Visiting fellowships for 2002-3 confirmed

The following have taken up visiting fellowships for 2002-03:

**DR DEMETRA ARSALIDOU**
University of Exeter
Subject of research: The diminishing importance of the common law duties of company directors.

1 June - 30 September 2003

**MR R CORNES**
University of Essex
Subject of research: Research for a book on the future of the United Kingdom’s highest courts, the Appellate Committee of the House of Lords and the Judicial Committee of the Privy Council.

1 January - 30 June 2003

**DR EMMA HENDERSON**
University of Melbourne, Australia
Subject of research: The introduction and implementation of the Human Rights Act 1998.

1 October 2002 - 31 January 2003

**DR G PESSACH**
Hebrew University of Jerusalem, Israel
Subject of research: (a) The author’s moral rights and cyberspace; (b) Checks and balances in copyright law - Rethinking the allocation of intellectual property entitlements between authors and publishers in a digital environment.

1 October 2002 - 15 September 2003

**PROFESSOR MARGARET THORNTON**
La Trobe University, Australia
Subject of research: The neo-liberal legal academy.

1 October - 31 December 2002

**PROFESSOR K URATA**
University of Waseda, Japan
Subject of research: (a) A study of global constitutionalism: Individuals, civil society and world federation; (b) Essential aspects of the government and law in the UK - 1978-1980.

1 October 2002 - 31 March 2003

**PROFESSOR J WILLES**
Barrister & Solicitor, Ontario, Canada
Subject of research: Research into the fields of commercial law, and most specifically the area of public and private international business law.

1 July - 31 August 2002

Visiting Fellowships in Law Librarianship are yet to be confirmed. Details will be announced in due course.

Report co-authored by IALS researchers on Woolf reforms published

A research paper co-authored by two IALS researchers* which assesses the impact of the Woolf reforms on parties’ pre-action behaviour in civil cases has recently been published jointly by the Law Society and the Civil Justice Council, who commissioned the work.

The study was conducted two years after the reforms were introduced in April 1999, and looked at how representatives in three specific areas of work - personal injury, clinical negligence and housing disrepair - behaved before they litigated. Although many of the findings reflect well on the reforms, the view of the study is that achieving Lord Woolf’s objectives will require ongoing review and reform, and a number of detailed recommendations are made.

The report was written by Tamara Goriely (formerly of the IALS, now a researcher with the Law Commission); Richard Moorhead (formerly of the IALS, now senior research fellow at Cardiff Law School); and Pamela Abrams (principal lecturer at the University of Westminster Law School).

Sir William Dale Centre

Ukraine legislative drafting project is well under way

A £750,000 project funded by the Department for International Development (DFID) for the provision of aid to the Ukrainian government in the field of legislative drafting was awarded last year to Dr Helen Xanthaki and Constantin Stefanou of the Sir William Dale Centre for Legislative Studies. This article looks back at the development of the project, and reports on recent progress.

LAUNCH OF THE PROJECT

The Official Launch of the project took place on 13 November 2001 at the Ministry of Justice of Ukraine. It was organised with the kind assistance of our Ukrainian partner, the Centre for Legal Reform and Legislative Drafting headed by Olena Bogachova. It was hosted jointly by Mr A Lavrinovich (State Secretary of the Ministry of Justice of Ukraine), Mr Roland Smith (British Ambassador for the Ukraine) and Constantin Stefanou. Representatives of the Ukrainian Parliament (Supreme Rada) and of central bodies of executive power, foreign embassies, international institutions, Ukrainian scientists, graduates of the Project’s London course, and members of the press all attended the launch.

The Supreme Rada of Ukraine was represented by three heads of Parliamentary committees; the Ministry of Justice of Ukraine was represented by its Deputy Minister and six Directors of Departments; the Presidential Administration was represented by the Deputy Head of Administration on Legal Matters; the Deputy State Secretary represented the Ministry for Foreign Affairs of Ukraine. Representatives of the National Centre for Legislative Drafting, DFID, 12 foreign embassies, the Council of Europe, OSCE, the Konrad Adenauer Foundation, the World Bank of Reconstruction and Development, the Centre of Commercial Law, and the Ukraine-Canada Integrity Project were also present. Amongst the large number of guests at the reception were the Heads of the Ukrainian Academy of Legal Sciences, of the Regional Centre of Academy, the Institute of Legislation of the Supreme Rada, the Institute of State and Law, as well as fellow academics such as the Dean of the Law Department of the Kiev-Mohyla Academy and the Rector of the Odessa Law Academy.

Speeches setting out the aims of the project, its value for Ukraine and its activities were made Mr Lavrinovich, Roland Smith, Constantin Stefanou, Mr Zadorozhnii (Head of the Committee on Legal Policy of the Supreme Rada), Mr Tatsiy (President of the Ukrainian Academy of Legal Sciences), and Mr Shemschuchenko (Director of the Institute of State and Law). All speakers agreed that the project has already contributed to the development of good practice in legislative drafting in Ukraine, thus developing the contribution of legislation to effectiveness, consistency, openness and accountability in Ukrainian government policy making and implementation. The training capacity of the Centre for Legal Reform and Legislative Drafting has already been improved, as most of our London course participants are willing and able to teach at the Centre. Moreover, the legislative capacity and the quality of legislative texts of the Government Secretariat, the Supreme Rada, and the Ministries of Justice, Economy and Finance have been strengthened through the contribution of our graduates and trainers. The Kiev-Mohyla Academy now has three lecturers trained to teach aspects of legislative drafting, from a technical and linguistic point of view.

FIRST MEETING OF THE STEERING COMMITTEE

The project memorandum provides for the creation of a steering committee made up of the Minister of Justice (chair), representatives from the Supreme Rada (the higher Parliamentary Chamber), the Government Secretariat, the British Embassy in Kiev, and the Directors of IALS and of CLRLD. Its objectives are to promote and publicise the project; advise on the criteria and selection of course participants; advise on the subject matter and nature of the in-country training and seminar activities; help in the utilisation of legal drafting trainers in a cost effective manner; and act as a mechanism for evaluating impact and assisting in planning the work programme.

The first meeting of the steering committee took place in the Ministry of Justice after the launch of the project on 13 November 2001. Membership of the Committee includes the First Deputy State Secretary of the Ministry of Justice, Mr A Zayets (chair); Vassiliy Suprun (Deputy Head of Law Department of the Secretariat of the Cabinet of Ministers); Helga Pender (Deputy Head of the Mission on Political and Legal Issues, EC Delegation); Liudmyla Zadorozhna (Deputy Head of Scientific-Expert Department of the Supreme Rada); Professor Barry Rider (Director of IALS), Dr Helen Xanthaki (Project Co-ordinator, Academic Director of the Sir William Centre for Legislative Studies), Olena Bogachova (Deputy Project Co-ordinator, Director of the Centre for Legal Reform and Legislative Drafting); Constantin Stefanou (Senior Project Officer, Research Fellow of IALS), Olga Sandakova (Officer of the Development Section of the British Embassy in Kiev); and Rosalind Clarke (Project Officer, EECAD, DFID).
Constantin Stefanou reported that in its first months the project has opened an office located at the Ministry of Justice, registered with the Ukrainian authorities, appointed all members of the team and steering committee, and organised its official launch and the first in-country seminar in the field of legislative ethics. The London Course in Legislative Drafting (Ukraine) was presented and participation in that was discussed. Future plans for the project’s activities, namely the nature and number of in-country seminars, the selection of participants for the London Course 2002 and the content of the London Course 2002 were discussed. The committee agreed with the suggestion for more in-country seminars with participation from foreign experts, provided DFID agreed with the redistribution of funding; members were eager to ensure that the London course 2002 could be publicised much wider than the first course. One issue raised at the meeting was the quality of the translation of materials handed out to participants of the London Course 2001.

IN-COUNTRY SEMINARS

Under the project memorandum, participants on the course undertake to deliver a lecture on drafting on their return to Ukraine. The topic of the lecture is agreed on arrival in London in order to allow participants time to do the necessary research during their stay. Seminars will be supplemented by joint work with experienced British legal drafting trainers in a mixture of possible topics, such as the use of the Internet in EU approximation drafting and the reduction of corruption opportunities through legal drafts, and specific real drafting tasks in key sectors such as the budget and regional development.

The first two-day in-country seminar took place in Kiev at the Ministry of Justice on 12 and 13 November 2001. The seminar on ‘Ethical issues of legislative drafting’ was taught by Constantin Stefanou, Olena Bogachova, and Professor Eric Litwack from Queen’s University, Canada. It was organised by Eugene Bereznitsky, Kiev Project Officer, with the assistance of the Centre for Legal Reform and Legislative Drafting at the Ministry of Justice of Ukraine, and funded by the Ukraine Legislative Drafting Project.

The seminar was very well attended, which encouraged the members of the project team to organise a larger number of in-country seminars than originally undertaken. Forty participants of senior specialist or senior counsel rank and above represented the legal services of most relevant institutions, such as the Ministry of Justice, the Ministry of Finance, the Ministry of Economics and European Integration, the Ministry of Agricultural Policy (by the Deputy Head of its Law Department), the Ministry of Defence (by the General Lieutenant of Justice, Counsel to the Minister), the Ministry of Industrial Policy, the Ministry of Interior Affairs, the Ministry of Transport, the Ministry of Energy, and a number of State committees.

A further two-day in-country seminar took place in Kiev on 18-19 March 2002. The seminar’s host was Dr Krupchan, Head of the Kiev Regional Centre of the Ukrainian Academy of Legal Sciences. The seminar was organised by the Project with the kind assistance of the Centre for Legal Reform and Legislative Drafting at the Ministry of Justice of Ukraine, and funded by the British Department for International Development.

Constantin Stefanou was invited to analyse two topics of extreme interest for the Ukrainian audience: ‘Drafting guidelines for the quality of EU legislation’ and ‘Financial evaluation of legislation as a means of achieving quality’. The second day of the seminar was taught by a London-trained Ukrainian trainer, Mrs Liudmila Nochvai, Chief of the Committee Secretariat, Committee on Economic Policy, National Economy Management, Property and Investment of the Supreme Rada. Mrs Nochvai spoke on ‘Aspects of evaluation of efficiency in legislative drafting’: the principles of legislative quality taught in the course organised by the Sir William Dale Centre in London were related to current Ukrainian practice, and suggestions on how the Ukrainian Parliament could achieve better quality of legislation were put forward. The seminar was completed with a short lecture on ‘Avoiding loopholes and liquidation of inconsistencies in current legislation as a way to fight corruption’ from Professor Zakaliuc, member of Ukrainian Academy of Legal Sciences.

The seminar attracted numerous Ukrainian and foreign experts on various aspects of legislative drafting. The audience remarked that the topics covered by Constantin Stefanou were thorny issues for the Ukraine: the objectives of ensuring quality in legislation both through set guidelines and through prior financial assessment are already within the priorities of most drafting bodies, and indeed form part of the relevant legislative provisions on legislative drafting. However, there is no training on how these goals are to be achieved, and so drafters currently use their intuition, which is why the Project and the training provided by the Sir William Dale Centre plays a pivotal role in Ukraine’s effort to achieve quality of legislation as a means of protecting democracy and legitimacy for the sake of the socially and financially vulnerable. Mrs Nochvai’s list of practical examples of bad drafting in current Ukrainian legislation and errors of drafting technique at various stages of drafting alarmed the audience.

Helen Xanthaki
Project Co-ordinator

Constantin Stefanou
Senior Project Officer