

UNIDROIT 2000
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U n i d r o i t

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

LEGAL CO-OPERATION PROGRAMME

Research scholarships programme

**for legal scholars, government officials, judges and practitioners
from developing countries or from countries in economic transition**

ASSESSMENT – THE FIRST SEVEN YEARS (1993-1999)

Rome, May 2000

I. – THE RESEARCH SCHOLARSHIPS PROGRAMME - TAKING STOCK SEVEN YEARS ON

The research scholarships programme for legal scholars from developing countries or from countries in economic transition is part of the “Legal Co-operation Programme” which first made its appearance in the UNIDROIT Work Programme in 1973 (see UNIDROIT 1999, Work Programme for 1999-2001, p. 23).

A total of seventy-one scholars from 36 countries carried out top-level research under the Programme in the UNIDROIT Library between 1993 and 1999 (seven years inclusive). The scholars work on their own, but are supervised by a research supervisor in their country of origin. The Institute owes a debt of gratitude to the donors who, while few in number, have for the most part proved steadfast, and without whom the programme would never have got off the ground.

The Programme is superintended by the Scholarships Sub-committee of the Governing Council. The Secretariat reports to the Sub-committee on an annual basis, supplying details as to the implementation of the programme (for 1999, *cf.* UNIDROIT 1999, Study LXV - Scholarships: Exec. 12) and the research reports submitted by the year’s beneficiaries. The sub-committee examines applications and establishes priorities on the basis of available funding. One of the research officers in the Secretariat is responsible for co-ordinating the Programme, seconded by the Library staff and by an assistant who looks after the logistical aspects of the scheme. The other staff members provide assistance where possible, according to the scholars’ research subjects. The facilities offered to scholars include free access to the Library (8 a.m. - 5 p.m., weekdays), use of an office (shared by a maximum of two/three people), free access to a photocopying machine, use of a computer and printer and (as of 1999), access to the Internet.

Financially, the programme is run according to strict, and above all transparent, criteria. The full amount of donors’ contributions is used to cover the visiting scholars’ needs (cost of living and - where absolutely indispensable - travel expenses), and a detailed breakdown of expenditure is provided in the annual report submitted to donors by the Secretariat together with the scholars’ research reports. Chapter XI (“Legal Co-operation”) of the general budget of UNIDROIT, which is placed under the Auditor’s supervision, has been used to supplement the Scholarships Programme where necessary (in particular with a view to redressing the geographical imbalances at times created by the conditions which donors are entitled to lay down) and specifically, to meet some of the operational costs of the Programme (supplies). It should be pointed out that the overall cost of the Programme is relatively modest compared to that of similar schemes run by many research and training institutions. In part, this is due to the personal, *ad hoc* approach adopted in helping scholars to find suitable accommodation, as well as to the fact that scholars are encouraged to make a personal contribution where possible. Annex I sets out the financial resources allocated to the Programme, and the financial support (as a percentage) provided by donors.

From the visiting scholars’ point of view, the Programme’s merits are amply illustrated by the results of a survey carried out in early 2000 (see Annex II). There is conclusive evidence that the Programme offers suitable research facilities for those projects approved by the Scholarships Committee,¹ depending on their prospective use; in most cases, projects are intended as input for

¹ The Scholarships Committee has issued guidelines for use in establishing priorities in its choice of candidates. As far as the research projects are concerned, preference is given to applicants whose subject has a

university teaching courses, articles or monographs, and to assist in the drafting of legislative proposals by the competent national authorities. Sometimes they also serve a more obviously personal purpose such as the preparation of a dissertation or thesis, or are used in a private practice; however, this is largely incidental.² Beneficiaries have on a number of occasions had access, thanks to their research period at Unidroit, to other renowned European institutions, such as the Swiss Institute of Comparative Law – with which Unidroit has a co-operation agreement, and the Max-Planck Institut in Hamburg.

Speaking strictly from the Institute's angle, the Research Scholarships Programme has been of considerable benefit and has yielded tangible results. In many cases, scholars have found themselves spokesmen for the Institute and its achievements back at home. Some of the more immediate advantages to the Institute include: the preparation and publication of translations of the Unidroit Principles of International Commercial Contracts into Czech, Slovak, Vietnamese and – shortly – Indonesian; the ratification of Unidroit instruments by Latvia (leasing and factoring Conventions) and Belarus (Leasing Convention); the preparation of copy for the Uniform Law Review (dealing with the relevant national law and case law); support for the promotion institutional and scientific relations in the Member States and in non Member States, and for the organisation of Unidroit meetings and seminars in loco. It is important to remember that such collaboration links tend to develop gradually, well after the scholar has returned to his home country. The Library and the Secretariat have repeatedly benefited from scholars' suggestions, for example with regard to the acquisition of publications, and their assistance with translation work and, more generally, in establishing contacts is gratefully acknowledged. Three former research scholars have become Unidroit correspondents, and a fourth has become a correspondent of the Uniform Law Review. Finally, the Programme has given substance to the notion of "legal co-operation", a point which may play in the Institute's favour when it comes to illustrating the potential advantages to developing countries of Unidroit membership.

II. THE RESEARCH SCHOLARSHIPS PROGRAMME - THE WAY AHEAD

At its 79th session in Lisbon from 10-14 April 2000, the Governing Council took note of the progress report for the first seven years, prepared by the Secretariat and including the results of the survey carried out by the Secretariat among the beneficiaries of the Programme. The Council expressed its satisfaction and felt that the time had come for Unidroit to put its full weight behind the Research Scholarships Programme with a view to reaffirming its role as a research centre. In addition to the Programme's advantages listed above, it stressed:

- the key role played by information and training in achieving the objectives of harmonisation and unification pursued by an Organisation as small as Unidroit, much of whose work is in the realm of "soft" or non-binding law;
- the existence at Unidroit of a remarkable body of documentation whose maintenance requires considerable financial outlay. The Library itself stands to gain by the attendance of top-flight visiting scholars from all over the world, the offshoot of which may be enhanced

bearing on the Institute's past or present activities. However, any other subject on which the Library is in a position to supply adequate documentary support may also be taken into consideration.

² At the end of their research period, scholars are expected to submit a report describing their experience. This is not a scientific report *per se*; the academic follow-up takes place in their home countries and in their own language.

prestige and ability to attract new funding. The Centre for Foreign and Comparative Law Studies – located on Unidroit premises and co-sponsored by Unidroit, the University of Rome I “La Sapienza” and the Centro nazionale di ricerche (CNR) – offers scholars an opportunity for further research and contacts;

- the opportunity given to visiting scholars to attend working group meetings and international negotiating sessions and to meet experts and other researchers in a wide range of fields;

- the fact that visiting scholars are potentially important scientific and/or institutional contacts for the Institute, and that much depends on the quality of their reception.

The Governing Council reiterated its gratitude to the donors, whose support was instrumental in getting the Research Programme started and ensured its successful operation during the seven-year period under consideration, and expressed the hope that they would agree to maintain – or even increase – their commitment in the years to come. The Council also invited the Secretariat to seek potential new donors in order to increase the voluntary funding of the programme, accompanied by any specific conditions the donors might wish to attach to their endowments.

The Governing Council also decided to propose to the Institute’s competent financial bodies to increase the general budget allocation for Chapter XI on “Legal Co-operation” from Lit. 20,000,000 to Lit 50,000,000, with a corresponding increase in funding for the research programme. In taking this financial step, UNIDROIT would be making a political statement which may well attract new external donors, an important consideration since the scheme must continue to rely heavily on outside support.

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ANNEX I / ANNEXE I

DONORS / DONATEURS
FINANCIAL PARTICIPATION / PARTICIPATION FINANCIERE

	%
UNIDROIT – Chap.XI	25,4%
Government of France / <i>Gouvernement de la France</i>	21,8%
Government of the Republic of Korea / <i>Gouvernement de la République de Corée</i>	15,9%
Council of Europe / <i>Conseil de l'Europe</i>	10,7%
Agence de la Francophonie (ACCT)	9%
Government of Sweden / <i>Gouvernement de la Suède</i>	6,4%
Government of Finland / <i>Gouvernement de la Finlande</i>	5%
Associazione Italiana de Leasing (ASSILEA)	2,6%
Russian Foundation for Legal Reforms	1,6%
Transnational Law & Business Studies (Seoul)	1,2%

UNIDROIT Research Scholarships Programme - 1993-1999
Replies to the Questionnaire for invited scholars

General information

Total number of beneficiaries of the Research Scholarships Programme : 71

Men 47 Women 24

Origin : **Africa: 8**
 (Algeria 2; Cameroun 1; Congo 1; Morocco 1; Nigeria 1; Tunisie 2)

Latin America: 15
 (Argentina 3; Brazil 4; Colombia 4; Mexico 2; Uruguay 1; Venezuela 1)

Central and Eastern Europe and the former Soviet Republics : 35
 (Albania 2; Bosnia-Herzegovina 1; Belarus 1; Bulgaria 3; Croatia 1; Estonia 2; Féd. Russian Fed. 5; Hungary 2; Latvia 3; Lithuania 2; Moldavia 1; Poland 3; Czech Republic 1; Roumania 4; Slovakia 1; Slovenia 2; Ukraine 1)

Middle and Far East : 13
 (China 4; Egypt 1; India 1; Indonesia 3; Iran 1; Mongolia 1; Pakistan 1; Vietnam 1)

Length of stay**at UNIDROIT Assessment of length of stay**

2 weeks	1	good	1
4 weeks	10	excellent	2
		good	2
		average	5
		insufficient	1
5 weeks	3	good	1
6 weeks	9	average	1
2 month	23	excellent	1
		good	8
		average	3
		insufficient	3
2 months ½	1	excellent	1
3 months	12	excellent	6
		good	4
		average	2
6 months	1	excellent	1

Languages: English: 42 / French: 18 / Eng/Fre: 11

Total number of persons questioned (10/01/2000) :
70

Total number of replies (20/04/2000): 56 = 80%

Research Subjects

Unidroit Principles	14	Company law	3
International Commercial Contracts (obligations in general, sale, electronic commerce)	7	Secured transactions	2
Protection of cultural property	7	Capital markets	2
Unification of law instruments	4	Bankruptcy law	2
Leasing	4	Civil liability	2
Procedural law	4	Investment law	2
Franchising	3	Intellectual / industrial property	2
Private international law	3	Unidroit activities	1
Transport law	3	Agency / commercial agency	1
		Proprietary rights	1
		Enviroment and insurance	1

Current functions of those having replies:

Academics	34	Government (civil servants or consultants)	13
Practising lawyers	25	Judges / arbitrators	10
		International Organisations	2

1. **What is your overall impression of your research period at UNIDROIT:**

49 very positive 7 positive 0 average

2. **How have you applied the results of your research at UNIDROIT: (replies are not mutually exclusive)**

16 preparation of a dissertation / thesis

24 preparation of course material

38 preparation of articles / monographs

13 drafting of opinions for government authorities

- Bulgarian law on bankruptcy and the recovery of State enterprises – in force since 09-08-96
- The impact of EC Directives on contract law in the field of consumer protection – Ministry of Justice, Hungary
- Electronic commerce Act, Colombia
- Investment Act, China
- Official correspondence with the Ministry of Justice, Algeria on the Cultural Property Convention
- Modernisation of contract law (Lithuania, Latvia, Indonesia)
- Act concerning civil liability in road accidents (Tunisia)
- Accession to the International Leasing Convention (Belarus, Latvia) and Factoring Convention (Latvia)
- Draft of ICAC optional conciliation rules (Russia)
- Promotion of uniform law at a legislative level (Iran)

Other: - Translation of Unidroit Principles: 4 (Indonesian, Slovak, Czech and Vietnamese)

3. **How would you describe your current relationship with UNIDROIT?**

- collaboration: 17 close 29 occasional 5 none

- Do you keep informed of ongoing activities at UNIDROIT?

30 through the Internet

29 through the *Uniform Law Review / Revue de droit uniforme*

8 other

1 regular correspondence

- Do you engage in any kind of activity to promote UNIDROIT in your own circle? (how?):

21 By incorporating Unidroit achievements into teaching schedules

7 Mention of Unidroit achievements in articles, monographs

11 Other: introduction to Unidroit achievements at seminars; distribution of Unidroit publications; establishment of depository libraries; supervision of doctoral theses on subjects in connection with Unidroit activities

6 Promotional activity with competent government authorities

4. **As regards the conditions you found during your stay at UNIDROIT, how would you rate :**

the quality of documentation:

40 excellent

16 good

average

insufficient

technical conditions for your research:

29 excellent

20 good

6 average

1 insufficient

assistance provided by the UNIDROIT staff:

48 excellent

8 good

average

insufficient

the cost-of-living grant:

15 excellent

29 good

11 average

1 insufficient

logistical assistance provided by Unidroit (accommodation and help in getting about Rome)

40 excellent

12 good

4 average

insufficient

Comments: Most of the comments were added to underscore the beneficiaries' appreciation and compliments already expressed in the questionnaire, in particular with regard to the quality of reception and the abundance of documentation. Some scholars stressed the need for technical improvements (computerisation, Library opening hours, office furniture). There were several suggestions for some sort of follow-up (meetings) to involve former visiting scholars in the Institute's activities.

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