Legal seminars in St Petersburg and Kaliningrad

Training in Trial Skills

The seminars, held over two full days (20-21 January 2017) in St Petersburg and a shorter version over one day (22 January) in Kaliningrad, were the third in a series of seminars run in a collaboration between Citizens' Watch International (London) and Legal Training Centre (St. Petersburg).[1] On this occasion, the three trainers from the UK were the lawyers Tom Price QC, Duncan Jones and Lionel Blackman. Each seminar attracted an interested group of over 40 Russian lawyers who were eager to listen to the speakers from another jurisdiction, and bring their own legal experience to bear in lively discussion.

St Petersburg

Feedback from the participants showed how much they enjoyed the opportunity to meet colleagues from the UK. They praised the informal, yet business-like, atmosphere that pervaded the seminar and the opportunity to exchange experience with highly qualified lawyers from a different jurisdiction. Participants also pointed out the many practical aspects of the seminar that could be adapted to their legal practice in Russia. Indeed, it was the 'hands-on' and practical nature of the training that impressed them, with practical demonstrations of the approaches adopted in the courts of England and Wales, and the opportunity to take part in role plays themselves.

[1] The project is funded by the UK's Foreign and Commonwealth Office via its Russia Civil Society Fund.

Trainers

Tom Price QC was called to the bar in 1985 and became a 'silk' in 2010. He has great experience in criminal defence at all levels up to and including murder, serious sexual offences, serious fraud and serious drug offences. In addition, Tom is experienced in inquests, and police disciplinary proceedings, having been involved amongst others in cases involving death in custody and discipline proceedings in relation to Stoke Newington Police Station in London. Tom has previously visited Russia to give lectures on the jury system in 2012.

Duncan Jones was called to the bar in 2010 and specialises in defence advice and advocacy in all areas of criminal and regulatory law, with a particular emphasis on fraud and financial crime, regulatory litigation and corporate crime. Duncan advises individual and business clients both before and after charge. His practice encompasses proceedings in the Crown Court, Magistrates' Court and regulatory tribunals. He is frequently instructed to represent high profile and high-net-worth individuals at the early stages of criminal proceedings in the Magistrates' and Crown Courts.

Lionel Blackman qualified in 1986 and opened an independent criminal defence practice in 1989. He has conducted over 50 jury trials and as leading advocate secured acquittals in murder and manslaughter trials at the Old Bailey. Lionel has defended a wide range of criminal cases from rape to fraud to dangerous dogs and has several reported legal precedents to his name. He has lectured outside the UK on various aspects of the English legal system and the use of technology in criminal trials. Currently, he is Chairman of the Solicitors' International Human Rights Group.

Lecture on the trial process

In his lecture, Tom Price briefly outlined the fundamental principles of the British criminal justice system and the trial procedure, illustrated with examples of historic trials dating back to 1220 and the cases from his own practice.

He stressed that the role of the jury is critical not only as an arbiter of the facts in court but also as a central bulwark of the UK democratic system. The right to appear before a "court of peers" is a very important right. Even a minor case may have catastrophic consequences for a defendant, inevitably leading to damages for his or her reputation and career; hence, cases of this type would also be heard in front of a jury.

Tom shared an interesting example of a case when a pacifist group broke into a Royal Air Force base in the north of England and damaged the bombing mechanism of fighter planes. They argued that they had acted in self defence in that they aimed to save lives. The jury acquitted all ignoring the judge's directions that the defendants had no defence in law and that they should be found guilty. Tom said that a jury trial is a recognition that sometimes justice is achieved not by a strict and rigid analysis of the law but by the application of law against the knowledge and values of normal people.

Talking about the basic principles of the English and Welsh criminal justice – the presumption of innocence, adversarial procedure and the right to a fair trial – Tom mentioned that consistent application of these principles may sometimes lead to surprising and even shocking results in the eyes of the public. However, the system as a whole shows that these values are above political expedience, a desire to punish and even the necessity to fight terrorism.

Kaliningrad

Tom mentioned it is crucial that judges in England and Wales usually have experience of being a prosecutor and a defender, having been in practice for many years. They know and understand the work of the parties in the process. Judges in the UK enjoy respect and trust from the public and the parties. In turn, judges will have mutual respect for the parties. Tom recalled a case when the judge accepted his request to adjourn the hearing referring to his client's personal circumstances: the defendant could not be present in court because his daughter was taken seriously ill. The judge agreed, although the defence lawyer did not have any supporting medical documents at the moment.

The role of judges is to ensure that a fair trial takes place. They are not supposed to express any view on the fact as that is a matter purely for the jury. Law is for the judge; the facts are for the jury.

Tom then discussed with the participants the roles of defence and prosecution and shared practical advice with the Russian lawyers:

- Preparation is key. Be masters of your papers.
- Clarity and brevity. Don't over-complicate the issues.
- When asking questions keep them short and digestive. Don't roll up several questions into one.
- Remain courteous with witnesses.
- Modulate our voice. Don't be monotone.
- Look at your audience. Make eye contact.
- Don't ever talk down to, lecture or patronize your audience.

Criminal case analysis

Duncan Jones made a presentation on case theory. He took the Russian lawyers through various stages of preparing the defence, from identifying the essential elements of the offence to evaluating evidence and witnesses, to strategy and flexibility. Finally, he talked about bail application: principle grounds for refusal of bail and examples of bail conditions.

The slides had been translated into Russian and printed out for the trainees. An electronic version of Duncan's presentation was later emailed to all participants for their own use and circulation among colleagues.

Bail application

Then the training moved on to a practical exercise. The participants split into four groups and were asked to prepare bail applications, based on a study case from England.

Group work. St Petersburg

Tom opened the case for the crown, describing the established facts and the main arguments in favour of custody. Then the Russian lawyers tried to present their arguments before the judges. The British trainers then commented on the trainees' speeches.

The exercise ended with Duncan Jones demonstrating the bail application as it would be made in an English and Welsh court. This way, the UK experts showed a typical model of training used by Inns in the form of students' presentations, followed by comments and constructive feedback.

Use of visual technologies by defence lawyers

Lionel Blackman led a brief but very intense and practice-oriented session on the use of graphics in court. He began with showing computer animated reconstruction used to justify self-defence in a murder case. He drew the attention of the audience to such subtle details as different perceptions of images taken from different angles, which may influence the jury. He demonstrated photos taken with a rotating camera that give the jury a clear view of the scene of crime.

Other examples of visual aids included CCTV analysis, computer simulations, charts, diagrams, etc.

Lionel finished his lecture quoting the Right Honourable Lord Justice Auld: *"I recommend that screens and projection equipment should be more widely available to enable electronic presentation of evidence in appropriate cases"* (September 2001).

Kaliningrad

Codes of conduct for barristers

Tom Price led a session on the basic rules of conduct for barristers. All interaction between the parties is based on trust. The judge expects to hear the truth. It is unacceptable to mislead the court. The public should trust the judicial process. Lawyers' independence is guaranteed.

Participants showed keen interest in the content of the Code of Professional Ethics for barristers. Given the stormy debate about the lawyers' working standards in Russia, it would be very useful for Russian lawyers to have access to the text of the Codes of Conduct and learn more about its application.

Plea in mitigation

The participants then proceeded to carry out a practical assignment. This time, defence lawyers were asked to present before the judges their pleas in mitigation after the defendant has pleaded guilty. The lawyers again worked in groups, and then representatives of each group made speeches, pointing out all possible mitigating circumstances.

For the purpose of the training, all three British experts interrupted the speakers asking clarifying questions. Then Duncan Jones showed a model plea made by an English barrister, while Thomas Price made his job more complicated by asking provocative questions and making critical remarks in his role of a judge.

Q & A

The training session ended with a questions and answers session on a wide range of topics, from tactics to ethics. The participants were impressed by the professional level of experts and their friendly manner of communication. The trainers were able to demonstrate how the UK system works in line with the long tradition of adversarial justice, and how it is changing over time. Communication with English colleagues has once again inspired the Russian lawyers.

In conclusion, quotations by participants may be cited, to give a flavour of the impact of the seminars:

"The seminar provided a warm and pleasant atmosphere of international communication with colleagues and an opportunity to discuss practical issues and exchange experiences. For me, all subjects were interesting and useful to discuss, including presentations and handouts."

"English law is really 'living law'. It is a fusion of logic, rhetoric and psychology."

"I will remember a clear and simple conclusion regarding jury trials: prosecution is performed by the state but the destiny of people is determined by their peers, that is by members of the jury who decide whether a person is guilty or innocent."

"It was very useful to learn about the use of visual technologies in court. They are valuable means in that they are easy to use and do not require heavy expenses or specific knowledge."

"I would like to thank the organisers and the colleagues from Great Britain for yet another excellent seminar. It was especially useful to hear how barristers speak in court, I liked the consistency and brevity of their speeches. I appreciated hearing at first-hand what the English lawyers think about their profession and about the most fundamental principles of justice, such as the presumption of innocence."

"I am absolutely delighted! There were a number of things in the seminar that I am able to use in my own work, and that will help me change my legal practice for the better, thereby delivering a better and more professional service to my clients."

Group photo. Kaliningrad, 22 January 2017