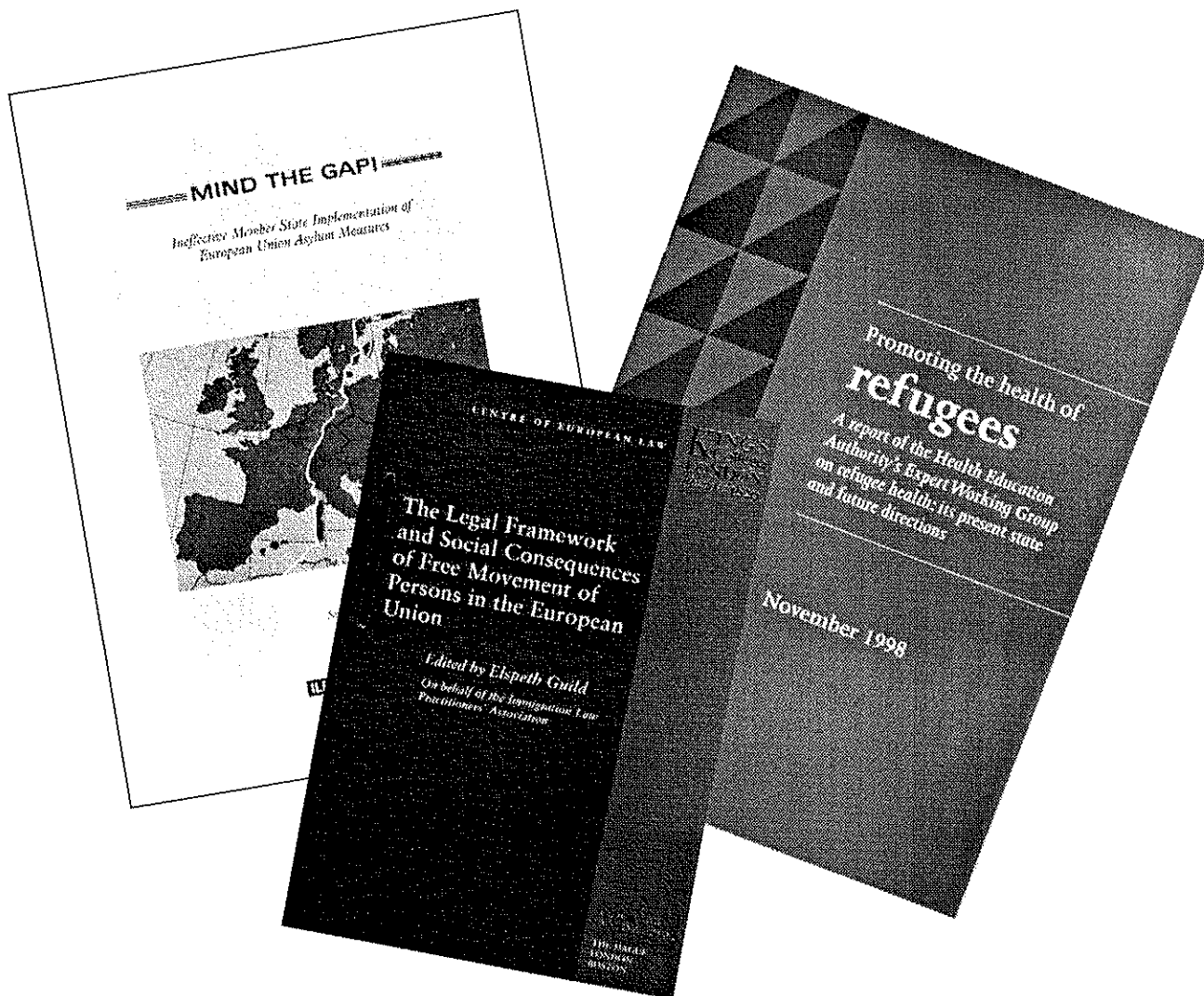




IMMIGRATION LAW PRACTITIONERS' ASSOCIATION

PRESIDENT: IAN MACDONALD QC

ILPA Annual Report 1997/8



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CHAIR'S REPORT

"Fairer, Faster and Firmer" was the title of the Government's White Paper on Immigration and Asylum. ILPA submitted a detailed response which tried to bring the issue of fairness back to the pre-eminent place that it deserved. Fairness was also the theme of our response to the overlapping review by the Home Office and Lord Chancellor's Department on the system of immigration appeals. ILPA had been closely involved in the briefing paper "Providing Protection" which was prepared last year jointly with JUSTICE and Asylum Rights Campaign.

While some of our arguments were reflected in the reviews (e.g. recognising that many applicants had waited so long for a decision that they could not realistically be returned), many appeared to have been ignored. ILPA and others, for instance, have long argued that if the quality of initial decision-taking were improved many of the problems which lead to frustration and delay in appeals could be avoided. We welcomed the government's acceptance of the argument that adjudicators should be able to rule on human rights objections to removal but we deplored the proposal to drastically reduce other appeal rights. Denying overstayers the right to argue their case on appeal will lead to new frustrations as representatives attempt to squeeze merits arguments into the categories of errors of law, asylum claims and Convention rights.

Responding to consultation papers and reviews has been a dominant feature of the year. In January ILPA welcomed the government's proposal to regulate immigration advisers who were not subject to any professional control. We had supported earlier backbench efforts to introduce such a scheme. Many members have had the experience of trying to pick up the pieces after cases have been badly and sometimes dishonestly handled by previous representatives. Lawyers can be incompetent and dishonest, but ILPA opposed extending the new scheme of regulation to cover them as well. In their case, systems of professional discipline are already in place (and already paid for through subscriptions to the Law Society and Bar Council). It seems unnecessary to duplicate their function by a second tier of regulation. If the profession's disciplinary bodies do not work as efficiently as they should, this is a general problem for all solicitors and barristers. There's no place for corrupt counsel whether their field is immigration or tax. As for improving quality of lawyers, we warmly supported the Law Society's proposal to introduce an accreditation scheme for immigration solicitors. We are currently discussing with the Bar Council the provision of training courses for recently qualified barristers who are interested in immigration.

We argued with Home Office ministers that the criterion for standing to assert Human Rights Convention arguments should be the same as for judicial review. The government has adhered to its position that the narrower Strasbourg test must be satisfied. This will have the bizarre (and inefficient consequence) that a legal challenge by an interest group which has "sufficient interest" but is not itself a "victim" will not be able to ventilate all the legal issues at stake.

We have corresponded with the Lord Chancellor's Department and the Legal Aid Board over changes to legal aid. In October of last year all civil legal aid appeared to be in jeopardy except for cases where the prospects of success were over 75%. Over the course of the year, this attitude has softened. The LCD accepted our case that immigration judicial reviews were inappropriate for such a high threshold. There is still widespread concern at the quality of some applications for leave to apply for j.r. although the success rate is higher than many believe. The Home Office is an experienced litigant. It settles very many cases after (sometimes before) leave is granted but no statistics are kept as to why applications do not proceed to a full hearing. When cases which the Home Office does not wish to fight are eliminated, one would expect there to be a low rate of success on full hearings. The opposite is true: about 80% succeed.

The pace of change in Green Form is faster. The LAB has signalled already that in the near future only franchised firms will be able to give advice and assistance. It also intends to move to a system of block contracting. It is concerned at what it sees as the disproportionate amount spent on immigration advice in London and will try to steer more resources to providers out of London.

Another major shift in civil legal aid was the proposal to scrap legal aid for most money claims and expand the use of conditional fee arrangements. Although most immigration litigation does not involve claims for compensation there are occasions when the Immigration Service or carriers have allegedly tried to remove asylum seekers unlawfully. In addition, immigration clients may have parallel difficulties of a kind which do generate money claims. We wrote to the LCD explaining our objections to the proposal.

Other written submissions by ILPA included the review of (non-asylum) immigration appeals, the use of detention, Freedom of Information, Special Immigration Appeals Commission Regulations, changes to the work permit scheme, proposals for a Uniform European format for visas and residence permits, the transposition of the Schengen Acquis into the EC Treaty, the Home Office policies in relation to EU Association Agreements, Law Society Guidelines for Immigration Practitioners, the Lord Chancellor's Advisory Committee on Legal Education and Conduct's consultation on improving the quality of immigration advice and representation, the UN Committee Against Torture's Report on the UK.

This year also saw a new Chief Adjudicator (HH Judge Dunn), a new Deputy Chief Judge Adjudicator (James Latter), a new President of the Tribunal (HH Judge Pearl) and a new head of IND (Stephen Boys Smith). As well as meeting with them, I have attended a briefing for back-bench MPs at the House of Commons, meetings with ministers and officials of the Home Office, UNHCR, RLC, the Refugee Council, the Bar Council, Adjudicators specialising in European law, the Canadian High Commission.

Susan Rowlands, on behalf of ILPA attends the After-Entry User panel. Several ILPA members attend the Taylor House User Group meetings. There is a variable response to the problems raised in this forum. ILPA among others strongly objected to the policy of listing appeals from London based clients in hearing centres at Leeds, Manchester

and Birmingham. Once again, the interests of speed seemed to prevail over justice. We had a more positive reaction to our objection to Home Office requests for block adjournments for appellants from particular countries. The Home Office have told us that this practice is to be ended. We are engaged in an on-going debate with the Home Office as to the role of representatives at immigration interviews. We successfully objected to a new practice of requiring all those attending interviews to give their home addresses, but the immigration service continue to require this for those who are not employed by solicitors' firms.

ILPA has arranged or sponsored several research projects during the year. Heaven Crawley is conducting a survey of Immigration Service asylum interviews. Khatie Ghose is making a compilation of ministerial statements on the Human Rights Bill. Steve Peers conducted a survey of practice in EU countries in connection with asylum procedures and the interpretation of the Refugee Convention. This was done on behalf of ILPA and the Refugee Council. We have co-sponsored a report on the health needs of refugees.

ILPA supported the Refugee Women's Legal Group who published the Gender Guidelines which followed the Group's handbook "Women as Asylum Seekers" which was published last year.

We organised conferences on racism and racial discrimination (jointly with the Discrimination Law Association, the Commission for Racial Equality and the 1990s Trust), German Immigration policy and public opinion (jointly with Institute for Public Policy Research), the 1997 European Convention on Nationality and British Nationality Law (again jointly with IPPR), the Persecution of Children and took part in a seminar organised by Justice and the Providing Protection Project on the Immigration White Paper as well as several other meetings for members.

In international fora we are well represented. Susan Rowlands attended the biannual meetings of ECRE. We hosted (together with the International Association of Refugee Law Judges) a conference in London which was entitled "The Human Rights Paradigm and the 1951 Refugee Convention".

Much of the detailed work of ILPA is done by sub-committees. We have had active sub-committees on Family, Refugee and Asylum, Business and European issues.

A crucial role of ILPA is in providing a series of training sessions for lawyers and advice workers across the whole spectrum of immigration and nationality law. This has continued and training sessions were held throughout the year. The administrative burden is slightly eased because most can be held in ILPA's own offices.

It is a long time since I sat on the EC. I have been very impressed at how hard-working a body it is. "Meets once a month" I was told. Well, that's part of it. Attendance at EC meetings was good. But the work of preparing responses, attending meetings with officials and other organisations, participating in training sessions and ILPA's numerous projects demands much more. All the EC members have given very generously of their time and experience. Other members have made enormous contributions.

Even so, we spend only a small proportion of our time on ILPA. The organisation operates as efficiently and effectively as it does because of the skill, patience and dedication of our General Secretary, Susan Rowlands, and our other staff - Beverley Slaney and Josephine Brain.

Last year's AGM discussed the possibility of merging ILPA and ILPA Ltd (the company by guarantee through which we currently conduct most of our financial affairs). Working this proposal up to the stage where it is now presented for approval has taken much effort. We are extremely grateful to Antoinette Jucker of Sonnenschein for her assistance in bringing this about.

ILPA EXECUTIVE COMMITTEE 1997/8

Chair: Andrew Nicol QC
Secretary: Julia Onslow-Cole
Treasurer: Philip Barth
Tim Eicke
Nadine Finch
Laurie Fransman
Raza Husain
Jawaid Luqmani
Richard McKee
Chris Randall
Sue Shutter
co-opted member: Susan Field (Refugee Legal Centre)

TREASURER'S REPORT

The Directors submit their report and the financial statements of Immigration Law Practitioners' Association Limited for the year ended 31 March 1998.

PRINCIPAL ACTIVITIES AND REVIEW OF THE BUSINESS

The main activity of the Association in the financial year covered by these accounts has been the provision of training courses for immigration law practitioners. The remainder of the income has derived from membership subscriptions and from the provision of editorial services for the journal: Immigration and Nationality Law and Practice. As a service to members, the Association also provides regular briefings and conducts regular meetings to discuss important developments in immigration law and practice. Income derived from training courses is also applied to enable concessionary fees to be approved in appropriate cases. This year has continued to be exceptionally busy for the Association in view of the on-going developments in immigration law and practice and proposed changes by the new government.

This year, we made an operating loss of £851. This compares to an operating profit of £2,406 for the year ended 31 March 1997. Although we have significantly increased our income over last year by £32,959, our operating expenses increased by a total of £37,626). These increases were anticipated following the move to the new premises and increase in staffing costs. Higher distribution and administration costs were due to the increase in turnover.

The reason why the operating loss for the year is so small is due to the continued growth of income achieved over this period of £32,959 over last year's income. Member subscriptions have remained virtually unchanged but course fees have increased by £19,580. The continued growth of income in course fees is attributable to the increase in the number and variety of our training courses and numbers who attend them.

We have now completed our first full financial year in our new premises, which are providing an extremely useful venue to run our training courses and to hold members meetings and seminars. Members now have access, by prior appointment, to our library facility.

FUTURE DEVELOPMENTS

Notwithstanding the increase in overheads, in particular rent, rates and related property costs and salaries, we managed to virtually break even and this is entirely attributable to the increase in course fees. We shall continue to devise a broad and

topical range of courses for our training programme to enable members to keep a pace of the rapid changes in practice in policy. We remain committed to make training sessions available outside London.

We shall keep the subscription fees and course costs under constant review so as to ensure that we continue to cover our overheads from revenue and do not need to draw on our reserves except when absolutely necessary.

The preparation and installation of an enhanced accounting package should assist us in this process and ensure that we continue providing a suitable selection of adequately priced training courses and information to all our members.

It remains our objective to break even in each financial year whilst maintaining adequate levels of reserves.

RESULTS

The loss for the year after taxation was £851.

REPORTS FROM THE SUB-COMMITTEES

FAMILY SUB-COMMITTEE

CONVENOR: Richard McKee

REFUGEE SUB-COMMITTEE

CONVENORS: Jawaid Luqmani
Christopher Randall
Raza Husain

EUROPEAN SUB-COMMITTEE

CONVENORS: Elspeth Guild
Tim Eicke

BUSINESS AND EMPLOYMENT SUB-COMMITTEE

CONVENORS: Philip Barth
Philip Trott
Julia Onslow-Cole

FAMILY SUB-COMMITTEE

REPORT FOR AGM ON 28TH NOVEMBER 1998

During the past year the Subcommittee has continued to enjoy the use of the large conference room on the first floor of SOAS Law Department for our meetings on the third Tuesday of the month. These have not, unfortunately, been as well attended as the meetings of the Refugee Legal Group in the same room on the first Tuesday, but for the hard core of regular attenders they have provided a useful source of information and an opportunity to put views across which have subsequently been taken up by ILPA as a whole, notably on British Overseas citizens. Our thanks as ever go to Dr Werner Menski for arranging the venue and to the Law students (notably Olivia Adamson) he has roped in to take the minutes, his most recent victim being perhaps peculiarly susceptible to having his arm twisted ~ Martin Menski!

BOC'S

Ramnik Shah has had a personal and professional interest in the problems of British Overseas citizens since the Commonwealth Immigrants Act was rushed through Parliament 30 years ago by a previous Labour government (so we should not be at all surprised that New Labour is firm on immigrants). The 1968 Act created a class of British passport holders who did not have the right of abode in the UK, and who could only settle here if the head of the family concerned was granted a 'special voucher' under a quota system that operated extra-statutorily and at the discretion of civil servants at the British post and at the Home Office. They eventually became part of the class of 'British Overseas citizens' created by the 1981 Nationality Act, and a special meeting of the Subcommittee was held in September to consider ways of alleviating their position. This was precipitated by the leaks to the press about the outcome of the government's review of British Dependent Territories citizens, who will be granted full British citizenship.

Although BOCs are not included in the review, it seemed an opportune time to remind the government, amid all the consultation documents and White Papers they are throwing our way, of this neglected group of British nationals. Raman Ruparell of JCWI, another stalwart supporter of BOCs, joined Ramnik in putting forward a number of proposals, e.g. pointing out the sexual discrimination that still survives in the voucher scheme (married women cannot apply unless their husbands are shown to be incapable of acting as 'head of the household') and the anomalous treatment that is meted out to BOCs in the UK (e.g. BOCs evacuated on British planes from African trouble spots have been encouraged by Immigration Officers to apply for asylum, while BOCs who have overstayed neither get deported nor get their status regularised). The ILPA Executive Committee will be incorporating these points into a paper that proposes allowing BOCs who have no other nationality to apply for full

British citizenship, provided they did not renounce any other nationality before the relevant 'cut off' date. This proposal follows the precedent set by the British Nationality (Hong Kong) Act 1997, which allowed those BDTCs, BN(O)s and indeed BOCs who were resident in Hong Kong and who would not be eligible for Chinese citizenship, to register as full British citizens, provided they held no other nationality prior to 4th February 1997. Copies of the draft ILPA paper are available on request.

MAINTENANCE AND ACCOMMODATION

Members continue to be exercised about the inconsistencies between different posts in the sort of evidence they regard as probative of a sponsor's ability to maintain and accommodate an applicant for entry clearance (in-country applications are much less of a problem). This is linked to the much higher refusal rate at some posts than others. Thus, the posts where visas are more likely to be refused are also the posts where the demand for documentary evidence is likely to be most stringent. At the seminar for ILPA members held at Cameron McKenna in September, Richard White and Henry Rooney of the MVD revealed that visa refusal rates are much higher at Dhaka, Islamabad, New Delhi and Lagos than the average of 5.8%.

Posts on the Subcontinent and in West Africa are also the ones where evidentiary problems are likely to be experienced. This was explained at the seminar as being partly caused by the preponderance of forged documentation being produced to support applications at those posts. But practitioners should be aware of recent Tribunal case law which emphasises that an Environmental Health Officer's report is not required to show that accommodation is adequate, and that various sorts of alternative evidence are acceptable. Indeed, this has long been said in the Diplomatic Service Procedures manual itself!

INTENTION TO LIVE TOGETHER

Werner Menski's book on *Muslim Family Law*, which he largely rewrote after the first two editions by Professor Pearl, was launched by Sweet & Maxwell last month, and provides excellent up-to-date guidance to practitioners on thorny topics like the validity of a *talaq* divorce pronounced in Azad Kashmir and followed up by notification to the Union Council. But of growing concern to Werner and other members is the number of visas now being refused, and appeals dismissed, on the issue of 'intention to live together'. The criteria being used to assess this intention are no different from those used in the past for the 'primary purpose' test. Thus, the absence of 'intervening devotion', or a 'conditional' intention (i.e. where the couple will only live together in the sponsor's country), or even a motive of 'economic betterment' on the part of the appellant, are being used as evidence that the requisite intention has not been shown. Even the birth of a child to the couple, which in the past would have triggered the concession under the primary purpose rule, has not been enough to satisfy the 'intention' test, when the sponsor has not visited the appellant often enough!

The subcommittee would like to hear about cases of this nature, and will press for better guidance from the Tribunal. So far, the Tribunal jurisprudence has on the whole been disappointing, with the amount of contact between the appellant and sponsor being examined minutely, and unfavourable inferences being drawn from, for example, a dearth of itemised phone bills ~ despite the fact that many people are now taking advantage of the cut-price phone shops that have sprung up everywhere, instead of phoning from home.

FAIR'S FAIR

Don Flynn of JCWI has been chairing the steering group of FAIR - UK (Family Immigration Rights, which is affiliated to the European Co-ordination for Foreigners' Rights to Family Life), and meetings have been taking place regularly at Tower Hamlets Law Centre. An EC Directive is being proposed on the rights of third-country nationals in the Union, and networking is taking place with similar organisations on the Continent. On behalf of ILPA, Richard McKee attended the seminar in Cardiff timed to coincide with the EU Summit in June, and took part in the 'encounter debate' on the prospects for family reunion Europe-wide. A vacancy exists for a keen ILPA member to join the steering group and liaise with our subcommittee!

REFUGEE SUB-COMMITTEE

As with previous years, the work of the Sub-Committee was divided between asylum work and Legal Aid activities.

The Sub-Committee has spent a considerable amount of time being involved in direct dialogue with Ministers and civil servants in respect of proposed legislative and policy changes. This represents a shift from the work of the Sub-Committee in previous years which has generally been to respond to the changes rather than to be invited into the debating process at an earlier stage. The current government have certainly been more keen than the previous to invite dialogue so as to enable an opportunity in some areas for discussion before implementing change. This does mean that our concerns can be voiced at a stage earlier than the passage of legislation through Parliament, but whether the opportunity for dialogue affords greater prospect for being able to oppose proposed changes which we would feel to be detrimental to clients and members remains to be seen.

There have been several areas in which discussion and dialogue has taken place and we mention some, but by no means all below.

Much work has been done on the proposed documentation centre to eliminate discrepancies arising at appeal from evidential differences and to ensure that all relevant material is placed before the Appellate Authorities. The Sub-Committee must pay particular thanks to the efforts of Mark Henderson for his attendance at these meetings on behalf of the Sub-Committee.

The dialogue has also been around the proposals in the White Paper and the Appeals Review which led to ILPA producing a response co-ordinated by the Sub-Committee but contributed to by a large number of individuals. Sue Shutter in particular is thanked by the Sub-Committee for ensuring that the large volume of input from various contributors was presented in a form that would be meaningful and readable.

The Sub-Committee has been active in ILPA's input in Legal Aid changes. A members' meeting has been arranged on this. The Sub-Committee was heavily involved in the Association's response to the Legal Aid Board's document on the future of Green Form and helped co-ordinate a response by ARC to the LAB's subsequent proposals asking out of the consultation. ILPA has been active in a number of forums in warning of the problems of a shortfall of advisers in the year 2000.

In the course of the year the Sub-Committee had a meeting on the future of Legal Aid for immigration firms generally. The LAB clearly take ILPA's views seriously on this issue.

We also had a big input into the Association's response to the formal paper on unscrupulous advisers.

The Sub-Committee has liaised throughout the year with Asylum Rights Campaign and the Providing Protection Project.

As with previous years the work of the Sub-Committee has been loosely coordinated by the Convenor. Increasingly, the work has been spread amongst other ILPA members and the Committee would certainly see this trend as being the only means by which the Sub-Committee can remain at the heart of ensuring that concerns of all Practitioners involved in this area are addressed. It is hoped that such input will continue for the next year also.

EUROPEAN SUB-COMMITTEE

A report on the year's activities, prepared by Nick Rollason

PROJECT ON THE AMSTERDAM TREATY

The Amsterdam Treaty, which transferred competence over immigration and asylum matters from the inter-governmental "third pillar" to the European Community, effectively amends the EC Treaty by inserting into it a new Title VI. The objective of the new title is to establish "an area of freedom, security justice". The Treaty is expected to enter into force in the first half of 1999 and implementing measures on the areas of visas, asylum, immigration and other policies related to the free movement of persons will need to be adopted within five years.

The right to initiate legislation during this five year period is to be joint between the European Commission and the Member States. After the five year period the Commission will hold an exclusive right of initiative which it has in all other areas of Community law.

The sub-committee believes that there is now a window of opportunity for the influencing of the legislative process at European level and believes that the Commission, as opposed to the Council, will be much more receptive to imaginative and practical ideas in the areas covered by Title VI.

The sub-committee has therefore prepared a proposal which has been sent to each of the sub-committees in the hope that research can be carried out by members, practitioners, lawyers and academics and that submissions can be made with a view to influencing this legislative process in the following areas:

- Border controls
- Asylum measures
- Family reunion
- Primary immigration (including long-term visas and residence permits)
- Illegal migration
- Deportation
- Free movement rights for third country nationals legally resident in a Member State

The sub-committee will be co-ordinating research on the above matters and hopes to prepare a composite document on all the above areas for submission to the Commission in 1999. A copy of the proposal is attached and members wishing to participate in the project should contact the sub-committee.

FREE MOVEMENT

The sub-committee prepared submissions to the High Level Panel on freedom of movement in response to the panel's report published in 1997. The sub-committee continued to monitor developments at Community level and the implementation of free movement rights in the United Kingdom.

The sub-committee was jointly responsible with King's College, London for organising a conference entitled "The Legal Framework and Social Consequences of Free Movement of Persons in the European Union" which was held at King's College on 27 and 28 November 1997. The conference was timed to mark thirty years of free movement of persons in the European Union with contributions from a wealth of experts from the legal and academic fields. Their contributions have now been published by Kluwer Law in the Studies in Law series of publications issued by the Centre of European Law, King's College, London. A copy of the publication will be sent to all members and the sub-committee hopes it will be of use to practitioners.

EUROPE AGREEMENTS

The sub-committee has continued to monitor the implementation of the Europe Agreements in the UK. A joint meeting of the European and Employment Sub-Committees was convened in order to provide to and share information with members regarding the current Home Office practice on the Agreements. In view of the Home Office decision to seek to exclude those without limited leave from seeking to assert their rights under the Agreements, the sub-committee proposed that a sensible approach to litigation in the High Court in this area should be taken. The Home Office unfortunately rejected these proposals.

THE UK AND AUSTRIAN PRESIDENCIES OF THE EUROPEAN UNION

The sub-committee monitored the UK's presidency of the Union and prepared a briefing to a large number of committees of MEPs at the European Parliament in response to the Austrian presidency's draft strategy paper on Immigration and Asylum Policy. The strategy paper proposed the removal of the right of a persecuted individual to protection under the 1951 UN Convention and 1967 Protocol and its replacement with a state discretion to offer protection. In addition, the paper contained proposals to create a highly restrictive policy with the aim of preventing illegal migration. Any developments at a European level will be passed on to members.

VANDER ELST PROJECT

The rights of European undertakings and companies to send third country nationals to other Member States in order to provide services is contained in Article 59 of the

Treaty of Rome and has been recognised by the European Court of Justice. Whereas the rights of workers and the self-employed to move have now been crystallised in regulations and directives relating to the specific rights under Article 48 EC and 52 EC, no such Community legislation has been proposed with regard to the provision of services and, in particular, companies wishing to send third country nationals to provide services in another Member State.

With a view to initiating Community legislation, the sub-committee has carried out a research project on the practice in various Member States in giving effect to the Court of Justice's decision in Vander Elst on the provision of services. This showed varying practices and requirements depending on which country the service provider wishes to send its staff to. The sub-committee may submit a formal complaint to the European Commission with regard to its failure to initiate a proposal.

During the coming year, the sub-committee will continue to monitor European developments and will focus on the project on the Amsterdam Treaty. Again, the sub-committee would very much welcome any assistance from members in this area.

ILPA EUROPEAN GROUP: PROJECT ON THE AMSTERDAM TREATY

The Amsterdam Treaty is anticipated to come into force in the first half of 1999. Under the new Title IV which the Amsterdam Treaty inserts into the EC Treaty, visas, asylum, immigration and other policies related to free movement of persons, various measures which relate to immigration and asylum must be taken within five years of the entry into force of the Treaty. There is an opt in/out for the UK. As yet it is unclear to what extent it will be exercised.

Under the Schengen Protocol to the Treaty the Schengen acquis which consists of the Schengen Agreement 1985, the Schengen Implementing Convention 1990 and the decisions of the Schengen Executive Council are, on entry into force of the Amsterdam Treaty, automatically transformed into law of the European Union. If a legal base has not been allocated for each of the subject areas of the Schengen acquis by a default provision in the Protocol these provisions automatically become part of the Third Pillar of the Treaty on European Union. The Schengen acquis covers amongst other things the abolition of Intra-Member border controls, the issue of visas and crossing of external borders.

Although under the provisions of the Treaty of Amsterdam both the Member States and the Commission will have a right of initiative as regards introducing legislation in the new fields for five years, after that period the Commission is given exclusive right of initiative, as it has in all other areas of Community law. This will undoubtedly contribute to an increased dynamism from the Commission on activity in this area. Under the Third Pillar of the TEU, which previously regulated these areas intergovernmentally the European Commission was most noticeable by its absence as regards initiation of legislation. It can now be expected to take a much more essential role.

1. **Border Controls**

The objective to be achieved and on the basis of which the Amsterdam Treaty has inserted new competences for the Community in the area of immigration and asylum is the abolition of internal border controls. This is the objective contained in Article 7A EC and which has been the subject of much dispute. The UK has now an opt out so that it does not need to abolish intra-Union border controls while permitting the other Member States to Communitarise the Schengen acquis which effectively abolishes intra-union border controls for all Member States except the UK and Ireland, and introduces the necessary flanking and compensatory measures on external border controls.

The Schengen acquis does not deal with the issues of asylum (regulated by the Dublin Convention 1990) or immigration for long-term residence. However, it deals with the issues relating to visas, admission to the territory etc. It includes the Schengen Information System which is a computerised system including information about individuals. In the field of immigration and asylum it includes a list of persons who are prohibited from admission to the territory of Schengen states. The House of Lords is currently undertaking an Inquiry into the Schengen acquis and what the implications of Schengen are for the UK. The new Community power which will be implemented by Schengen is contained in Article 73J of the Amsterdam Treaty (Article 61 of the re-numbered EC Treaty) and covers the following:

- (a) The abolition of border controls on persons (citizens of the Union or third country nationals crossing intra-EU border.
- (b) Standards and procedures for carrying out checks on persons at external borders; rules for visas for stays of no more than 3 months which includes the list of third country nationals who must be in possession of visas (subject of a community Regulation at the moment); procedures and conditions for issuing visas (covered by the Schengen decisions); a uniform format for visas (covered by a Community Regulation); and rules on the uniform visa (this will undoubtedly have to do with the validity and extent of the visa and is currently covered in the Schengen acquis); conditions relating to third country nationals' travel within the Union for a period of no more than 3 months (covered by the Schengen acquis and also the subject of a proposed Directive by the Commission).

In respect of the long-term consequences of this aspect of the Amsterdam Treaty, the persons it will affect most are third country national tourists to the European Union. This is because their position is one regulated by the provision specifically. It will also affect procedural and appeal rights particularly in respect of persons on the inadmissibility list of the Schengen Information System.

In terms of the ILPA Research Project, an analysis of the consequences for tourists/visitors on the incorporation of the Schengen acquis is required. Further investigation of what this means in respect of a country like the UK which is not participating directly in the provision then also needs to be undertaken.

2. Asylum Measures

Article 73K (new Article 62 EC) provides for the following measures to be taken on asylum: measures on criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national on a Third Country and one of the Member States.

This is the subject matter of the Dublin Convention 1990 and in effect it means that that Convention must be turned into a Community measure, either a Directive or a Regulation, within 5 years of entering into force the Treaty. It was unclear whether the UK would participate under its opt out/opt in provision in a new Regulation or Directive to supersede the Dublin Convention. However, the latest word is that it probably will participate. Secondly, minimum standards on the reception of asylum seekers in that Member States. This was the subject of a proposal under the Spanish presidency but it did not get anywhere and subsequently there have been substantial changes to the standards of reception of asylum seekers in some Member States for instance, the UK, Netherlands and Germany. (This provision, exceptionally, is not subject to the five year requirement).

Nonetheless the measure must be produced within 5 years. Thirdly, minimum standards with respect to the qualification of nationals of third countries as refugees. This is in effect the joint position on the harmonisation of Article 1A of the Geneva Convention which was adopted in 1996. Finally, minimum standards on procedures in the Member States for granting or withdrawing refugee status is also included and this is the subject matter of the Resolution on minimum procedures and guarantees adopted by the Member States under the Third Pillar in 1996. However, in that document there was no mention specifically of withdrawing refugee status.

In this asylum section all of the areas covered in respect of which measures must be adopted within 5 years of entry into force of the Amsterdam Treaty have been the subject of measures adopted under the Third Pillar of the Treaty on European Union. It is unclear whether the Member States intend to adopt in a Community form, (i.e. as a Resolution or Directive) measures similar or identical to those which they adopted in the Third Pillar.

In respect of the ILPA Research Project, the four areas covered in this subsection need to be examined separately and the powers considered against the measures adopted by the Member States under the Third Pillar with a view to making detailed submissions to the European Commission which is likely to be the body responsible for proposing legislation within the 5 year period on improvements to the procedures.

It is understood that the Commission is currently considering a measure on minimum standards on procedures and has taken the views of ECRE recently. Exactly what is intended is unclear.

The next sub-section in the Treaty covers two areas in which measures on refugees and displaced persons are covered:

Minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection. The second provision requires promotion of a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons (ie burden sharing). This has been the subject of a proposal for convention by the European Commission in May 1997. The proposal has recently been redrafted and broken into two. The main political difficulty is in respect of the concept of burden-sharing.

Some Member States are very anxious to include the principle of burden-sharing. The Commission itself is unhappy with the concept of moving persons around but the latest proposal includes the possibility of financial assistance to Member States where there are substantial numbers of asylum seekers in comparison with the average number of asylum seekers per population. Therefore the two principles of temporary protection and burden-sharing are combined in new Article 73K of the Amsterdam Treaty (Article 62 of the re-numbered EC Treaty).

So far the Commission proposals for a Convention on temporary protection depends on a political decision of the Member States asking in the Council to open a scheme for temporary protection. The circumstances under which such a scheme would be opened remain discretionary within the power of the Member States. Accordingly the concept of temporary protection is subject to Member States discretion to the absence of any right of the individual to seek temporary protection as a right in international law. One of the very serious difficulties here is the elimination of the individual as an actor competent to trigger a consideration of his or her claim to the need for protection.

In respect of an ILPA Research Project what is needed here is a detailed analysis of the jurisprudence of the European Commission and Court of Human Rights on Article 3 as regards return of persons to torture, inhuman or degrading treatment and also the Committee of the UN Convention against Torture 1984 on the international standards of temporary protection for

persons in need of international protection. Any measure which is to be introduced here must fulfil those criteria.

3. **Family Reunion**

Article 73K(3)(A) (new Article 63 EC Treaty) provides for measures on the conditions for entry and residence and standards on procedure for the issue by Member States of long term visas and residence permits including those for the purposes of family reunion. A Resolution was adopted in 1994 by the Member States acting within the Third Pillar on family reunion for third country nationals. This has been criticised as too restrictive and certainly sets a different standard for family reunification for third country nationals than that which applies in respect of Community nationals. Further, in July 1997 the Commission proposed a Convention on third country nationals which include provisions on family reunification for third country nationals permanently resident in the Member States, again the provisions contained in this Convention are not as generous as those which apply to Community nationals.

In terms of the ILPA Research Project on the Treaty of Amsterdam the important consideration here is to make a comparison on family reunification rules of Community nationals and third country nationals as proposed under the Third Pillar and in the proposal for a Convention. Further, the conditions of residence of family members under Community law as contained in the Regulation 1612/68 and in Decision 1/80 as regards the family members of Turkish workers need to be taken into consideration as well. Further work should also be done in co-ordinating with the European wide campaign on family life which Don Flynn of JCWI is heavily involved in.

4. **Primary Immigration**

The next area which is covered by the new competence is primary immigration as this relates to the issue of long-term visas and residence permits. The Community competence relates to the conditions of entry for residence and standards on procedures for the issue of long-term visas and residence permits. This covers both the content under which primary immigration may be permitted and how such visas are issued. This will affect anyone coming to the UK for a long period such as business persons, persons on work permits, artists, investors, persons who have retired to the UK etc. Many of these issues have been covered in the Commission's Convention issued in July 1997, the rules of which are not dissimilar to those

adopted by various Third Pillar measures throughout 1993 to 1997. It will be a matter of some concern for the ILPA business group what rules are adopted here as they may or may not be advantageous to the fostering of economic development.

As regards the ILPA Research Project, here an analysis needs to be undertaken of the Third Pillar Resolutions on employment and self-employment together with the proposal for a Convention submitted by the Commission in July 1997 to determine what kind of proposals we are likely to see forthcoming in this area. It may be valuable to draw in under this heading the question of service providers, be they third country nationals or Community nationals, and Community law in that field although it is unclear whether service providers would in fact be considered to have long-term visas.

5. Illegal Migration

The next area covered is measures on illegal immigration and illegal residents, including repatriation of illegal residents. There have been a number of measures adopted under the Third Pillar regarding illegal immigration and illegal residents. It has turned into a high priority and has received very substantial attention in the proposal for an immigration strategy in the paper of the Austrian Presidency on immigration. One of the great difficulties of Community action in respect of illegal residence and illegal immigration is that there are no uniform definitions of illegal immigration or illegal residence across the Union. Further, often included in this is illegal employment although the Commission itself has assessed that 80% of illegal employment is undertaken by Community nationals (see Commission Communication on Employment 1996/7?).

One of the other difficulties which is arising in respect of the term illegal immigrant is its assimilation into or with the concept of asylum seeker. Increasingly persons who have arrived irregularly in the Member States and who fail to have documents proving legality of entry into the territory are excluded from the asylum procedure even though they are claiming a fear of persecution or torture. The tendency to demonise asylum seekers as illegal immigrants seems to be gaining ground across the Union. The only basis for Community action in respect of deportation and expulsion is contained in the "repatriation of illegal residents". This is a fairly weak ground for harmonisation of measures in this field.

The question will be the extent to which individuals will have the right to challenge the categorisation as illegal immigrant and the consequences of

illegality. For instance, an example of the great difference in respect of approach to illegality is characterised by the difference in German and UK laws. Under German law when an individual has failed to apply for an extension of a work and residence permit for a period of less than 12 months the Government Circular advises that that period should be overlooked and the extension granted. In the UK, the failure to apply "in time" for an extension of work and residence permits results in an immediate classification as illegal and there is no specific provision to permit an extension after a person has become illegal except by virtue of an exercise of discretion by the Secretary of State.

In respect of the ILPA Research Project, this area is of particular concern to the question of deportation and expulsion and appeal rights will be critical to the issue. It also brings in the question of the Schengen Information System which contains the names of persons who are automatically inadmissible and therefore although they may have obtained some residence status in one Member State they are excludable because of the entry in the SIS.

6. Free Movement Rights for Third Country Nationals Legally Resident in a Member State

Article 73K (new Article 63 EC Treaty) provides for measures to be adopted defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States. This is the starting point for free movement rights for third country nationals resident in one Member State in another Member State in accordance with those rights enjoyed by Community nationals. Where rights derive from Community law such as in respect of the decisions the Association Council under the EC Agreement or in respect of family members there are good reasons for an independent right for the third country national to apply so that he or she can exercise the right in any Member State.

In respect of the ILPA Research Project this is particularly important in respect of providing equal treatment for long resident third country nationals and is particularly relevant in the light of the citizenship debate where third country nationals in one Member State may be able to acquire citizenship in that Member State but those in an identical position in another Member State cannot and therefore their position remains anomalous inter-sie, as regards the enjoyment of Community free movement rights.

7. The Practical Position

The current College of Commissioners ends in the year 2000. European Parliament elections will take place in 1999. The Treaty of Amsterdam is expected to enter into force in the first half of 1999, which means that for most of the areas discussed above implementing measures will need to be adopted within 5 years, i.e. by 2004. The exceptions are that no implementing measures need to be adopted within 5 years in respect of minimum standards on reception of asylum seekers, conditions of entry and residence as regards long term visas and family reunions; and conditions under which the third country nationals who are legally resident in one Member State may reside in another.

In respect of all of the other areas, the Treaty provides that implementation must take place within 5 years. There is no apparent sanction for the failure of implementing measures to be adopted. Further, none of the provisions are self evidently capable of having direct effect. Accordingly remedies in respect of failure to reach agreement on measures to implement any particular area are not obvious. If the Member States do not reach agreement there is no obvious sanction.

The right to initiate legislation is joint between the Commission and the Member States for the first 5 years after entry into force. After five years the right of initiative is exclusive to the Commission. It is unclear whether the Member States intend to continue to introduce legislation or leave the field open to the Commission. Certainly at the moment the Commission appears to be playing a much more active role in respect of the preparation of legislation that has hitherto been the case.

The role of the European Parliament which will be entitled to consultation as regards measures adopted under the new title will improve the transparency, a problem which has been criticised by many observers in respect of the old Third Pillar. Further, the EP consultation procedure provides a substantial degree of democratic legitimacy in respect of legislation adopted under this heading.

Virtually all measures will require unanimity in the Council, the exceptions being the list of third country nationals who must be in possession of visas and the rules on a uniform format for visas (both of which are the subject of existing Regulations adopted under Article 100 CEC).

The European Court of Justice has a more limited role in respect of the new title than it does in other areas of Community law. Specifically only "Courts of

final instance" are entitled to refer questions to the Court of Justice for clarification. However power is given to the European Commission to seek clarification from the Court of Justice on the meaning of any provision under the new title. This is a new power to the Commission which could prove very valuable if effectively used.

8. Points of Concern

The measures adopted in the Third Pillar by the Member States (and before the entry into force of the Maastricht Treaty, intergovernmentally) have led to very substantial criticism by observers. If these measures are transposed into Community law in the form of Regulations and Directives the criticisms are likely to be even more pronounced as the binding nature of Community law will intensify the negative result.

Secondly, as the title is currently framed, there is no apparent right arising to individuals. Without rights to individuals breaches of Community law are much more difficult to remedy. Should the implementing measures under the new title be drafted exclusively in the context of inter-state obligations, individuals will be caught up in Community law which is enforceable between states but does not give rise to any right for the individual to challenge the form of implementation and the transposition of the Community measures. This situation, if allowed to arise, would undermine the rule of law in Europe and would create a new class of persons, i.e. third country nationals, who are not entitled to access the rule of law in Europe.

The question which then arises is when are we likely to start to see the introduction of measures to give effect to the new title. While much work is being done at the moment by the Commission and it is understood that the draft proposal on minimum guarantees in the asylum procedure is under consideration it seems unlikely that any substantial effort will be made to push through legislation before the end of this Commission. The Commission has already put on the legislative table a revised proposal for a Convention on temporary protection accompanied by a proposal on burden sharing and a proposal for a Convention on third country nationals (including primary immigration and family reunification).

None of these proposals are moving quickly towards adoption and in any event adoption in the form of a Convention would be counter-productive at this point in time. Accordingly, politically, it seems likely that the Commission will continue to throw out ideas and to set a framework but may be slightly slower in expecting results until after a new Commission is appointed and the

European Parliament elections have taken place. Thereafter an intensification of efforts in this field may be anticipated.

Institutionally, work in respect of the new title IV is fragmented between the Commission's Secretary General, DGs V and XV of the Commission and of course the Council. Within the Commission it seems likely there will be some consolidation of responsibility in respect of this title but where or how remains unclear.

It further remains unclear what personnel will be engaged to deal with the subject matter of the new title. It is by no means apparent that those persons working in the Secretary General of the Commission in the taskforce will necessarily be immediately or directly transferred into any new DG which may be responsible for the title.

9. **Proposal**

At the moment there is a window of opportunity as regards the implementation of new powers under the Amsterdam Treaty in the field of immigration and asylum. A new institution, the Commission, is moving into centre stage in respect of this area and that institution is much less dogmatic in respect of its position than is the Council dominated by the Member States which has hitherto taken main responsibility. It is undoubtedly the case that the Commission will be looking to put its own imprimatur on the area and is likely therefore to welcome imaginative and practical ideas as regards approaching these new competences. It is undoubtedly the case that the Commission will be well aware of the political sensitivities which surround this area.

Accordingly, the preparation of research at this time into the areas outlined above and the submission in the form of a policy document to the Commission with copies to the Parliament and other institutions could be exceedingly helpful in setting the stage for the debate in respect of implementation of the new title.

BUSINESS AND EMPLOYMENT SUB-COMMITTEE

It was decided after the appointment of Julia Onslow-Cole as an additional co-convenor of the sub committee to abandon the rolling work program which had been in place and to assume a more reactive function to issues as they arose.

Among the issues with which we have dealt are:

- the Law Society's proposed accreditation scheme
- a consultation exercise by the OLS on the possible introduction of charges for work permit applications
- the new guidance notes for the work permit scheme which was eventually launched this September. One point in particular on which we are seeking to obtain guidance is the level of due diligence which representatives will have carry out in connection with the newly imposed representative declaration on work permit application forms
- the new policy for domestic workers and the 'quasi-amnesty' for abused or exploited domestic servants
- a further consultation exercise by the OLS on the new guidance notes for the Training and Work Experience Scheme.

We would like to thank all those members who have attended the meetings and contributed, both at the meetings and with follow up. We hope to be able to resume a more regular program as we believe there will be a number of issues arising over the next year, in particular the reorganisation taking place in the Home Office and the disbanding of the Business Group.

ILPA'S ACTIVITIES

TRAINING COURSES

ILPA organised forty-three courses in 1998. Most of these were held in London, mainly at the ILPA offices. Four were held in Manchester, at the Mechanics Institute, and one at the Brave Enterprise Agency in Bristol. The courses were Law Society and Bar Council accredited, and covered a variety of areas and topics, as can be seen from the following list:

DATE	COURSE	No. ATTENDING
24 September 1997	Definition of Torture in International Law	15
10 December 1997	Recognition of Foreign Marriages and Divorces	24
26 January 1998	Unmarried Partners: Immigration Policy and Practice (Manchester)	15
12 February 1998	Basic Asylum Law	24
20 February 1998	Women as Asylum Seekers (Manchester)	9
4 March 1998	Home Office Policy: Concessions and the Exercise of Discretion	42
12 March 1998	Homelessness and Housing Allocation	16
18 March 1998	Basic Business and Employment Immigration Law	34
23 March 1998	Unmarried Partners: Immigration Policy and Practice	45
24 March 1998	The EA Agreements and their application to domestic law	43
1 April 1998	Basic Immigration Law	36
22 April 1998	Family Law for Immigration Practitioners	20
28 April & 5 May 1998	Presentation of Immigration Appeals: Part 1: Preparation & Part 2: Advocacy	29
30 April 1998	S.1 Asylum and Immigration Act 1996: Determination and Appeals	21
6 May 1998	Detention and Bail	22
8 May 1998	Advising on Employment in Another EU Country (with AIRE Centre)	28
13 May 1998	Advising on Immigration Cases in Police Stations	16

DATE	COURSE	No. ATTENDING
20 May 1998	Recognition of Foreign Marriages and Divorces (Manchester)	19
21 May 1998	Family Settlement	16
3 June 1998	Using Article 3 of the ECHR	14
4 June 1998	Children and Immigration Law	25
9 June 1998	Women as Asylum Seekers	13
1 July 1998	Using Article 3 of the ECHR (Manchester)	7
8 July 1998	Judicial Review in Immigration Cases	35
16 July 1998	Using a Human Rights Paradigm in Refugee Determinations	14
22 July 1998	Van der Elst: The Theory and Reality	24
27 July 1998	Refugee Law After Adan	28
8 September 1998	Entry Clearance - Applications and Decision Making	71
15 September 1998	Basic Immigration Law I	25
22 September 1998	Basic Immigration Law II	30
24 September 1998	Representations Around Asylum Interviews (Manchester)	Cancelled
28 September 1998	Basic Immigration Law III	29
12 October 1998	Basic European Community Law	21
20 October 1998	Benefits and Housing for Asylum Seekers	30
21 October 1998	Basic European Immigration Law (Manchester)	Cancelled
27 October 1998	Student Applications	18
28 October 1998	Judicial Review in Immigration Cases (Bristol)	11
4 November 1998	Advanced Asylum Law	Postponed
10 November 1998	Representations Around Asylum Interviews	Postponed
11 November 1998	Judicial Review in Immigration Cases (Manchester)	Cancelled
18 November 1998	Introduction to Immigration Appeals	26
24 November 1998	Detention and Bail in Immigration Cases	8
26 November 1998	Employment and Business Related Immigration	71

SPEAKERS

Officials from the Migration and Visa Department of the FCO, the Overseas Labour Service of the DfEE, various Directorates of IND, and the European Commission, have been among the speakers. Other speakers came from UKCOSA, the Refugee Legal Centre, the IAA, UNHCR and the International Association of Refugee Law Judges. Many ILPA members proposed courses and spoke at them; others hosted the sessions. The contribution of all speakers and hosts is gratefully acknowledged.

ILPA MEMBERS' MEETINGS

Most meetings were convened by Sub-Committees: 24 in all this year. A special meeting was convened on German immigration policy and public opinion.

General meetings for members were held on:

Regulation of Advisers, following the publication of the Consultation Paper by the Home Office and Lord Chancellor's Department (24 February)

Review of Appeals and the Immigration and Asylum White Paper (7 September)

Regular meetings have been held in Manchester for ILPA members in the north west.

JOINT SEMINARS/CONFERENCES

IBA/ILPA

An international two-day seminar on Immigration and Nationality was held on 9 and 10 March in London. Members of ILPA both spoke at the conference and were among participants.

AIRE CENTRE/ILPA

A training session on Advising on Employment in another EU Country was held at the European Parliament's UK Office. The speakers were Nuala Mole, Elspeth Guild, Jurgen Tiedje of DG XV, Roy Toogood, International Services, Contribution Agency.

INTERNATIONAL ASSOCIATION OF REFUGEE LAW JUDGES/ILPA

A seminar, convened by the Human Rights Nexus Working Party of the IARLJ with ILPA, on the Human Rights Paradigm and the 1951 Refugee Convention was held at the Law Society on 12 May. Papers were distributed before the seminar, which was extremely well attended by practitioners, academics, researchers, judges and officials, and chaired by the Hon. Mr Justice Sedley.

IPPR/ILPA

A seminar was held on 17 June entitled European Bridges in British Nationality in 1998. The speakers were Laurie Fransman, Margeret Killerby, Council of Europe, and Andrew Walmsley, Director, Nationality Directorate IND.

DISCRIMINATION LAW ASSOCIATION/CRE/1990 TRUST / ILPA

A conference on Making Rights Real: challenging racism and racial discrimination using the Human Rights Act 1998 was held on 8 October, with speakers from South Africa, the United States and the UK, with financial support from the Joseph Rowntree Charitable Trust and the Barrow Cadbury Trust.

LIAISON WITH OTHER ORGANISATIONS

Susan Rowlands continues to represent ILPA at meetings of the Immigration Sub-Committee of the Law Society, the Protection Work Group of the Refugee Council, the Immigration Advisory Group of the Commission for Racial Equality. She has attended the biannual meetings of the European Council on Refugees and Exiles (ECRE) at which she chaired the work groups on Asylum Procedures in Europe.

Chris Randall has continued to represent ILPA at Asylum Rights Campaign and Providing Protection meetings.

Susan Rowlands represents ILPA at the IND After-entry Casework User Panel (which now includes Nationality casework) and with other ILPA members attends the Taylor House User Group meetings.

Mark Henderson has represented ILPA at the meetings of the Consultative Group on a Documentation Centre for country of origin information. This followed a meeting organised by Providing Protection on 31 January at which ILPA was well represented.

Jane Coker has represented ILPA in the preparation and publication of a Report on the Health Needs of Refugees. The King's Fund has hosted a meeting on the Report and the Refugee Health Consortium (of which ILPA is part) will continue to promote this issue.

Elsbeth Guild and Susan Rowlands have attended meetings with Home Office officials organised by the Refugee Council to discuss the UK's role asylum issues during the UK and Austrian Presidencies of the European Union.

Many ILPA members are active in the Refugee Women's Legal Group and were instrumental in drawing up, after extensive consultation, the Gender Guidelines on the Determination of Asylum Applications in the UK. Many ILPA members supported the Guidelines and attended the launch in July. The RWLG is now engaged in promoting the adoption of guidelines in the UK. Together with many RWLG members, Susan Rowlands attended a two-day conference organised by UNHCR, hoM, and vrouwenraad in Brussels in June: Toward a Gender-Sensitive Asylum Policy in Europe. A member of RWLG was one of the speakers; others made valuable contributions to the workshops and plenary sessions. There is considerable interest in the RWLG's Guidelines in Europe.

Nadine Finch and Jane Coker have been participating in the work of the Cross Border Movement of Children Working Group established by the Official Solicitor at the Institute of Advanced Legal Studies. Jane convenes the sub-group on Status of immigrant children in the UK and the tension between immigration law procedure and the welfare of the child. Many ILPA members are involved in the work of the sub-group, as are the Official Solicitor, Amnesty International and UNHCR.

ILPA, UKCOSA, Refugee Council and WUS/RETAS meet to discuss issues concerning overseas students and access to education of asylum seekers and refugees.

ILPA CIRCULARS

Members have received 13 mailings since the last AGM. The UNHCR has made a number of valuable reports available to members; more information is being directed to ILPA from IND as the commitment to informing Panel members of changes in procedure is being implemented; there is also an increase in letters from IND to ILPA on policy issues; the policy and other communications individual members receive from IND and other Government departments continue to be of vital importance.

Elsbeth Guild prepares a quarterly Update on European matters that goes to members as well as to our European contacts.

The assistance of a number of ILPA members in copying the materials for distribution is gratefully acknowledged.

WORK IN PROGRESS

IMMIGRATION SERVICE PROJECT

This year has seen a major breakthrough in this project on the conduct of asylum interviews. In June our researcher, Heaven Crawley, was given access to Terminal 3 at Heathrow to initiate the study at ports. Following a visit by the Steering Group, Heaven was based at Terminal 3 for two weeks during which time she was able to observe the range of duties carried out by Immigration Officers in general and the conduct of asylum interviews in particular. Visits were then planned for both Steering Group members and Heaven Crawley to Gatwick and Dover where further observation of interviews was possible.

In November, Susan Rowlands, Heaven Crawley, Philip Turpin and Jawaid Luqmani attended the Immigration Service Senior Managers Conference and ran five workshops for all participants. The theme of the Conference was Partnership. Heaven is currently analysing the data from the questionnaires filled in by representatives, clerks and asylum applicants. After a further period of observation at Terminal 3, meetings for representatives and Immigration Officers will be organised, separately and jointly. It is anticipated that a report on the work to date will be published in April. Further observation periods are planned at ports and at Croydon.

CHILDREN, FAMILY AND IMMIGRATION LAW An editorial group continues to advance work on this subject with Nadine Finch.

THE IMMIGRATION LAWYER'S GUIDE TO THE TURKEY/EC ASSOCIATION AGREEMENT 2ND EDITION This report, prepared by Nicola Rogers, will be published next year.

COMPILATION OF MINISTERIAL STATEMENTS ON THE HUMAN RIGHTS ACT 1998 This report is being prepared by Katie Ghose and should be published early in 1999.

BEST PRACTICE GUIDE ON ASYLUM APPLICATIONS 3RD EDITION Work on this publication has been delayed to take account of new legislation. It will be produced jointly by ILPA, the Refugee Legal Group and the Immigration Sub-Committee of the Law Society.

PUBLICATIONS 1998

MIND THE GAP: Ineffective Member State Implementation of European Union Asylum Measures by Steve Peers May 1998 (joint publication with the Refugee Council).

THE LEGAL FRAMEWORK AND SOCIAL CONSEQUENCES OF FREE MOVEMENT OF PERSONS IN THE EUROPEAN UNION edited by Elspeth Guild (joint publication with King's College, Centre of European Law) November 1998.

FUNDERS

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The Immigration and Nationality Research and Information Charity funded Mind the Gap.

The work of the Refugee Health Consortium was funded by the Lord Ashdown Trust and others.

Their support is greatly appreciated.

STAFFING

General Secretary: Susan Rowlands

Administrator: Josephine Brain (who was welcomed as a permanent member of staff in November).

Further assistance during the year provided by Beverley Slaney (until July), Alice Ellison, Jane Eller and Claire Porterfield.

Helen Dewar continues to catalogue our library.

We remain indebted to the many members who assist with all aspects of our work from the routine to the most complex.

November 1998