



The annual reports of the Swiss Institute of Comparative Law are also available online at:  
[Annual Reports | Swiss Institute of Comparative Law \(isdc.ch\)](https://www.isdc.ch/Annual-Reports)

## International Developments in Comparative Law

2020 will be remembered as a particularly difficult year. The pandemic has had a major impact on the private and professional lives of the entire population, and it is therefore not surprising that it has also left its mark on international law, comparative law and legal research.

The legal response to the pandemic has given rise to numerous studies and events that reflect several current trends in comparative law. Following a rather traditional approach to comparative law, the pandemic has provided an opportunity to address issues in certain areas of law from a comparative perspective, for example, in contract law (*e.g.*, the consequences for a contract of unforeseen circumstances) or tort law. In family law, too, many questions have arisen, for example, concerning visiting rights or shared custody of parents living apart, or the possibilities for intervention by the authorities in cases of domestic violence. Comparative studies have shown the importance of electronic communication for courts outside Europe and America.

At the heart of the legal response to the pandemic are, of course, the various governmental measures restricting public and economic aspects of life in order to encourage compliance with rules of hygiene

and behaviour. Here again, a comparative approach that goes beyond the traditional approach allows us to analyse and possibly evaluate certain legal aspects of these measures and the substantive issues they raise, particularly from the point of view of human rights and the risk that these measures may be abused for purposes other than (political) management of a health crisis. At the same time, the fact that almost all states were obliged to react very quickly to the same concrete threat also provided avenues for further research. For example, various studies or symposia have focused on regions that are usually covered only marginally in comparative law literature. In this respect, but also more generally, comparative analyses have shown the potential of interdisciplinary approaches. Political science, ethnology or anthropology can often complement usefully the purely legal perspective. A final interesting example in this respect are comparative analyses of a more theoretical nature, for example on the normativity of regulations (instructions for behaviour, legally binding laws or recommendations), reflecting the surprising diversity of legal responses to the pandemic at the

national and international level. The institute organized a colloquium on the importance of *soft law* in the context of the pandemic.

In general, the role of international organizations (the World Health Organization, but also others), with their recommendations concerning COVID-19, shows that today, comparative law can no longer ignore public international law. In the field of international economic law, for example, border closures for health reasons, affecting the move-



ment of people, but also sometimes goods, have led to disruptions in supply chains and to intense debates within the World Trade Organization. The sudden restrictions on global trade in medical goods and protective equipment, but also in food, has given new urgency in scientific discourse to fundamental questions about justice and dependence on foreign suppliers: Is there a right to import? To what extent can

a government block domestically produced goods without violating its treaty commitments? And what are the obligations to developing countries when all countries need medicines and protective equipment? A question that has long been treated only marginally has thus become central: how does international economic law generally respond to human needs? The interaction of comparative law and international (especially economic) law will continue to inform the work of the SICL.

Even if the measures taken in the context of the pandemic inspire research in comparative and international law to some extent, it must also be emphasized that the legal and practical restrictions have had a decisive - and not always positive - influence on the academic environment and scientific exchange. Personal meetings have been replaced by online contacts and conferences. This constraint is undoubtedly regrettable, but it also makes it

possible to involve geographically distant people whose voices might not have been heard under normal circumstances. The online events organized by the institute have shown that this openness to new voices is a reality and an opportunity that we do not intend to deprive ourselves of in the future, even if it is to be hoped that face-to-face contacts will soon be possible again, as the energies thus released are often the origin of innovative projects.

# The Essentials

Following its complete revision, the new federal law on the SICL became effective on January 1, 2020. While it ensures the continuity of the Institute's main missions, the new law required structural adaptations and certain changes in the content of our work. In addition to the implementation of the new legal framework, in 2020 the SICL focused on improving the quality of its services and on participating in a new national library platform (*swisscovery*). We achieved our defined objectives despite the public health restrictions thanks to an almost seamless transition from working at the office to working from home.

The Swiss Institute of Comparative Law did not escape the difficulties of the pandemic: two conferences were postponed and several smaller events were cancelled. The building was closed for several months and a large number of staff members carried out their work mainly from home. In addition, there were some special challenges: Protection plans needed to be developed quickly and constantly adapted to the rapidly changing external situation. At the same time, the Institute was committed to providing the best possible service under these circumstances: advice was given; research papers were published; online events were organized; and library resources were made available to those who needed them.

Nonetheless, the activity of the SICL was not focused solely on mastering the unusual circumstances. As early as January it was clear that two topics would mark the year. The first was the concrete implementation of our revised constitutive law and the corresponding strategic priorities. The second was the introduction of *swisscovery*, the national library platform, which required an adaptation of the entire library system and procedures of the Institute, but which gives users access to a network of libraries throughout Switzerland.

On the basis of the new law, the Federal Council set strategic goals for the SICL for the years 2020 to 2023. Together with management, the newly formed Institute Council has started to implement the Federal Council's strategy. In this context, quality assurance and the promotion of research have been the focus of attention, even though these two topics were already the subject of in-depth reflection by the Legal Division.

The SICL law now distinguishes between the commercial services that the Institute can provide to private individuals (including notaries and lawyers) and its legal services for courts, cantons and the federal government. The fee structure has been redesigned on the basis of this distinction, and initial experience shows that the processes must also be adapted to this new framework. As this involves changing a practice that is more than 30 years old, we are investing significant resources to ensure this evolution.

Finally, several collaborators who had been with the Institute for quite some time left in 2020, most of whom because they had reached retirement age. New colleagues have also joined us. COVID-19 restrictions have made it somewhat difficult to bring new people up to speed and to say goodbye to those who had been with us for a long time, and we very much hope that circumstances will soon allow these all-important personal contacts to intensify.



# Leading the Way: the Institute Council

The Institute Council is the highest governing body of the SICL. It plans and decides on the general direction of the Institute's activities. In particular, the Council decides on the research and work programs of the Institute as well as the acquisition policy of the library. It supervises the management and takes all necessary measures to safeguard the interests of the Institute and to prevent conflicts of interest.

## **Strategic Direction**

The Institute Council, in close cooperation with its management, defines the orientation of the Institute, based on the strategic objectives set for it by the Federal Council. The Institute should be recognized in Switzerland and abroad as a centre of scientific excellence in research and documentation in the fields of comparative law, international law and foreign law. Thanks to its library, the Institute should offer an attractive environment to researchers from Switzerland and from all over the world.

The Institute Council reports annually to the Federal Council on the achievement of the strategic objectives.

## **Composition and Appointment of the Institute Council**

The Council of the Institute is composed of a maximum of nine members, representing, in particular, education and research, judicial authorities and the federal administration. One member represents the canton of Vaud, where the Institute has its headquarters. The members are appointed by the Federal Council for a term of four years.

For the current term, which runs from 2020 to 2023, the Federal Council has appointed seven members:

- Franz Werro, Professor University of Freiburg (chairman)
- Florence Aubry Girardin, Federal Judge, Federal Court, Lausanne
- Andrea Bonomi, Professor University of Lausanne
- Dominique Brown-Berset, lawyer, Brown&Page, Geneva
- Martin Good, independent consultant and supplier for libraries
- Markus Schefer, Professor University of Basel
- Daniel Wüger, Deputy Secretary General of the FDJP, Bern

**Links of Interest**

The members of the Institute Council shall inform the Institute Council and the Department immediately of any changes in their interests. The Institute Council shall inform the Federal Council in its annual report.

The following members have reported changes in their interests: Martin Good, who was for many years the director of the University and Cantonal Library of Freiburg,

retired at the end of July 2020. He will remain available to the Institute Council as an independent consultant and service provider. Federal judge Florence Aubry Girardin has taken over the presidency of the Board of the Professor Walther Hug Foundation. Finally, Professor Markus Schefer has been appointed Chairman of the Board of the Swiss Chapter of Transparency International.



# Leading the SICL: Management

The management is the executive body of the institute. It directs the business, represents the institute to the outside world. It reports at least once a year to the Council and informs the Council immediately of any special events.

The Executive Board consists of a Director and up to two Vice Directors. At this time, the following persons are members of Management:

- Christina Schmid, Director

- Lukas Heckendorn Urscheler, Vice Director
- Krista Nadakavukaren Schefer, Vice Director

The members of Management are hired by the Council of the Institute. Management is responsible for the conclusion, modification and termination of the employment relationships of the employees of the SICL.





# Legal Opinions and Studies

The SICL provides information on foreign and international law. On the one hand, it prepares legal opinions concerning the application of the law of foreign countries, mainly for courts or prosecuting authorities. On the other hand, it also carries out comparative studies. These studies are mainly intended for the federal administration and allow Switzerland to benefit from the experiences of other countries during the legislative process. The Institute does not, however, issue opinions on Swiss law.

In order to continue to improve the quality of the SICL's services, a close collaboration between the Institute Council and Management began in 2020. As part of this exchange, a competency assessment was conducted. One of the avenues for quality assurance is to strive for the greatest possible synergy between research and legal opinions. At the same time, the idea of concentrating on a number of priority topics also seems promising from the point of view of quality assurance.

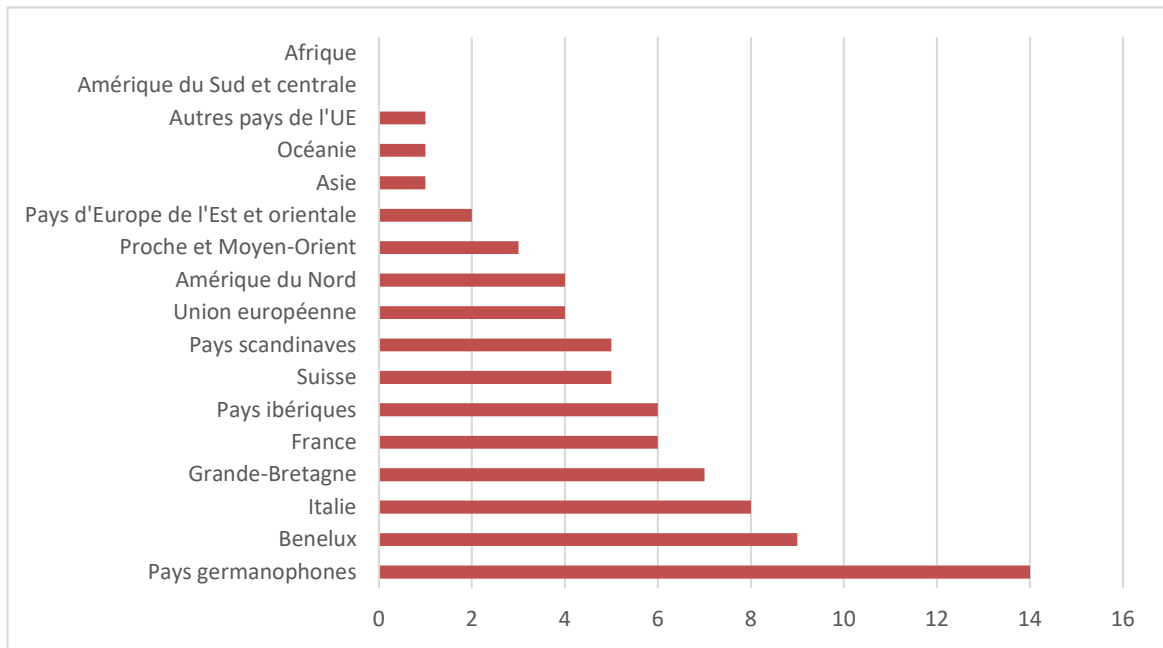
At the operational level, quality considerations played an important role in the recruitment process, with particular attention being paid to scientific qualifications. An internal discussion has also begun on the possibility of improving customer service, in particular by being more flexible concerning the format of legal opinions. The various avenues explored will be concretized and implemented in the medium and long term.

## **Work on Legal Opinions Mainly for the Public Sector**

In 2020, the institute received a total of 188 requests for legal opinions. The decline in requests from previous years (2019: 215; 2018: 295) is likely due to government, court, and economic closures and slowdowns due to the pandemic.

Even though the vast majority of requests come from the private sector, and as such fall under the category of commercial services, they represent a smaller number of work hours. In fact, 65% of the time that the SICL spends answering requests for legal opinions, performing research for, and drafting opinions is dedicated to providing these services to public law institutions (Confederation, cantons, courts, etc.). The largest portion of this segment is work for the Federal Government (50% of total hours spent on legal opinions). The remaining 35% of the Institute's legal services work is for the private sector (in particular lawyers and notaries), with a significant proportion of requests concerning cross-border corporate restructuring.

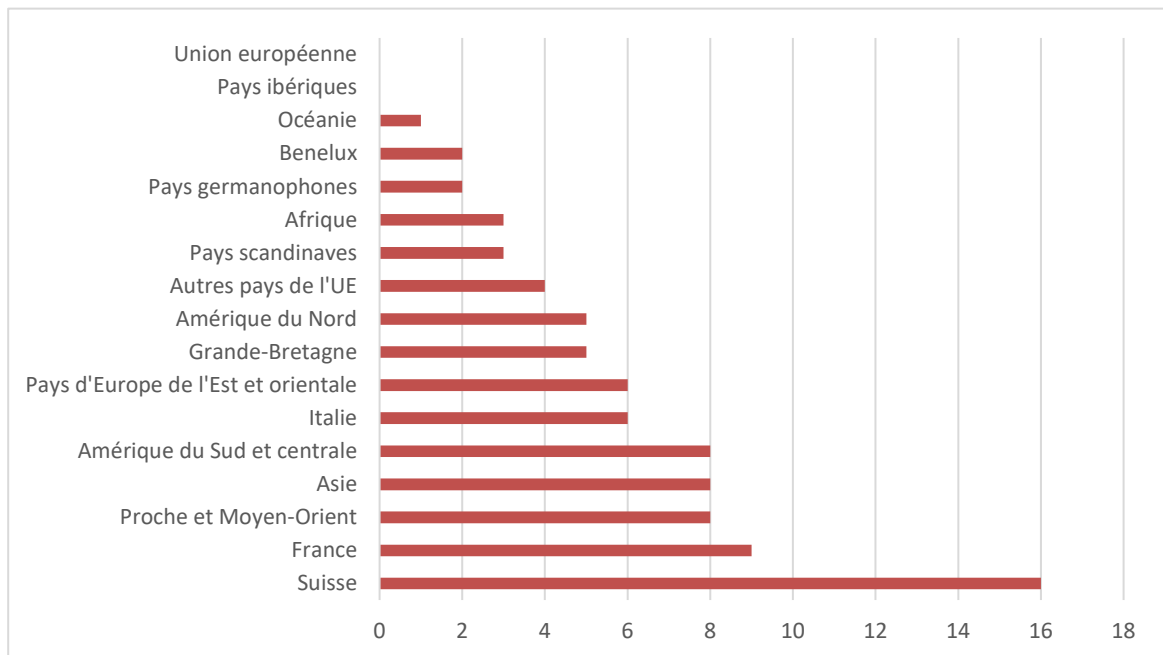
The SICL receives requests for legal services from all over the world. For legal services, most of the requests concern European countries.



[Africa, South and Central America, Other EU Countries, Oceania, Asia, Eastern European Countries, Near and Far East, North America, European Union, Scandinavian Countries, Switzerland, Spain and Portugal, France, Great Britain, Italy, Benelux, German-speaking Countries]

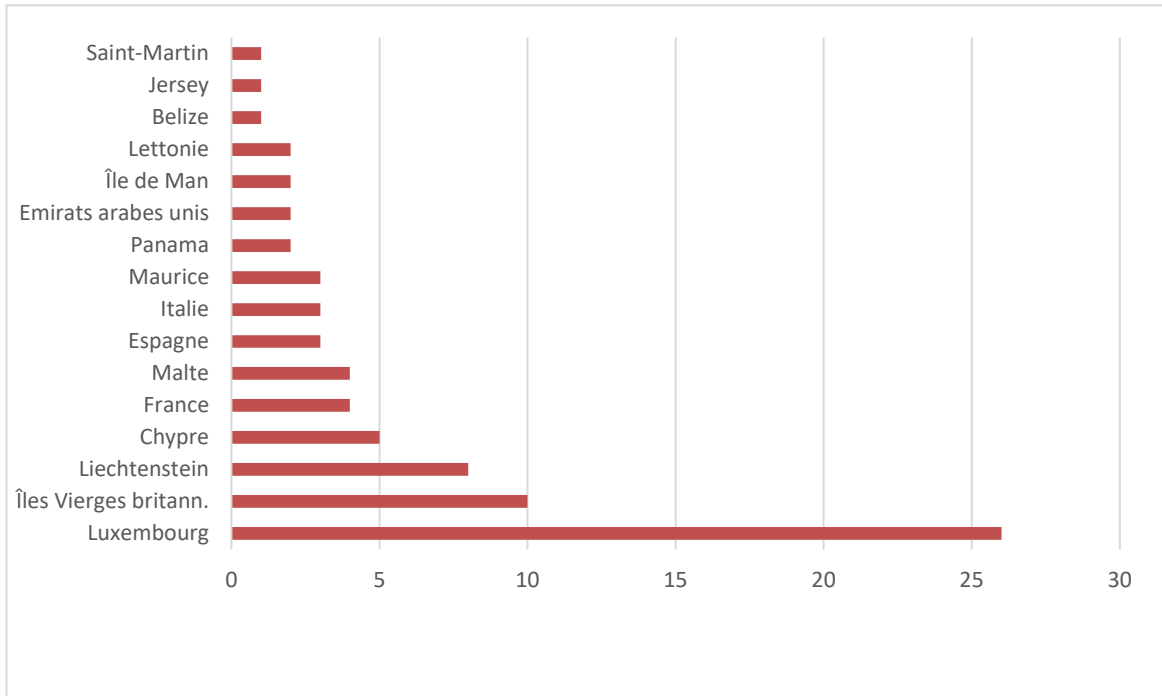
For commercial services, a distinction is made between general legal opinions and requests concerning the cross-border restructuring of companies.

### 1) General Legal Opinions



European Union, Spain and Portugal, Oceania, Benelux, German-speaking Countries, Africa, Scandinavian Countries, Other EU Countries, North America, Great Britain, Eastern European Countries, Italy, South and Central America, Asia Near and Far East, France, Switzerland]

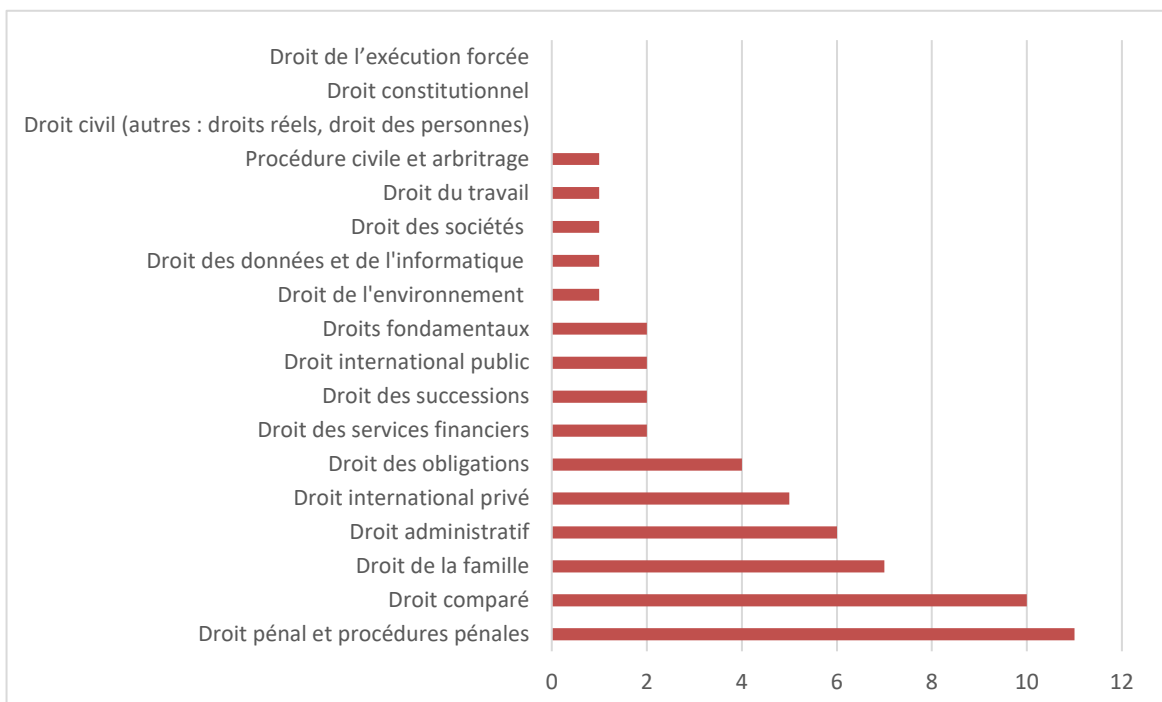
## 2) Cross-Border Corporate Restructuring



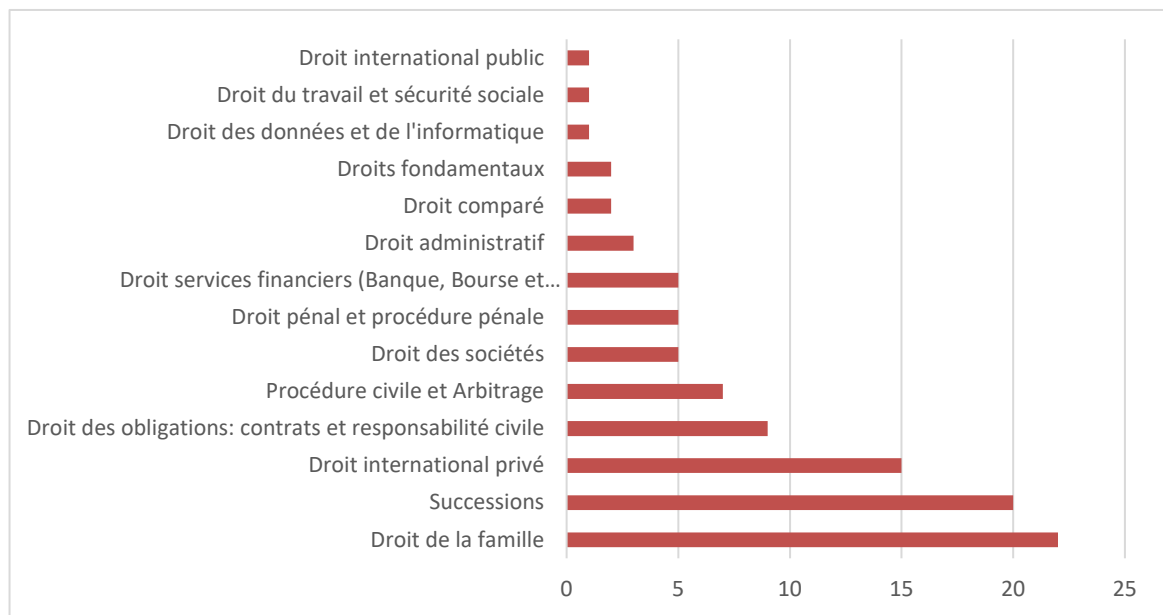
[Saint Martin, Jersey, Belize, Isle of Man, United Arab Emirates, Panama, Mauritius, Italy, Spain, Malta, France, Cyprus, Liechtenstein, British Virgin Islands, Luxemburg]

The requests for opinions which were ultimately confirmed by the client concerned primarily criminal law, followed by family law and private international law.

## 1) Legal Services



## 2) Commercial Services



## Comparative Studies for the Federal Government

The majority of our comparative studies are written for the federal administration, where they serve as a basis for the work of the legislature or for parliamentary actions. The Institute thus makes an important contribution to the development of law in Switzerland. The Institute does not charge for services provided to the federal administration

Requests from the federal administration decreased in 2020, because the pandemic slowed parliamentary work and re-focussed resource expenditures in a large part of the administration. The requests we did receive were on various topics that have been the subject of political debate in recent years, particularly in criminal law, but also in other areas of law.

In the field of criminal law, the SICL has responded to requests on three different topics, and work is continuing on a fourth. A first request, which required extensive research, concerned criminal law in sexual matters. More specifically, the question, also much discussed in the media in the wake of the #MeToo movement, whether criminal law covers non-consensual but non-forcible sexual acts, and if so, how.

Several other requests in the field of criminal law concerned the fight against terrorism, in particular the type and extent of preventive measures provided for in the legislation of other countries. The SICL has already drafted several opinions on this subject, as well as on the issue of organised crime, a topic concerning which Fedpol has requested the collaboration of the SICL in an international project.

A comparative study was also carried out on the admissibility of phenotyping in criminal proceedings. The study focused on the possibilities and framework of conditions for the use of forensic phenotyping by the police and prosecution authorities, as well as on the storage of profiles produced by this procedure.

Apart from criminal law, various projects on which work had already started previously were continued in 2020. For the Federal Office of Housing (FOH), a study was completed on the right to housing for refugees and asylum seekers, and for the Federal Office for the Environment (FOEN), a study on the obligations of federated states to report to the central state in the context of international environmental treaties was conducted. The Federal Office of Justice (FOJ) needed information on family law (information systems on parental authority) and - following the vote on the popular initiative for responsible business - on the latest developments in foreign and European regulations concerning minerals from conflict regions and child labour.

Some of the requests from federal agencies could not be processed because they concerned topics for which the Institute lacked the requisite expertise. In these cases, we supported the requesting department in the search for the required information.

# Research

In 2020, the Institute Council began to define a research strategy and priority areas in accordance with the strategic objectives set by the Federal Council. At the operational level, the Institute has supported its collaborators mainly in projects that are thematically related to the work for legal opinions, thereby allowing an increase in the quality of these opinions. In addition, preparatory work was carried out on research projects in international economic law and and in comparative law methodology.

The strategic objectives adopted by the Federal Council on June 19, 2020 call for the SICL to develop its research activities and encourage its collaborators to deepen their own thematic expertise. The Institute's Council has therefore begun deliberations to define the priority themes that will enable the development of research. The definition of the themes is also based on an evaluation of collaborators' competences and the possible synergies with the work on legal opinions.

In line with the strategic objective, a conscious effort was made at the operational level to talk about and encourage the research activities of collaborators. Publication projects, participation in conferences, and other projects were discussed and encouraged where possible (see below for additional detail). The objective of developing research was also taken into account in recruitment: the collaborators hired in 2020 have a particularly strong scientific profile and will focus on continuing their research activities. Additional steps will be undertaken after the Institute Council has adopted guidelines in this area.

The Institute, together with the University of Geneva, participated in the organization of a symposium that the Swiss National Science Foundation (SNSF) intends to support financially. Due to the current public health situation, this conference has been postponed to 2021. Other institutional research projects have been evaluated or are in preparation, such as a publication inspired by a colloquium organized at the SICL in 2019 concerning methods for comparing legislation in the field of migration law. Preparatory work for a project in the field of international economic law has already been initiated; a systematic plan for the development of research at the Institute will be drawn up once the Institute's Council has adopted its guidelines in this area.



## Collaboration with Other Research Institutions

The Institute has a tradition of cooperation with renowned institutions and networks in the field of comparative law, as well as with Swiss actors in comparative and international law. Of particular importance is the cooperation with Swiss law faculties as well as with various professional associations in Switzerland.

In addition to specific projects with universities in Spain, Belgium, Italy and the United States, the focus in 2020 was on cooperation with established institutions in the fields of comparative law (Association Henri Capitant - Swiss Chapter, *Internationale Akademie für Rechtsvergleichung*) and international law (Swiss Society of International Law). This collaboration was particularly evident in the context of joint events and projects. Colloquia were also organized jointly with Swiss universities (in particular Geneva, Lausanne and Bern). The speakers mostly came from academic circles, but also from government and private practice.

A colloquium with a newly created network in comparative family law is in preparation, and further contacts with foreign partners are being evaluated. The focus is on international networks and institutions of recognized quality and competence, as well as on similar institutions in the field of comparative law.

Continuing a project initiated in 2019, contacts were maintained with institutions of a similar nature abroad, even though public health measures prevented the organisation of joint events. We plan to intensify these contacts insofar as they allow for the realisation of projects in line with the Institute Council's requirements or for the creation of synergies, concerning the library as well. The cooperation with the *Law Library of Congress* will thus be continued and intensified.

With regard to the library, the Institute's membership in *swisscovery*, the new common platform for university libraries, is significant.

## Scientific Meetings

In addition to library activities, scientific meetings were the aspect of the Institute's life most affected by the pandemic. Of the four major conferences planned, the Institute was obliged to postpone two until 2021, while the other two were held online. Another event was cancelled, but the planned presentations were made available via a podcast on the Institute's website.

The pandemic led to a major reorganisation of planned events. Given the duration of the restrictions, rescheduling conferences was not always an attractive option. Instead, alternative formats such as podcasts or online conferences were selected. These forms of interaction generated quite a bit of interest, with some events being attended by more than 100 participants.

The experience gained will be useful for future events – even after the public health restrictions are lifted. Two advantages of the online format over the face-to-face format stand out: first, the logistical effort required for preparation is relatively limited, and second, the elimination of the need to travel allows people from distant locations to participate in meetings they would otherwise have foregone due to high costs. On the negative side, the lack of direct personal contact has an impact on the discussions. In the future, we plan on using a mix of the two formats to optimize our impact.

As mentioned above, two major events were organized in 2020: one on the importance of *soft law* in the context of COVID-19 measures, the second on international investment law in Switzerland. In addition to the two other planned conferences, the informal meetings usually organised at the institute and the doctoral seminars were postponed until 2021.

An interdisciplinary early evening conference "Law & Dating Applications," planned and held online, addressed issues of data security, law, technology, as well as sociological aspects of online dating.

More detailed information on the various events is available on the Institute's website; some entries include recordings of the presentations.



## Publications

### **Coherence of the Scope of Application - EU Private International Legal Instruments**

Volume 87 of the SICL publications

Joaquim Forner Delaygua / Alfredo Santos (ed.)

This publication brings together various contributions dealing with the coherence and consistency of current private international law in Europe. The main theme is the scope of application of the various instruments, which constitutes a real challenge for the authorities and the courts, given the number and diversity of these instruments.

### **Yearbook of Private International Law**

Volume XXI - 2019/2020

Andrea Bonomi, Gian Paolo Romano (editors); Ilaria Pretelli (associate editor)

The *Yearbook of Private International Law* provides a comprehensive overview of developments in private international law.

In addition to reports on the latest developments in national laws, Volume 21 con-

tains contributions on temporary measures, on the initial consequences of Brexit and on the new Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.

### **The SICL's Letter**

The *SICL's Letter* is a publication in French, German and English, containing short articles written by the scientific collaborators of the Institute relating to legislative and jurisprudential developments in many countries. The publication also contains excerpts from comparative studies prepared by the Institute as well as articles contributed by young researchers in various fields of law. It is also used to inform the public about news directly concerning the Institute and its library and always ends with a calendar of upcoming events. There may also be special editions following conferences, containing articles by the speakers.

Two editions were published in 2020.

### **EU News Click & Read**

This monthly newsletter, in English and French, contains a selection of official documents of the European Union. The selection is made based on the interests of a Swiss audience. As such, it is aimed at universities, federal and cantonal administrations, legal practitioners and business circles.

Seven issues were published in 2020

### **Islamic Family Law Brochure**

This brochure addresses various aspects that are relevant for mixed couples, i.e. where only one of the spouses is a Muslim. While Islamic law may differ considerably from the law in European countries, it should be emphasized that there is no single codification of Islamic law, but rather a multitude of different versions and interpretations - this is because each country with an Islamic tradition has its own laws, which may differ considerably from classical Islamic law.

## Scientific Activities of our Collaborators

The collaborators of the SICL engage in scientific activities at different levels. In some cases, results obtained in the course of working on a legal opinion are the subject of a publication on their own; sometimes it is independent research work that leads to a presentation or publication - be it work that the collaborators began before they joined the Institute or work that is thematically related to their work at the Institute, for example, in the areas of family law or private international law, or concerning "Business and Human Rights". In addition, a number of the Institute's staff members hold teaching positions at universities in Switzerland and abroad.

Although a large part of this work is carried out outside of the Institute's working hours, it constitutes a definite added value for the Institute and highlights its importance as a research centre.

The Institute's collaborators have been interested in a large number of subjects, including the traditional themes treated at the SICL, such as family law (Joël D'Andres, Ilaria Pretelli, John Curran, Lukas Heckendorn Urscheler), private international law (Ilaria Pretelli, Karim El Chazli), comparative law (Lukas Heckendorn Urscheler, Carole Viennet, Karen Topaz Druckman) and public international law (Krista Nadakavukaren, Rodrigo Polanco), but also new topics such as the law of new technologies (Anne-Grace Kleczewski), medical law (Inesa Fausch) or business and human rights (Krista Nadakavukaren Schefer, Lukas Heckendorn Urscheler, Ilaria Pretelli).

In the Swiss legal landscape, a contribution by Vice Director Krista Nadakavukaren Schefer to the Congress of the Swiss Society of Lawyers on the subject of corporate social responsibility, followed by a publication in the Swiss Law Review, are particularly noteworthy.

A contribution by John Curran in Jusletter, extending a legal opinion, also made the Institute's expertise better known in Swiss legal circles.

For the rest, the publications of the collaborators (John Curran, Rodrigo Polanco, Ilaria Pretelli, Anne-Grace Kleczewski) have been mainly in specialized forums for international circles.

Finally Karen Topaz Druckman, Inesa Fausch, Lukas Heckendorn Urscheler, Krista Nadakavukaren Schefer, Rodrigo Polanco, Ilaria Pretelli and Carole Viennet hold teaching positions in Switzerland and abroad.

More detailed information on the publications, conferences and teaching activities of the collaborators can be found on the Institute's website ([www.isdc.ch](http://www.isdc.ch)).

# Support of Research

Since 1982, the SICL has offered students and academics, on the campus of the University of Lausanne, a research centre and library with an extensive collection on foreign and international law. The Institute also awards a number of scholarships each year and provides administrative and specialized support to researchers and students. It regularly organises colloquia, exercises and seminars, offers introductory courses in comparative law research for groups of students and hosts delegations interested in the activities of the Institute.

## **Welcome Centre**

The Welcome Centre assists foreign researchers in organising their stay at the Institute. It manages the reservation of spaces in the library and provides information to researchers in accordance with their needs.

Newcomers receive useful information about the Institute and the university campus, as well as about the administrative aspects of living in Switzerland. The Welcome Centre helps scholarship holders find accommodation for the duration of their stay and assists them with any questions they may have regarding their right to stay in Switzerland.

The Welcome Centre hosted 48 researchers in 2020. This number is significantly lower than in previous years, as the SICL library was closed from mid-March to the end of June due to

the pandemic. Many foreign researchers also cancelled their stay for the same reason.

Again, because of public health restrictions, three of the scholarship recipients were not able to come to Switzerland; they are expected to come later in 2021.

## **Library**

The research support offered to the scientific community by the library is diverse. The range of services extends from (individual) introductions to the library, after being welcomed by the Welcome Centre, to the selection of specialized documentation in the collections, as well as personalised support in bibliographic research (for more information, please refer to the section about the library below).

## **Training of Doctoral Students**

The Institute is particularly active in the training of doctoral students. Among other things, it organises an activity within the

framework of the Doctoral Program in Law of the University Conference of Western Switzerland (CUSO), of which the SICL is an associate member. This activity is mainly aimed at doctoral students in the legal sciences in the member universities (Fribourg, Geneva, Lausanne and Neuchâtel) or partners of the CUSO.

The CUSO doctoral program aims to improve the conditions for the completion of the doctoral thesis by promoting contacts among researchers in a stimulating research environment.

## **Scholarships**

Each year, the Institute grants several *van Calker scholarships* to enable Swiss and foreign researchers to carry out academic

work at the Institute in the field of comparative law, as well as foreign and international law.

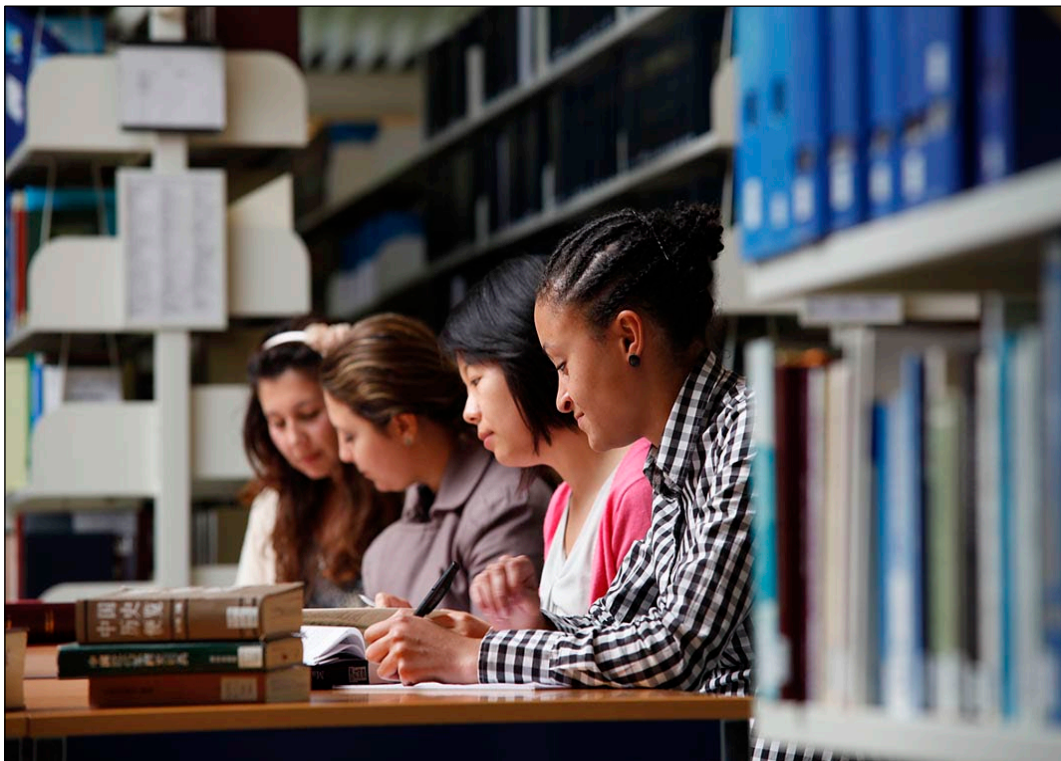
These scholarships are awarded preferably to candidates who have never had the opportunity to undertake research outside their country of origin or who are beginning an academic careers.

In this context, at the international level, scholarships are awarded primarily for research

work on topics treated by the Institute. At the Swiss level, research in comparative law and international law in general is supported.

In 2020, six *van Calker* fellows (funding for a total of 13 months) were invited to the SICL. There was a slight increase in support for fellows as compared to the previous year (funding for 11 months).

The invited 2020 fellows came from Belgium, Canada, France, Mongolia, Sudan, and Switzerland, covering a wide range of legal systems. Three fellows were however prevented from coming to Switzerland due to public health restrictions. The Institute offered to postpone their stays until 2021.



# Library

The mission of the SICL library is to serve research in national and international law. The specialised librarians make available a rich collection of legal literature - paper and electronic - to all interested persons.

Since the creation of the library, its multilingual teams have designed a personalised welcome for its public, workplaces and documentary collections that meet the needs of scientific research and have built a network of partnerships in Switzerland and around the world.

## **Major Operational Changes in 2020**

Several events marked the year 2020 for the library. While the public health situation is certainly one that will remain in the memory of users - with access to the library and its holdings impossible or restricted for several months beginning in mid-March - it is probably the change in their professional environment that will have had the greatest impact on the librarians. The results of this project, which will be seen by the public in 2021, are the fruits of more than twelve months of intensive work.

In December 2020, Swiss academic libraries entered a new era thanks to the *Swiss Library Service Platform (SLSP)*, whose technical solutions have opened up a whole new range of possibilities in terms of user services. By choosing to join the SLSP, the Institute has put its library on the path to renewal and is now able to expand the range of services it offers its public.

## **The SICL Manages the Library of the Federal Office of Justice**

Since 2010, the library of the Federal Office of Justice (FOJ) has been managed by the SICL on the basis of an agreement.

The two libraries, whose teams are complementary, have created a synergy of work for the benefit of their users. Among the benefits of this collaboration is access to the collections of both sites for the scientific collaborators of the FOJ and the SICL for the accomplishment of their tasks.



Created by Jglnthrust  
from Noun Project

500,000 volumes



Created by Faust09  
from Noun Project

2000 scientific journals



Created by Maria Kislitsina  
from Noun Project

132 databases



Created by Gan Khoo Lay  
from Noun Project

12,894 loans



Created by Miroslav KURDOV  
from Noun Project

1459 reference requests

## The Collections

The SICL library contains collections of legal literature covering more than 160 countries in 60+ languages and covers all areas of national and international law, both private and public.

With more than 500,000 documents, including 2,000 periodicals in paper form, the library contains a diversity of jurisdictional sources which makes its collections one of the richest in Switzerland in foreign law. This makes the library an indispensable reference point for legal documentation on foreign law at both the national and international levels.

In addition to printed books and



periodicals, the library has access to more than 100 commercial legal databases. In addition, more than 10,000 e-books and 20,000 legal journals are available online, which complete the library's offerings in documentation and meet the increasingly digital needs of its researchers. The library also offers free access to its own publications through its E-collection platform.

The institutional collection contains the publications of the SICL, the *Yearbook of Private International Law*, as well as a selection of opinions and research papers concerning work undertaken by the legal staff.

The library's strength lies in its large collections of foreign law. The core competence of the library's collections is based on three axes:

- Its transversal collections, notably its exceptional collection of "legal mixtures", its transnational collections of comparative law and its collection of religious law, which are characterized by their thematic depth and their topicality.
- Its national collections in foreign law, unique in Switzerland, covering all legal systems, in particular its rich collections for China, the Middle East and Africa, which are characterized by a generalist and historiographic approach.
- Its expanded offer of online resources, covering several legal systems, is complementary to the print offerings, aiming to diversify sources and facilitate rapid access to essential references, via user-friendly interfaces.

Acquisitions and donations remain a source of steady collection growth. In 2020, the collection was enriched by more than 3,776 documents, which represents a growth of 1.5%. This figure is in line with the average of recent years.

In 2020, special emphasis was placed on updating two national collections – for Argentina and Brazil - in close collaboration with our legal department.

## User Services

The institute is essentially a reference library, which means that most of its holdings can only be consulted on site. The services offered to the users are therefore adapted to that situation.

Researchers can reserve a work table for a period ranging from a few days to several months. The documents they borrow remain in this study space. Access to the library outside of opening hours is also possible on request.

The team of specialised librarians of the reference service offers, by appointment, an introduction to the collections and databases. They respond to users' requests on site or remotely. In so doing, they accompany and support the activities of researchers. When a specific work is not available at the library, the interlibrary loan service takes care of obtaining a loan or a copy from a partner in Switzerland or abroad. This service is offered free of charge to all users on an official visit to the Institute.

In 2020, the focus was on remote access to the documentation. License extensions were negotiated to accommodate the library's closure from mid-March to early June. As soon as the library reopened, the entire staff of the Institute worked to provide a working environment that allowed as many people as possible to use the collections while meeting sanitary measures.

### Networks

In order to fulfil its mission, the library continued networking with various Swiss and foreign institutions. It is a member of several professional associations, including Bibliosuisse and the Association of Swiss Law Libraries. It is an active contributor to the renown and reputation of the Institute.

The merger of 470 academic libraries into the national platform *swisscovery* by the end of 2020 is the expression of the Swiss libraries' desire to work together. Overcoming linguistic and cultural boundaries, some 2,000 library professionals and the *Swiss Library Platform Service AG* team have worked to pool more than 40 million books, series, journals and non-book documents, as well as more than 3 billion electronic articles.

The SLSP system brings together libraries with similar needs and audiences in a structure called the institutional zone. This has made it possible to extend the collaboration between the libraries of the SICL, the FOJ and the federal courts beyond the Western Switzerland network (RERO). The services provided by these institutions to their target audiences will

be able to continue to evolve by taking advantage of a synergy established over many years.

### New at the FOJ

2020 was the 116th year of the Federal Office of Justice library's existence and the eleventh year of management by the SICL. More importantly, it was the ground-breaking year for a new era of scientific information in Switzerland, thanks to the birth of *swisscovery*. Like its long-time partners - the libraries of the SICL and the Federal Courts - the FOJ Library has joined the platform. In so doing, it is maintaining the existing collaboration.

Although this new structure of Swiss scientific information is still in its infancy and it will take several months or even years to fully exploit the possibilities that the new platform offers to professionals and above all to users, we can already see and feel its potential.

The SLSP project was carried out jointly with the SICL library, which assumed the management of the project and whose support was fundamental for the FOJ library.

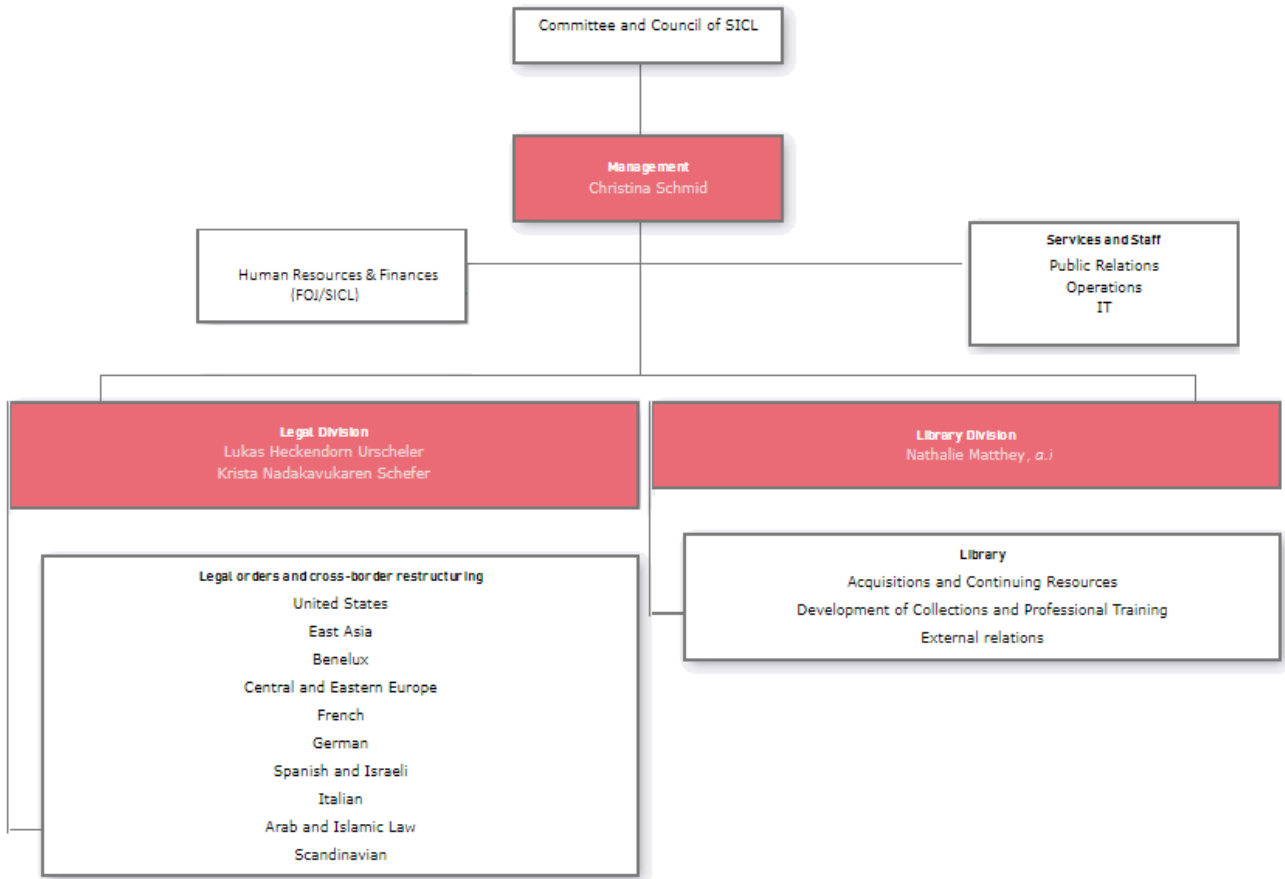
The pandemic, which hit Switzerland at the beginning of March 2020, certainly did not make the task any easier: in addition to the current work and the major SLSP project, it was necessary to deal with a new, unforeseen situation and to adapt work processes and services in order to be able to continue to fulfil the library's main mission. The library's main task is to provide the staff with the information resources they need for their work and to support them in their research with a competent and user-friendly service.

By mid-year, the library had set up a *current contents* service to ensure that employees working remotely had access to specialised news. It also strengthened its home delivery service for digitised documents in order to respond to new *ad hoc* needs, all in compliance with copyright law. In a second phase, rather complicated negotiations with providers of access to important databases in the field of Swiss law were undertaken and bore fruit at the end of the year. In particular, this allowed us to make the Legalis database available from January 2021.

Even in this difficult year, the FOJ staff had access to all the materials they needed to do their jobs. In other words, the library was able to respond to the pandemic by adapting and reinventing itself to fulfil its mission, even as it focused on the transition to the new configuration of its operations and services.



# Organisation



## The Swiss Institute of Comparative Law has a three-pillar structure:

- General Management, and Administration including logistics, public relations, IT
- Legal and Scientific
- Library

# Staff

Not including hourly workers, apprentices and interns, the SICL employed 36 people in 2020:

	People
Direction	8
Legal and Scientific Dept.	16
Library Dept.	12

The number of staff and positions decreased slightly from the previous year (-1 person and -0.7 FTE) due to retirements. Not all positions were filled immediately or with the same percentage.

The Legal and Scientific Department employs lawyers and two administrative staff.

The Library Department employs librarians, some of whom have university backgrounds. It also trains apprentices who

aim to obtain a federal certificate of competence as a document information officer (protected title).

The tasks concerning human resources and finances were carried out by the FOJ and the service centres of the General Secretariat of the Federal Department of Justice and Police, based on service level agreements.

### HR Changes Starting in 2021

Since 1 July 2010, following a restructuring of the SICL, HR services have been provided by the FOJ's personnel department in Bern under a service level agreement.

In order to ensure that services are once again provided entirely at the Lausanne site, HR will be reintegrated into the SICL as of 1 January 2021, with the hiring of a specialised employee.



# Personnel Policy

## A Modern Employer

The work methods at the SICL make it easy to balance work and personal life. Of all employees, 69.1% have a workload of 90% or less. For many, it has been possible for the past several years to work partially from home. Our experiences thus far with the Coronavirus crisis show that home office works even better than expected. The SICL therefore intends to continue to support working from home, insofar as the function allows.

## Proportion of Women

The SICL currently has 36 employees whose work schedules are equivalent to 28.6 full-time employees (not including hourly workers, apprentices and trainees). The proportion of women is 47.2%, which is within the target range for the Confederation (46-50%). For senior managers, the proportion is even higher at 66.7 % (target 27-32 %). Among middle managers, the proportion of

women is 40.3% (target 36-43%). In recent years, the proportion of women at the SICL has decreased slightly.

**At the SICL, women make up 40.3% of middle managers and this proportion will be increased again early next year**

## Staff Development

The employees of the SICL are encouraged to develop their professional skills according to the principles defined in the personnel policy of the Federal Administration. Based on the portfolio of tasks according to Art. 3 of the Institute's constituting law, the management of the SICL proposes appropriate development measures in view of the functions and responsibilities of the individuals, e.g. training courses, participation in conferences or

exchanges with experts. Employees are invited to participate in scientific symposia organized by the SICL and, when possible, to actively participate as speakers. The SICL also encourages multilingualism, is open to diversity and favors a family-friendly work schedule.

## Apprentices

The institute had two apprentices in training at the end of 2020. During the year under review, one person completed a university internship at the SICL.

## Student Engagement

The SICL offers several University of Lausanne students the opportunity for work-study in the library or at the reception desk. Duties include updating loose-leaf publications, preparing books for binding, providing information at the reception desk or on the phone, and assisting with conferences.

## Finance

The SICL is managed as a legal entity of the Confederation, with legal personality but without its own accounts. It is part of the decentralised federal administration. As such, the provisions of the Federal Finance Act and the Federal Finance Ordinance, as well as the directives and instructions of the Federal Finance Administration concerning the budgetary and accounting management of the Confederation are applicable. Exceptions are regulated in specific laws or ordinances.

The Report on federal financial statements are available at the following site:

### [State financial statements \(admin.ch\)](#)

The commentary on the budget including the integrated plan of tasks and finances is available at the following site:

### [Budget with Integrated Task and Financial Plan \(admin.ch\)](#)

The SICL does not have its own finance department: all services are provided by the Confederation's internal service providers, in accordance with the agreements governing this collaboration.

## Risk Management and ICS

In accordance with Art. 39 of the Federal Finance Act, the SICL is required to have a risk management system and an internal control system (ICS). In this respect, it is subject to the standard reporting processes of the Federal Administration and the directives of the Federal Council.

### **Risk Management**

The risks that are monitored at the SICL are the risk of unauthorized access to its computer network or loss of sensitive information, as well as the damage that the Institute (and thus the Confederation) could suffer as a result of the provision of incorrect legal information. Numerous measures have already been taken to ensure IT security and data protection, on the one hand, and to maintain and further improve the high quality of the SICL's services, on the other. Particular attention is also being paid to protecting the SICL library

from destruction by fire or flood.

In 2020, the Institute gave particular attention to the effects of a pandemic in its risk management activities. Although most employees can work from home if necessary, a prolonged closure of the premises has consequences in particular for the processes of the library and Lausanne's place as a research centre. Experience to date shows that the COVID-19 pandemic seems to lead to a decrease in requests for legal advice. However, there is no reason to fear serious financial repercussions, as we are not reliant on client fees to cover costs.

### **Internal Control System (ICS)**

The FDJP Financial Inspectorate conducted a review of the SICL ICS in late 2019. The final report was discussed in the summer of 2020 with the Institute's Director and the ICS officer. Two recommendations,

regarding acquisitions, are in the process of being implemented (updating the 2011 signature directive and signing impartiality statements by those involved in acquisitions). The third recommendation concerns ICS documentation. In the near future, the Institute will need to update the descriptions of the processes according to the Federal Finance Administration's requirements. We will also be describing the risks and taking appropriate measures to reduce them. The work on the implementation of this recommendation will be carried out on a permanent basis over the next two to three years. The implementation of previous recommendations was confirmed. Finally, risk management and the business continuity plan, as well as the management of authorisations in the SAP environment received a positive assessment.

## Logistics, IT and Public Services

The year 2020 and the unprecedented situation of a pandemic required a great effort of adaptation from the logistics/security, IT and public relations teams.

The first step was to ensure that each employee could work from home with all the necessary computer access. Each person had access to the servers and applications from their personal computer. Audio and video equipment was also proposed in order to have the best possible participation in team meetings.

The SICL premises also needed to be made safe and adapted to the new standards, requiring us, for example, to calculate the maximum number of people per area as a function of floor surface measurements, to mark the floor and arrange the work-places (moving the furniture) to ensure the regulatory distance was maintained within the library, to protect the reception area with a plexiglass shield and to ensure that there was enough alcoholic-based gel and masks to guarantee the safety of the employees.

These measures were put into place both for the staff of the Institute and for the researchers who returned to the library. In order to ensure the contact tracing requested by the authorities and to be sure that the maximum number of people in the reading room was respected, a reservation system was put into place and readers were regularly informed of changes of the rules, by email as well as via social networks.

**Contributing Authors**

Lukas Heckendorn Urscheler  
Krista Nadakavukaren

Michele Baccherassi  
Reto Gutknecht  
Nathalie Matthey  
Mostapha Najem  
Marie Papeil Sánchez  
Christian Plaschy  
Cindy Robert/Roland Sitter

**Coordination and Layout**

Christian Plaschy

**Choice of Photos**

Marie Papeil Sánchez

**Translation**

Christophe Thomann, GS EJPD  
Jérôme Zumstein, GS EJPD  
Karen Topaz Druckman