region has seen some improvement in political stability in the last few years. Georgia joined the Council of Europe in 1999, followed by Armenia and Azerbaijan in 2001. In 2003, parliamentary elections took place in Armenia and Georgia, and a presidential election was held in Azerbaijan.

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.

## GEORGIA

After the adoption of a new Constitution ended a protracted political crisis in mid-1995, Georgian President Eduard Shevardnadze embarked on legal and judicial reforms. A new Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, Administrative Code and Administrative Procedure Code were introduced. Mandatory recertification led to the replacement of the judiciary, while at the same time judges' salaries were raised. But the reforms stalled as the government lost

Ukraine's Orange Revolution leader, Viktor Yushchenko, won the court-ordered repeat of the presidential runoff vote on December 26.

much of its momentum and public support. In fall 2003, peaceful anti-government demonstrations, known as the “Rose Revolution,” led to the election of Mikhail Saakashvili as president on January 4, 2004.

In terms of legislative reform and institutional development, much has been achieved in Georgia’s legal and judicial sectors, partly as a result of the reforms since 1995. The reform process received a tremendous boost with the coming to power of the Saakashvili government. Its key priorities include improving governance and transparency through administrative and judicial reforms and an anti-corruption drive.

There is no lack of international donor interest in Georgia. The “Rule of Law Roundtable” was established in November 2004 to coordinate between the various organizations involved in supporting enhancement of the rule of law.

## CILC PROJECT IN GEORGIA

### *Identification Mission*

In December 2004, Senior Project Manager Eric Vincken and Carsten Mahnke, a German lawyer and international consultant, undertook a mission to Georgia to identify potential activities under CILC’s “Rule of Law Facility,” funded by the Dutch Ministry of Foreign Affairs’ Theme-based Program for Development Cooperation (TMF). They were impressed by the new impulse for legal and judicial reform since the start of 2004. At the same time they noted that there was a risk of some sound legislation being thrown out simply because it dates from before 2004.

Mikhail Saakashvili’s election as president in 2004 gave a new impulse to legal and judicial reform in Georgia.

In light of the relative abundance of international donor funding available to Georgia, whether and how the Netherlands should contribute requires careful consideration. The CILC mission identified three possible areas of activity: 1) supporting the implementation of the Georgian Civil Code through training, a public awareness campaign and legal commentary; 2) assisting the drafting of new laws on the civil service, police and municipalities, and other public administration legislation; and 3) providing media training for legal professionals. One or more of these proposals will be further developed and implemented in 2005 and 2006.

## AZERBAIJAN

Azerbaijan’s 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 1995 Constitution provides for the division of powers between the executive, legislative and judicial branches. Many of the 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 establishment of this legal framework in place was a precondition for joining the Council of Europe in 2001. Full understanding and implementation of the new laws have lagged as the judiciary struggles to keep pace with the rapid reforms. The newly drafted Administrative Procedure Code is expected to be adopted in 2005.

In October 2003, Ilham Aliyev, son of former President Heidar Aliyev, was elected president in a election criticized by international observers for falling short of international standards. His father, a former Communist Party leader, had been in and out of power for three decades before stepping down in October due to ill health. He died two months after the election.

## CILC PROJECT IN AZERBAIJAN

### *Drafting and Implementation of the Azerbaijani Administrative Procedure Code*

In 2003, the Dutch government asked CILC to submit a proposal for a project on Azerbaijan’s planned Administrative Procedure Code. On a visit to the Netherlands in 2002, Azerbaijani Minister of Justice Fikret Mammadov had signed a memorandum of understanding with the Dutch Ministry of Justice. In June 2003, CILC Senior Project Manager Abdeljalil Taktak participated in a reciprocal visit by a Dutch Ministry of Justice delegation to Baku, during which the Azerbaijani hosts expressed interest in Dutch cooperation on the Code. If approved, the project will train future trainers of judges and civil servants to apply the newly adopted Code, and support a public awareness campaign. CILC will work closely with Germany’s GTZ, which has experience with the administrative reforms in Azerbaijan.

## 3.3 Asia

### INDONESIA

In 2004, Indonesia still faced severe economic problems stemming from lack of public security, secessionist movements, corruption, legal uncertainty, internal conflicts and weaknesses in the financial sector. The country also experienced social unrest as a result of terrorist attacks in the previous years. On December 26, Aceh and northern Sumatra were devastated by the tsunami disaster. Reconstruction efforts are underway but will take several years. The effectiveness of the Indonesian central government and local government will have a major impact on the ability of the survivors to rebuild their lives.

2004 saw positive political developments. Democratic elections held in October were generally recognized as fair by international monitors. The new president, Susilo Bambang Yudhoyono (SBY), promised an ambitious program of public reforms, vowing to personally lead the fight against corruption.

Reforms of the judiciary, bar associations and legal education continue at a slow pace. Considerable means and effort will be necessary to sustain the process of strengthening the rule of law in Indonesia.

Indonesia's first directly elected president, Susilo Bambang Yudhoyono, vowed to fight corruption.

#### CILC PROJECTS IN INDONESIA

##### *Strengthening the Role of Supervisory Judges and the Enforcement of Bankruptcy Law Decisions*

Funded by the International Monetary Fund (IMF), this train-the-trainer project focuses on bankruptcy law enforcement. In April and June 2004, two groups of Indonesian commercial court supervisory judges underwent training at the Dutch Training and Study Centre for the Judiciary (SSR) in Zutphen, including assistance in developing a training manual. The future trainers visited several Dutch courts and met with legal professionals to gain practical experience in the enforcement process. In addition to the training courses, under the project Indonesian Supreme Court justices visited the Netherlands at the end of April. Their study trip included

a seminar on court management based on international comparisons.

A follow-up program of training courses in Indonesia was foreseen for fall 2004, but this project component was postponed until 2005 pending completion of the training manual by the Indonesians.

##### *Feasibility Study on Legal Education Reform in Indonesia*

In June 2003, the Dutch Minister for Development Cooperation invited CILC to conduct a feasibility study on ways to improve the quality of legal education in Indonesia. After lengthy discussion on the financing of the study, in September 2004 CILC decided to carry out the study within the framework of the TMF-funded "Rule of Law Facility."

On a field mission during October and November, CILC Senior Project Manager Servaas Feiertag assessed the needs of legal education in Indonesia as perceived by the key stakeholders. He reported strong interest on the part of Indonesian law faculties in renewed academic cooperation, particularly in the areas of legal curricula and teaching methods. Many Indonesian legal professionals recalled with enthusiasm the short-term intensive training courses, known as *penatarans*, which the Netherlands organized in the past. The needs assessment was validated by Prof. Marc Loth, Dean of the Erasmus School of Law in Rotterdam, and CILC Director Kees Kouwenaar, on their visit to Indonesia in January 2005. Donors and participating law faculties will be sought for the proposed activities.

### YEMEN

Following periodic conflicts, North and South Yemen were unified in 1990 under President Ali Abdullah Saleh. The Republic of Yemen was internationally isolated in the aftermath of the first Gulf War, and overcame a period of civil strife in 1994. Over the past decade the country has seen more stability. President Saleh was officially elected in 1994 and reelected in 1999. The 2004 presidential elections were postponed until 2006. Nevertheless, with its parliamentary elections in 1997 and 2003 and municipal elections in 2001, Yemen took firm steps towards ensuring the exercise of democratic control of executive power.

The Yemeni government is committed to good governance and human rights, sometimes in the face of tribal opposition. But judicial protection is constrained by many factors.



Yemen has five types of courts: criminal; civil and personal status (handling, for example, divorce and inheritance cases); kidnapping/terrorism; commercial; and court-martial. All legislation is based on Shari'a (Islamic law), under which there is no trial by jury.

In addition to regular courts, the law permits a system of tribal adjudication for noncriminal issues, although in practice tribal judges often adjudicate criminal cases as well.

### CILC PROJECT IN YEMEN

#### *Judicial Support Program*

In 2002, agreement was reached between CILC, the Dutch embassy in Sana'a and the Yemeni authorities on a project to enhance the rule of law in Yemen through a combination of activities: improve and restructure two exemplary courts, in Aden and in Sana'a; train judges, lawyers, prosecutors and court staff based on a train-the-trainers approach; strengthen the Technical Bureau of the Supreme Court; strengthen the Office of the Public Prosecutor; and establish an independent Legal Resource Center. The embassy was forced to shelve the project due to financial constraints, but discussions were reopened in 2004 and a relaunch of the project was prepared under the aegis of CILC's "Rule of Law Facility." The project will get underway in 2005.

CILC's project in Yemen was rescheduled for 2005.

## 3.4 Africa

### **BENIN**

Based on the *Conférence Nationale des Forces Vives de la Nation*, held in February 1990, and the ensuing 1990 Constitution, Benin has a multiparty democracy with a presidential system. In 2001, President Mathieu Kérékou won a second term in office in Benin's third presidential elections. The 2002 municipal elections and the 2003 national assembly elections confirmed the stability in Benin. Alongside the positive developments of the last 15 years, the country continues to face problems in the areas of good governance, poverty and health.

At the top of the judiciary, Benin has a Constitutional

Court, a Supreme Court and a High Court of Justice. In 2001, Benin adopted its Integrated Program for the Reinforcement and Modernization of the Legal and Judicial System (PIRJJS).

### CILC PROJECT IN BENIN

#### *Integrated Reinforcement of the Legal and Judicial System*

On this project CILC is a partner in a consortium led by the Institut International Paris La Defense (IIPLD). The three-year project, awarded in 2004, will provide technical assistance to Benin's courts and tribunals as part of the PIRJJS. Its aims are to support the reform and reorganization of court management and administration, with a focus on court staff, in particular court clerks; initial and continuous training of court clerks and other court staff; and the introduction of information technology through the creation of an intranet at the Beninese Ministry of Justice, legislation and human rights, and the computerization of the court system, starting with three courts.

### **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 PROJECT IN ETHIOPIA

#### *Baseline Study for Ethiopia's Justice System Reform Program*

In 2003, the Ethiopian government contracted CILC to assess the country's justice system and recommend reform strategies and a work plan for their implementation. To carry out the baseline study, CILC assembled teams of

international experts for five different areas: legal education; law enforcement; the judiciary; law making and revision; and information flow within and outside the judiciary. The expert missions were carried out in 2003 and early 2004. Based on the resulting reports, CILC completed a final report and implementation work plan, which it presented to the Ethiopian Minister of Capacity Building in January 2005.

## MADAGASCAR

Seventeen years of one-party rule in Madagascar ended in the early 1990s. A new Constitution was adopted in 1992 and the country's longtime leader, Didier Ratsiraka, lost power in free presidential elections in 1993. He was returned to office in the 1996 presidential election. In the 2001 presidential election, Marc Ravalomanana claimed victory over the incumbent president, triggering a six-month power struggle and fighting between supporters of the rival candidates. In April 2002, the High Constitutional Court declared Ravalomanana the winner of the disputed election.

Madagascar has a bicameral legislature comprising the Senate and the National Assembly. The prime minister and parliament initiate legislation, and the government is required to execute it. The Constitutional Court approves the constitutionality of new legislation. Under constitutional amendments approved in a 1998 referendum, the president can dissolve parliament.

A strong, independent judiciary is enshrined in the Constitution. An 11-member Supreme Court is the highest court. Other judicial bodies include the Administrative and Financial Constitutional Court, the Appeals Courts, tribunals and the High Court of Justice.

## CILC PROJECT IN MADAGASCAR

### *Consolidation of the Rule of Law*

The European Commission awarded this three-year project in Madagascar to an IIPLD-led consortium in which CILC is a partner. The project kicked off in November 2004. The project will strengthen the rule of law in Madagascar by assisting the courts and by working with lawyers, notaries and bailiffs, as well as with the police and prison services. Building public trust in the legal and judicial system, increasing transparency and reinforcing human rights are key project aims.

## MALI

The country's dictatorship ended in 1991 with a transitional government and the holding in 1992 of the first democratic presidential election. Under the Constitution adopted in 1992, Mali became a multiparty democracy. In 1997, the first municipal elections were held and an important step was taken towards decentralization. After President Alpha Konaré was reelected in 1997, he continued his political and economic reforms and the fight against corruption. In keeping with Mali's two-term constitutional limit, he stepped down in 2002 and was succeeded by Amadou Touré.

According to foreign observers, the Malian judiciary is slow and its independence disputed. Due to judiciary backlogs, detainees spend far too long in substandard detention conditions.

In 1999, the government launched a ten-year judicial reform plan, *Programme Décennal de Développement de la Justice (PRODEJ)*.

## CILC PROJECT IN MALI

### *Identification Mission*

From 1999-2003, CILC successfully carried out the project "Legal Cooperation Between Mali and the Netherlands," with the University of Bamako Law Faculty and the *Institut National de la Formation Judiciaire (INFJ)*. In 2004, the "Rule of Law Facility" provided an opportunity for CILC to explore further support for the PRODEJ. In October 2004, international expert Roger Briottet and CILC Project Manager Marja Lensen undertook an identification mission to Mali. The possible areas of activities indicated in their draft mission report include provision of support for the training of paralegals, which will take place in 2005.

The TMF-funded "Rule of Law Facility" enables CILC to follow up on a previous project in Mali.

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## APPENDIX II

# CILC's Staff

### DIRECTOR

Kees Kouwenaar

### PROJECT MANAGERS

Marieke Breimer (until May 1)

Servaas Feiertag

Anne-Marie Heemskerk

Marja Lenssen

Niels Roovers (as of June 1)

Abdeljalil Taktak

Eric Vincken

Ko Winters (Resident Technical Advisor in Estonia as of September 1)

### ASSISTANT PROJECT MANAGER

Tamara van Vliet (as of September 1)

### FINANCIAL ADMINISTRATION

Alenka Bajc

Lenie van Rooijen-Peet

### SECRETARIAT

Annemarie Woudstra, *Office Manager*

### INTERNS

Wouter Huizer (September 6 - December 24)

Vishal Kumar (as of February 15)

Soeradj Pultoo (as of September 6)

## APPENDIX III

# Partners in Beneficiary Countries

### BULGARIA

The Bulgarian Ministry of Justice  
Institute for Political and Legal Studies  
Magistrates' Training Center  
Supreme Judicial Council

### COMMONWEALTH OF INDEPENDENT STATES (CIS)

Interparliamentary Assembly of the CIS

### CZECH REPUBLIC

Charles University Law Faculty, Prague  
Czech Bar Association  
The Czech Ministry of Justice  
EMP o.p.s., Brno  
Judicial Academy of the Czech Republic  
Masaryk University Law Faculty, Brno  
Palacký University Law Faculty, Olomouc  
University of West Bohemia in Pilsen Law Faculty

### ESTONIA

Centre for Public Service Training and Development  
Estonian Law Centre  
The Estonian Ministry of Justice

### ETHIOPIA

The Ethiopian Ministry of Capacity Building  
The Ethiopian Ministry of Justice  
The Justice System Reform Program Office

### HUNGARY

The Hungarian Ministry of Justice

### INDONESIA

Hukum Online  
The Indonesian Ministry of Justice  
National Law Commission

Parahyangan Catholic University, Bandung  
Working Group on Maritime Law

#### **LATVIA**

Latvian Judicial Training Center  
The Latvian Ministry of Justice

#### **LITHUANIA**

Council of Courts  
Lithuanian Association of Judges  
The Lithuanian Ministry of Justice  
National Courts Administration  
Supreme Administrative Court

#### **MACEDONIA**

Court Budget Council  
Macedonia Court Modernization Project  
The Macedonian Ministry of Justice

#### **MALI**

Clinique Juridique DEME-SO  
Institut National de Formation Judiciaire  
University of Mali, Faculty of Legal and  
Economic Sciences

#### **MOLDOVA**

Economic Court of Appeal  
Judicial Training Center of the Republic of Moldova  
Moldovan Judges' Association  
The Moldovan Ministry of Justice  
Soros Foundation – Moldova  
Superior Council of Magistrates  
Supreme Court

#### **POLAND**

Civil Law Codification Commission  
The Polish Ministry of Justice

#### **ROMANIA**

The Romanian Ministry of Justice

#### **RUSSIAN FEDERATION**

Institute of Law and Public Policy  
Moscow State Academy of Law  
Research Center for Private Law under the President of  
the RF  
Russian Foundation for Legal Reform  
Supreme Arbitration Court of the RF  
Presidential Council for the Harmonization and  
Codification of Civil Law

#### **SERBIA AND MONTENEGRO**

Judicial Center for Professional Education and Advanced  
Training (JTC, Serbia)  
Serbian Judges' Association  
The Serbian Ministry of Justice  
Supreme Court of Serbia

#### **SLOVAKIA**

The Slovak Ministry of Justice

#### **SLOVENIA**

The Slovenian Ministry of Justice  
The District Court of Ljubljana

#### **UKRAINE**

Supreme Court of Ukraine  
Center for Judicial Studies  
The Ukrainian Ministry of Justice  
Academy of Judges  
Council of Judges  
Academy of Advocates

# Donor Organizations

The Dutch Ministry of Foreign Affairs and Dutch embassies

The Dutch Ministry of Justice

European Bank for Reconstruction and Development (EBRD)

European Union (Tacis, Phare and Twinning programmes)

International Monetary Fund (IMF)

The Netherlands organization for international cooperation in higher education (Nuffic)

Sender International

United Nations Development Programme (UNDP)

United States Agency for International Development (USAID)

World Bank

## APPENDIX V

# Partners and Contacts in the Netherlands

Africa Legal Aid (AFLA) Maastricht  
African Studies Centre, Leiden University  
Amsterdam ADR Institute  
Clingendael, Netherlands Institute of International  
Relations  
Council of State of the Netherlands  
E. M. Meijers Institute, Leiden University  
Hogeschool Leiden  
EMP Nederland  
Hugo Grotius Foundation  
National Project Office for Court-Annexed Mediation  
Police Academy of the Netherlands  
SSR, Training and Study Centre for the Judiciary  
Supreme Court of the Netherlands  
Trade and Industry Appeals Tribunal

*The Dutch institutions that are represented on CILC's Board of Trustees are listed in Appendix I.*



# International Partners and Contacts

ADETEF (Assistance au développement des échanges en technologies économiques et financières  
Agence de Coopération Juridique Internationale (ACOJURIS), Paris  
American Bar Association, Central European and Eurasian Law Initiative (CEELI), Washington, D.C.  
Association for European Law Enforcement Co-operation (EULEC), Brussels  
The British Council, London  
Catholic University of Leuven  
Center for Institutional Reform and the Informal Sector (IRIS), University of Maryland  
Constitutional and Legal Policy Institute (COLPI), Budapest  
Council of Europe, Strasbourg  
Deutsche Gesellschaft für Technische Zusammenarbeit GmbH (GTZ), Eschborn  
Deutsche Stiftung für Internationale Rechtliche Zusammenarbeit (IRZ), Bonn

Deutscher Akademischer Auslandsdienst (DAAD), Bonn  
DKP Consulting  
Ecole Nationale de la Magistrature (ENM), Paris  
European Institute of Public Administration (EIPA), Antenna Luxembourg  
The Home Office, London  
ICON Institute, Cologne  
Institut International de Paris La Défense (IIPLD), Paris  
International Association of Prosecutors (IAP), The Hague  
International Criminal Court (ICC), The Hague  
International Criminal Law Network (ICLN), The Hague  
International Union of Judicial Officers (UIHJ), Paris  
University of Bremen  
USAID

## APPENDIX VII

# Financial Data

### BALANCE SHEET AS OF DECEMBER 31, 2004

	December 31, 2004	December 31, 2003
	€	€
<b>Assets</b>		
Inventory	6.049	9,634
Claims	475.191	1,125.610
Liquid assets	1,008.760	369,147
	<u>1,490.000</u>	<u>1,504.391</u>
<b>Liabilities</b>		
Net assets	489.543	486,762
Longterm liabilities		
Current liabilities		
Other debts	236.640	829,676
Accruals and deferred income		
Amounts received in advance	763.817	187,953
	<u>1,490.000</u>	<u>1,504.391</u>

## STATEMENT OF OPERATIONS

	Actual expenditure 2004 €	Budget 2004 €	Actual expenditure 2003 €
<b>Expenditures</b>			
Incidental staff	1,971	1,000	5,229
Regular staff	486,793	493,000	522,076
Depreciation	5,380	5,000	9,666
Provisions	-5,649		-164,168
Other costs	1,058.090	1,032.000	1,506.766
<b>Operating costs</b>	<b>1,546.585</b>	<b>1,531.000</b>	<b>1,879.569</b>
Interest costs	235		875
Exchange rate costs	14,128		63,725
<b>Financial costs</b>	<b>14,363</b>		<b>64,600</b>
<b>Net result</b>			
Positive result	2,781	31,000	
<b>TOTAL</b>	<b>1,563.729</b>	<b>1,562.000</b>	<b>1,944.169</b>

	Actual expenditure 2004 €	Budget 2004 €	Actual expenditure 2003 €
<b>Income</b>			
Turnover	1,541.587	1,552.000	1,801.866
Other operational income	16,557	10,000	20,148
<b>Total operational income</b>	<b>1,558.144</b>	<b>1,562.000</b>	<b>1,822.014</b>
Interest income	5585		1,830
Exchange rate income			
<b>Financial income</b>	<b>5,585</b>		<b>1,830</b>
<b>Net result</b>			
Negative result			120,325
<b>TOTAL</b>	<b>1,563.729</b>	<b>1,562.000</b>	<b>1,944.169</b>



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