

Law Reform and Comparative Law Program

The Law Reform and Comparative Law Program was established in the early spring of 1991. It started out as a facilitator of the law reform process in Bulgaria and focused its efforts mainly on establishing and supporting the contacts between the Government and foreign assistance groups, such as the American Bar Association Central and East European Law Initiative, the International Development Law Institute - Rome, the German Foundation for International Legal Cooperation - Bonn, and others. The initial focus of the Program was constitutional law reform. With the enactment of the new Constitution in the spring of 1991, the focus was shifted to commercial law reform. During the years from 1991 through 1993, the program gradually developed from a facilitator of the law reform process into a legal reform agent with a standing of its own. It now holds its own seminars and works on substantive legislative reform projects attracting its own expert resources. Today, the Program is developing two draft laws for the Government and is preparing the ground for expanding its law development role.

1991 – 1993 Highlights:

- two constitutional law seminars with the participation of foreign experts and members of the Grand National Assembly which facilitated the process of enactment of Bulgaria's new Constitution;
- expert comments on more than thirty draft laws provided to the Government, in the following areas: copyrights, patents, commercial transactions, bankruptcy, privatization, commodity exchanges, trade, chambers of commerce, judicial structure, administrative justice, the bar, waste, protection of sea waters, criminal code, special investigative means, protection of information, etc.;
- five concept papers provided to the Government, containing leading world and international concepts on drafting laws on money laundering, investment funds, foreign trade regulation, government procurement and securities regulation;
- four policy oriented legal seminars/discussions involving government officials and representatives of the public, covering bankruptcy, copyrights, lawyers' code of ethics and accreditation of law schools;
- four educational legal seminars on international sale of goods, franchising, joint ventures, alternative dispute resolution, commercial arbitration, and purchase and sale of an on-going business;

- initiation and support of a successful effort to draft a new law on non-profit organizations for Bulgaria;
- five publications on topical legal issues including foreign investment law, in-kind contributions in commercial companies, privatization, government structure and operations.

The main objectives of the Law Reform and Comparative Law Program in 1994 were:

- to establish working groups on which the legislature could rely for information and substantial support in drafting legislation. The philosophy of this approach is that most substantive legislation should be planned and developed in a grass-roots effort and then, at a later stage, the government should participate in the process;
- to create a computer database of the Program's contacts in Bulgaria and abroad to enable access to Law Program friends, supporters and experts;
- to work with the Central and East European Law Initiative of the American Bar Association (CEELI) which continued to provide expert assistance to working groups, consisting of Members of Parliament and legal experts in drafting reformed commercial laws;
- to help create and maintain other non-governmental organizations that will contribute to Bulgaria's economic and legal development and reform;

- to hold seminars and workshops on relevant commercial law topics in order to aid in the drafting and implementation of laws on franchising, leasing, private sector development and the protection of intellectual property.

I. Draft Laws

Bulgarian Draft Law on Bankruptcy and Protective Concordat

CEELI and CSD's Law Reform Program continued their expert assistance to the bankruptcy draft law working group which was formed by the Bulgarian Parliament and consisted of Members of Parliament and legal experts. Mr. Mark Beesley, CEELI's commercial law liaison, conducted research and provided answers to issues submitted by the working group regarding bankruptcy and reorganization proceedings under US laws. The Law Reform Program prepared a translation of Chapter 11 of the US Bankruptcy Code dealing with reorganization for the working group. Additional materials on commercial banks and

insurance company insolvency were drafted by the Program staff and submitted to the working group.

support from the Bulgarian legal community, non-profit organizations and policy-makers for its project, the



*CEELI liaisons Mark K. Beesly (left) and Jerry Stewart (right) with
CSD Law Program*

Draft Law on Non-Profit Organizations

The Law Reform Program formed a working group on the Bulgarian draft law on non-profit organizations in the beginning of 1994. The working group held bi-monthly meetings in which its members discussed the framework for future regulation of the non-profit sector in Bulgaria, and prepared provisions of the draft law. The working group coordinated with representatives of major Bulgarian non-governmental organizations whose comments were incorporated into the final version of the draft law. To obtain

Law Reform Program organized, jointly with the Information and Documentation Centre of the Council of Europe in Sofia, a two-day seminar in March 1994. As a result of the working group efforts, a final draft was completed by the end of 1994.

The draft law was presented at a number of local and international seminars including:

International conference "Regulation of the Civil Society", held in Sinaia, Romania. This conference was supported and organized by the International Center for Not-for-Profit

Law in Washington, D.C., the C.S. Mott Foundation and the Open Society Fund, Bucharest;

Seminar "Management Control and Auditing of Non-Profit Organizations", organized by CSD and the International Development Law Institute, Rome;

International Charity Law Conference in the UK, organized by the National Council for Voluntary Organizations.

Draft Law on Secured Transactions

The Law Reform Program is developing a secured transactions project to facilitate changes in Bulgaria's secured transactions law. A set of relevant documents was collected by the Program and translated into Bulgarian, including the Polish Draft Law on Secured Transactions, the European Bank for Reconstruction and Development Model Law on Secured Transactions and Article 9 of the US Uniform Commercial Code. A working group that will create the Bulgarian draft law is in the process of being formed. The first meeting of this group will be held in January 1995. The Law Reform Program worked with the Institutional Reform and the Informal Sector (IRIS) project in response to a comprehensive survey on the status of secured transactions law in Bulgaria.

Draft Bylaws

At the request of the Board of Directors of the American Chamber of Commerce in Bulgaria, Law Reform Program and CEELI drafted and filed the Chamber's

bylaws and other documents necessary to establish the organization. This activity was in keeping with the Program's objective of helping to create and support organizations that will contribute to Bulgaria's economic and legal development and reform. CEELI and the Program's lawyers also offered technical advice and expertise to numerous groups referred by international financial institutions, by US Agency for International Development (USAID) and the US Department of Commerce, by Bulgaria's Ministry of Trade, and the European Union.

II. Training Workshops

The Legal Aspects of the Purchase and Sale of an Ongoing Business, January 24-28, 1994, Assenovgrad

This seminar was organized by CSD and IDLI with the support of USAID. It was attended by 26 participants, including private attorneys, advisors to governmental agencies, bank consultants and judges.

Practical Legal Aspects of Negotiating a Franchising Agreement, April 11-12, 1994, Sofia

The training workshop, organized by CSD and CEELI, was attended by 26 participants including private attorneys and legal counsels to private companies. The seminar introduced franchising as a new form of doing business in Bulgaria. It was repeated in Varna on April 14-15.

Training of Trainers, April 25-29, 1994, Velingrad

This seminar was organized by CSD and IDLI with the support of USAID and the Open Society Fund, Sofia. The objective of the seminar was to prepare the groundwork for indigenous, self-sustainable, long-term programs for continuing legal education in Bulgaria. The seminar was attended by 22 participants, including private lawyers, judges, and officials from the Privatization Agency.

Structure and Practical Use of Equipment Leasing Agreements, October 18-19, 1994, Sofia

The seminar, organized by CSD and CEELI, was attended by more than 60 participants, including executives from the leading leasing companies in Bulgaria, consultants to banks and financial institutions, private lawyers, government officials and judges. The seminar was repeated in Varna on October 20-21.

Management Control and Auditing of Non-Governmental Organizations, October 27-28, 1994, Velingrad

The workshop was organized by CSD and IDLI. Mr. Pasquale Ferraro, Deputy Director of IDLI, was visiting instructor at the seminar. The seminar was attended by 20 participants from Bulgarian NGOs, leading foundations and associations.

Commercial Framework for Private Sector Development Conference

The Law Reform Program participated in the organization of this conference held on October 31 through November 11, 1994 in Trest, the Czech Republic. It was organized jointly with the Economic Development Institute of the World Bank and other institutions in the Czech Republic, Romania and the United States. The seminar objectives were to facilitate the exchange of information and to provide a comparative analysis of the approaches adopted by some market economies, as well as economies in transition. The seminar focused on crucial legal and regulatory issues, including the advantages and disadvantages of the various approaches used in Eastern Europe. Fifteen Bulgarian participants, selected by CSD from a large cross-section of applicants, attended the seminar. Stephan Kyutchukov, Coordinator of the Law Reform Program, was a speaker at the conference on the current legal framework in Bulgaria and expected future developments.

International Trade Policy, GATT, and the World Trade Organization.

This series of seminars was co-organized by the Bulgarian Ministry of Trade and the US Department of Commerce and coordinated by CSD.

Legal Initiative for Training and Development (PIOR)

CSD was instrumental in establishing the Legal Initiative for Training and Development, a non-profit

organization whose main objective is the development of indigenous training programs for Bulgarian judges and lawyers. In July 1994, thirty distinguished representatives of the Bulgarian judicial system and the bar met in Balchik at the first seminar for judicial training, and decided to establish the Legal Initiative for Training and Development. PIOR's founding meeting was held in October 1994 in Borovetz. The Coordinator of CSD's Law Reform Program, Mr. Stephan Kyutchukov, was elected to the Board of Supervisors of PIOR.

III. Publications and Commercial Law Library

In 1994, the Commercial Law Library of CSD expanded its size and improved its organization. Currently the library contains more than 500 volumes organized in a computer catalogue. The library is continuously updated with new titles and all materials are available and widely used by the public.

In 1994, the Law Reform Program began publishing a newsletter *Vesti* which was designed to provide information on the activities of the Program to the legal community in the country. The newsletter is published in both English and Bulgarian.

IV. Formation of Working Groups

Leasing Working Group

During the seminar *Structure and Practical Use of Equipment Leasing Agreements*, it became obvious that the

Bulgarian legal framework does not provide a favorable environment for development of the leasing sector in Bulgaria. After discussions between executives of the major Bulgarian leasing companies, and CSD and foreign leasing experts, it was concluded that there was an urgent need for drafting and promoting changes in the current legislation. CSD, the Bulgarian Leasing Association and CEELI formed a working group to assist such reforms. It included legal consultants to leading Bulgarian leasing companies, private attorneys and law professors. Three meetings of the group were held between October and December 1994. The leasing working group compiled a set of the normative acts affecting leasing in Bulgaria, including tax and customs regulations. The group also solicited and obtained from Bulgarian leasing companies a list of target areas in need of reform in order to assist its drafting efforts.

Bankruptcy Working Group

Bulgaria's Parliament passed a bankruptcy law in August 1994. The law includes provisions for debtor reorganization. Practitioners in Bulgaria are generally familiar with insolvency proceedings, but bankruptcy reorganization is a new concept in Bulgaria. To facilitate the litigation that would undoubtedly result from this new legislation CSD,

District Court judges, private attorneys and government lawyers established a bankruptcy working group. The objectives of this working group are to study, promote and help implement Bulgaria's bankruptcy law. The group intends to create a bankruptcy library, design bankruptcy reorganization training programs and develop a bankruptcy information database.

V. CEELI Executive Board Meeting

On July 8, CSD hosted the second annual CEELI Executive Board meeting which gathered CEELI liaisons from 19 Central and East European countries to evaluate CEELI's legal reform assistance. Sofia was chosen as the site for the Executive Board meeting because of CEELI's success here.

Bulgaria was also the home of CEELI's first resident liaison in 1991.

Executive Board members attending the meeting included former U.S. arms negotiator Ambassador Max Kampelman; Judge Abner Mikva formerly with the U.S. Court of Appeals and now White House Counsel; Washington, D.C. lawyer and CEELI co-founder Homer Moyer; Mathew F. McHugh, Counsel to the World Bank; and U.S. Supreme Court Justice Sandra Day O'Connor. William "Bill" Ide, the American Bar Association President also attended the meeting along with members of CEELI's Washington, D.C. staff.