

Establishment of community-based paralegals in Moldova – main conclusions and recommendations based on a two-year pilot project

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Acronyms

SFM – Soros Foundation-Moldova

NLAC – National Legal Aid Council

MLSPF – Ministry of Labor, Social Protection and Family

MoJ – Ministry of Justice

NIJ – National Institute of Justice

SJSR - Strategy for Justice Sector Reform for 2011-2016

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Executive Summary

The paper analyses the role of community-based paralegals in Moldova based on experiences of a 2-year project that supported paralegals in 30 communities of Moldova, the relevant legal provisions regarding paralegals and the findings of a national study on legal needs in Moldova. The paper advocates for further support of community-based paralegals in Moldova and makes a series of recommendations for activities to lead to the establishment of a sustainable community-based paralegal network throughout Moldova. The paper is intended primarily for the main national decision-makers in the field, namely the Ministry of Justice, the Ministry of Labour, Social Protection and Family and the National Legal Aid Council, as well as for potential donors, national and international, interested in supporting paralegal services in Moldova.

Community-based paralegals are provided in the Law on state guaranteed legal aid,² the Justice Sector Reform Strategy for 2011 – 2016,³ the Government Action Plan for 2011-2014⁴ and the National Human Rights Action Plan for 2011-2014.⁵ These acts are the main legal and policy frameworks on which the proposal is based.

The paper concludes that the pilot project has demonstrated the need for paralegals in Moldova for three main purposes: educating communities about their rights and means to claim their rights; providing basic legal advice; and facilitating community members' involvement in decision-making processes and activities of community interest. Hence paralegals' roles cut across various areas of Moldova's social life and can contribute to: an increased awareness of rights and confidence in the legal system among rural residents and socially vulnerable groups; reducing the volume of legal claims arising from lack of understanding of the law and legal processes; contributing to good governance and, in a longer-term, reducing poverty in rural communities as a result of active engagement of communities in identifying and solving their problems. At the same time, it is too early to make policy analysis and general policy recommendations regarding paralegal services in Moldova.

The paper recommends continuation of the support for the piloted paralegal network, as well as gradual further augmentation of the community-based paralegals' network. The main aspects that need further analysis refer to the following: identification of the most appropriate institutional affiliation of the paralegals; identification of the training institution and accreditation scheme for the paralegals; development of rules for procurement of paralegal services by state authorities and budget estimations for paralegal services to be funded by the national budget.

² Law on state guaranteed legal aid, nr. 198 of 26 July 2007 (entered into force on 1 July 2008 and provisions regarding civil legal aid on 1 January 2012).

³ Adopted by the Parliament, Law nr. 231 of 25 November 2011.

⁴ Approved by the Government, Decision nr. 179 of 23 March 2011

⁵ Approved by Parliament, Decision nr. 90 of 12 May 2011.

1. Context and relevance of community-based paralegal services in Moldova

This paper is written in the context of the project “Improving Good Governance in Moldova through Increased Public Participation”, implemented by Soros Foundation – Moldova (SFM) with the financial support of the Swedish Government in the timeframe covering December 2009 – 31 January 2012). One of the project components, namely “Legal empowerment of rural communities”, focused on setting up and testing a network of community-based paralegals as a means to empower poor rural residents to participate in the public life of their communities, claim their rights and determine local decision makers to adopt decisions improving the quality of their lives.

The project was initiated based on three major assumptions: (1) a democratic system cannot be build and further upheld without a population that knows its rights, understands rule of law and legal processes and is able to claim rights and hold government accountable for its actions; (2) poverty is a multi-dimensional phenomenon caused not only by lack of or poor resources, but first and foremost by systemic mismanagement and/or ignorance of the needs of the disempowered and otherwise vulnerable groups of society; (3) legal literacy is an important part in any poverty alleviation work, and (4) a legal aid system should start with an open gate to the people with basic legal issues and focus on prevention of problems, rather than expensive court related legal aid. The cornerstone of this project component is legal empowerment of the poor in rural areas, because rural population in Moldova is usually marginalized, deprived of access to services, and often placed outside of the legal system’s protection.

The project understands that legal empowerment contributes to social development in three main ways:

- 1) Legal empowerment is a means for improving good governance, relying on the assumption that a population that is aware of its rights and obligations is more likely to demand their respect, which will lead to more accountability and hence better governance;
- 2) Legal empowerment includes basic education about rights (legal literacy) and is a necessary part in a comprehensive legal aid system, as a prerequisite of an accessible and equitable legal system. The open system (no eligibility criteria) for basic legal advice on community level should contribute to early conflict resolution and in the longer term to reduced volume for courts’ work, as well as ill-founded petitions addressed to the state authorities;
- 3) Legal empowerment is a tool that may, in the long term, contribute to poverty reduction as communities are empowered to deal with their problems, seek solutions, and demand respect of their rights.

The project’s main focus was on identifying active and dedicated members of rural communities that will undergo an initial training and work as a paralegal. From the perspective of the paralegal’s role in providing education about rights (legal awareness raising) and basic legal advice to solve problems that do not need professional involvement (by lawyers, judges or other institutions), the main affiliation of paralegals was identified with NLAC, consistent with the Law on state guaranteed legal aid. At the same time, the project sought affiliation with the network of social assistants, which has been rapidly unfolding throughout the country since 2007 under the auspices of the MLSPF. This was done mainly for the following reasons: the work of the social assistants involves a significant amount of legal issues; the financial resources of the state are scarce; creation of a parallel network

throughout the country did not seem realistic and feasible. Therefore, the project adopted two models for recruitment of paralegals: acting social assistants (paralegal-social assistant) and paralegals community members who are not engaged in any public service position (paralegal-only). The latter could perform other unrelated activities, eg teaching or performing functions in not-for-profit organizations. The key requirement for those paralegals that are not social assistants was to be available at least 20 hours per week, while for the paralegals-social assistants the expectation was that s/he would do both social assistance and paralegal work for 40 hours per week (they are hired full-time by the second-tier public authorities). As a result, the project hired 30 paralegals⁶ (14 social assistants and 16 paralegals-only).

The project has developed a thorough methodology for selecting both the pilot communities and paralegals. The communities were chosen based on a series of deprivation criteria, mainly economic, social, infrastructural, and the number of inhabitants. As a result, the chosen communities represent medium-size villages which are representative for Moldovan rural communities. An additional criterion was the openness of the local public authority to the project, expressed particularly through offering office space for the paralegal. The main criteria for choosing paralegals were their openness, dedication to human rights, feasibility to remain in the community, leadership record or potential for leadership, preferably but not required some sort of post high-school studies (college / superior incomplete studies accepted).

In order to prepare the paralegals for their work, the project has developed two manuals „Basic Legal Guide for Citizens” and “Methodological Guide for Paralegals”, which served as the main sources for training and on-the-job guidance for paralegals. The manuals are unique in Moldova, being well tailored to the needs of the paralegals and their beneficiaries, written in a simplified language and style and aimed at demystifying complex legal issues and make them truly accessible and relevant for the rural communities. The project has further developed an initial training program consisting of 6 workshops (first of 2 weeks and 5 of 1 week long, altogether 7 weeks of training). The initial training program for the paralegals was envisaged to introduce paralegals to the main legal and human rights fields relevant to the communities served by paralegals. The initial training is meant to be provided in parallel with paralegals’ work. Hence after the first two-week training workshop the paralegals were deployed to carry out their job. The initial training and practical work of paralegals was planned for a period of one year. During this period, the paralegals were supervised and advised by the project coordinators through regular telephone / skype communication, monthly activity reports submitted by paralegals and periodic monitoring visits by the project coordinators. The training workshops were organized at intervals of 2-3 months, in between paralegals being expected to carry out their duties based on their prior knowledge and experience, the knowledge acquired at the paralegal workshop trainings, and the advice provided by the project coordinators. The golden rule for the paralegals was to be frank with the beneficiaries and abstain from providing any advice when the paralegal does not know or is not sure about the solution. In some rare cases the paralegals were able to get advice from the trainers involved in the program. The project initially envisaged to organize the training through an accredited or legal training institution and seek accreditation of the paralegal initial training with that institution. After considering the current restrictive legal framework of several training institutions, project duration, and relatively poor relevant

⁶ Despite some concern about the drop out risk, none of the paralegals ceased their activity because of dissatisfaction with the project or impossibility to keep up with the project requirements. Only three paralegals had to leave because of objectively grounded reasons.

experience of the relevant training institutions in Moldova, the project working group decided that it was more prudent to carry out the first pilot initial paralegal training program with the project support only and prepare a set of recommendations for the paralegal training to be carried out in the future.

The project is unique in terms of creating a completely new institution in the Moldovan landscape of legal services, combined with social services, to be provided at community level. As stated above, the paralegal notion was only provided in the legal aid law, but no content has been given to this notion prior to project initiation.⁷ The project developed the profile of a paralegal and piloted it. After one year of paralegals' work it can be safely confirmed that the paralegal institution is a needed and an appropriate instrument for accessing rights and improving local governance for Moldova. Through the paralegals supported by the project more than 4,000 people got basic legal advice that they would not otherwise have access to. Several conflicts have been mediated and a few important initiatives in the community interest were carried out. However, these are only the quantitative results that can be traced during a one-year period. The impact that the paralegals' can have on the lives of individuals and communities at large is much bigger if paralegals were to act for a longer period of time and got more support from lawyers and specialized civil society groups. Moreover, many of the problems that the paralegals' beneficiaries encounter are of a nature that requires systemic changes or longer-term interventions, thus the challenge in showing clear evidence for qualitative impact of this work.

The project was designed to have by the end of the implementation period a set of recommendations for the state to further take on the paralegals' network. In particular, it aimed at having a clear understanding of the best model the paralegals should be further employed (paralegals-only or paralegals-social assistants); a set of recommendations for the training institution for paralegals and the accreditation scheme for paralegals' qualification; and recommendations regarding the budgetary estimates necessary for replication of paralegals' network throughout the country. During the implementation of the project, already from the first year, it became clear that the project assumptions were far too ambitious in this regard. The project has created a pilot network of 30 paralegals out of which 27 are ready to continue acting as paralegals, but one needs more time to pilot the network at a similar or slightly bigger scale and work more intensely with the state in order to prepare well-founded policy recommendations regarding the paralegal's most appropriate model, the appropriate training institution and accreditation system, the costs of replicating paralegals nationwide. These, plus other additional details of a successful paralegal activity, need further piloting and thinking before the network can be replicated nationwide and before the state can provide direct funding to paralegals.

These details need more time not only because of the nature of paralegals' activity and the project implementation methodology, but also due to the fact that many details regarding the paralegals' potential way of integrating in the state legal aid system are not yet developed or completely missing. For example, there are no mechanisms for state procurement of services from non-state actors; there is no mechanism developed within the National Institute of Justice (NIJ) of organizing training sessions on contract basis and the staff changes at the NIJ during 2010 did not allow for possibilities to focus on these issues in partnership with the project, at the same time there are no other appropriate training institutions for paralegals

⁷ The regulation on paralegals' activity was adopted by the National Legal Aid Council on 15 June 2011 (published on 13 January 2012) largely based on the project's findings.

services. Additionally, the legal aid services for non-criminal cases become effective only in 2012 and hence only from this year working cooperation mechanisms for referring potential legal aid clients can be established. Finally, it is not clear at the moment from which year the state budget will include funds for primary legal aid.

At the same time, the Strategy for Justice Sector Reform for 2011-2016 provides for testing of paralegals to start in 2012 and institutionalization of primary legal aid services, which includes the paralegals, in 2015. It is hoped the recommendations included in the paper will be used in the process of SJSR implementation.

2. Project main findings

2.1. What is a paralegal?

The Law on state guaranteed legal aid states that a paralegal is “a person who is respected by the local community, with incomplete legal studies or completed higher education studies, who does not practice as a qualified lawyer and who, after a special training, is qualified to provide primary legal assistance to members of the community from the budget allocated for state guaranteed legal aid, according to a regulation on the status and qualifications of paralegals”.⁸

The project has further detailed the concept of a paralegal and developed the following functions a paralegal should carry out:

- Provide basic legal advice to community members,
- Provide basic education about rights for community members, including the local government authority,
- Refer community members to appropriate institutions and / or lawyers,
- Solve local conflicts, including through mediation,
- Advocate issues pertinent to the entire community,
- Help the community fundraise for particular issues,
- Provide continuous information to the relevant stakeholders.

The paralegals’ regulation,⁹ adopted by NLAC, provides largely for the same functions of the paralegals,¹⁰ qualifying the paralegals only as providers of primary legal aid, with the following functions:

- a) Provide information and offer consultation upon request of the community residents;
- b) Mediate, upon request, the conflicts between community members;
- c) Organise seminars and public lectures on different topics related to their professional competence;
- d) Offer information to community members in order to prevent problems of a legal nature or conflicts;

⁸ Art. 2 of the Law on state guaranteed legal aid.

⁹ See p. 22 of the regulation.

¹⁰ Only the functions related to “advocate issues pertinent to the entire community, help the community fundraise for particular issues and provide continuous information to the relevant stakeholders” are not explicitly provided in the Paralegals’ regulation. However, these follow to a certain extent from the current functions, eg advocacy for issues of community interest as a part of “participation in local decision-making processes”, or fundraising as part of “other competencies” of the paralegals. The pilot project team believes that advocating for issues of community interest and helping the community (including the local public authority) with fundraising, as well as providing continuous information to relevant stakeholders are very important functions a paralegal should have. Similarly, the project team believes that paralegals should have a role in referring beneficiaries not only to the legal aid system, but also to other institutions relevant to the problem, hence preventing submission of petitions to irrelevant institutions.

- e) Participate, within the limits provided by law, in local decision-making processes;
- f) Refer the cases where legal aid is necessary to lawyers or, when appropriate, to the Territorial Offices of NLAC;
- g) Other competencies provided by law in the legal aid field and the current regulation.

The profile of a paralegal as tested and confirmed by the project is as follows:

- Residence in the community to be served or nearby;
- Proved leadership record or potential for becoming a leader in the community;
- Sensitiveness to human rights violations;
- Critical thinking abilities;
- Pro-active attitude;
- Education –incomplete higher legal education or completed higher education studies. Legal background is an asset but not a requirement. In exceptional circumstances, candidates with incomplete higher education studies can be accepted.

In terms of the *beneficiaries of paralegal services*, the project assumption was that the poor people are the main beneficiaries of the paralegal advice services. However, indigence was not established as part of the eligibility as there is no means test for the paralegal services and there should not be such a test or restriction. Moreover, paralegals are expected to provide services to all members of the community, rich and poor, when it comes to activities for community benefit. The paralegals' activity reports largely confirmed the project assumption that a significant portion of beneficiaries are poor people, usually coming from families that are on some sort of state support.

2.2. What are the main problems encountered by rural communities?

Based on the experiences accumulated by the paralegals the project was able, for the first time in Moldova, to get a good understanding of the main problems¹¹ encountered by rural residents. These problems have been registered on a permanent basis by project coordinators. The most frequent problems noted by the paralegals are:

- Family relations: registering the marriage, divorce, common property division, problems related to unregistered marriages / children born out of wedlock; child alimony, determining the child's domicile, determining paternity, deprivation of parental rights, adult family member alimony, children support for the parents, guardianship; conflicts / violence in the family, inheritance, taxes regarding land/house inheritance;
- Employment related: lack of contract, unfair dismissal, disciplinary sanctions; delay in paying the salary, indication of a lower salary in the books, imposing additional work;
- Social protection and welfare benefits: difficulties in calculation or/and getting the age pension / retirement, the disability pension, determining the contribution period, etc.; difficulties in ascertaining the disability, calculation and/or getting disability pension; difficulties in getting the social aid, the material aid, the birth allocation, determining the average salary for allowances payment, etc; employment related accidents, getting compensation for work accidents, getting allocation for the temporary or life loss of work capacity, difficulty in getting unemployment benefits;

¹¹ We only noted the problems that the paralegal can help with, either by providing advice or referring to an agency, hence these do not include problems of a general character such as lack of infrastructure.

- Documentation / civil acts: problems related to difficult / unusual cases of documentation, when the ordinary procedure was missed (late documentation of children, documentation of children born in unregistered marriages, determining the birth / death date, others); documentation of Moldovan citizens living abroad (documentation of children born or living abroad; difficulties in obtaining the documents for registering abroad); difficulties in transcription of civil acts from Cyrillic letters into Latin alphabet letters;
- Neighbours' relations: delineating the boundaries of the households; conflicts due to the unauthorised garbage, lack of separate entrance / exit / road to the neighbour, trees covering the house, buildings too close to the neighbours; loud noise, neighbours having problems related to alcohol abuse, drugs, violence;
- Land related: registration, selling or buying land, leasing land / a part - be it agricultural or not; allocation of plots of land by the local mayoralty - both within and outside of the village/city borders; land privatization, agricultural goods privatization, "land share";¹² restitution of land to the deportees (victims of political repressions during the Soviet regime); difficulties in leasing the land, not compiling the contract stipulations regarding land; mismatch between the actual land area and the area indicated in the property title; registration of land in the real estate registry;
- House/ apartment related: buying and owning a house / apartment, registration of property rights; privatization of apartments/houses; restitution of houses/apartments to deportees; living in rented accommodation; registration of the property in the real estate registry; taxes dues to the travel of the mobile team of the Cadastral Territorial Office to the property;
- Limited awareness of the local public authorities of the legal framework and frequent violations of their duties;
- Lack of interest and skills of the local public authorities to engage the community in local decision-making processes and in solving problems of community interest, on the one hand, and lack of community representatives to engage with the local public authority and other members of the community in solving problems of community interest, on the other hand;
- Lack of transparency and thus accountability of local public authorities for breaching legal norms related to fundamental rights and governance;
- Low awareness of rights and lack of understanding of democratic principles.

The list of problems registered by the paralegals was the primary source for developing the methodology for the Survey of legal needs in Moldova: incidence of problems encountered, paths chosen for solving the problems and confidence levels, commissioned by SFM within the framework of the project and implemented by the sociological company CBS-AXA, in August – September 2011. The survey covered the entire country, the sample being a representative one. The results of the survey are relevant to understand the problems of a legal nature encountered by the communities and also for further adjustments to the role a paralegal might play in the legal system of Moldova.

The main findings of the study on legal needs,¹³ relevant for this paper, are the following:

¹² Individual and household arable land quota redistributed in 1992, previously held in collective state and cooperative farms ("kolhoz" and "sovhoz").

¹³ The analysis was done by Martin Gramatikov, international expert hired within the project for the respective study. The questionnaire and the problem card for the study was drafted by the project consultant Nadejda Hriptievski in consultation with Martin Gramatikov and Vasile Cantarji, sociologist who supervised the survey. The English, Bulgarian, Ukrainian and Russian questionnaires were consulted. The legal problems for the problem card were largely based on the paralegals' experience and

- Incidence of problems - 22.2% of the respondents report experience with one or more problem of a legal nature¹⁴ in the last 3.5 years. This means that one in five Moldovans had to cope with a complicated problem in the 3.5 years prior to the interview, problem that could have had impact on the respondent but also on his family, relatives, friends and colleagues. The incidence level of 22.2% should be interpreted as the minimum one, as there could have been problems that the respondents simply did not recognize as legal and hence did not report them.¹⁵ Another reason for not reporting a problem could be the perception that the legal system does not provide “equal justice for all”, which might determine people avoid the legal problems.¹⁶
- Types of most frequent problems encountered by the population: disputes with neighbours (16%), problems with family relationships (14%) and consumer problems (9%) are on the top, followed by land related problems (8%), medical services (8%), employment disputes (7%), social protection and welfare benefits (7%), compensation of different types of torts (6%) and money related problems (6%). The survey results are quite close to the most frequently indicated problems by the paralegals. All these problems (to a lesser extent the ones related to the compensation of different types of torts and money related problems) are the core of the initial paralegal training and daily activity of paralegals. This finding speaks of the relevance of paralegal services in the Moldovan society.
- In terms of the persons that encounter the reported problems, the study shows that women report slightly more legal problems than men, namely 24.1% compared to 20.1% for the male respondents. Gender plays a role in such categories of problems as family relationships, welfare benefits, disputes with neighbours, medical problems, as well as issues with maintaining house/apartment (in all of these categories more than 2/3 of the respondents are women). Men are more likely to report problems with compensation of wrongful damage and public services.

In terms of rural-urban differences, the study did not reveal significant differences in the reporting rates, except the impact of distance, namely the further one lives from a court the less likely s/he is to experience a legal problem or to recognise the legal dimensions of an issue. On the contrary, people living in cities have higher rates of reported problems. This should not be read as people in rural areas do not have problems, but rather that the further one lives from formal dispute resolution

the experience of the Public Defender Office in providing primary legal aid. The problem card was consulted with the trainers and the project team.

¹⁴ The term is the equivalent of “justiciable event” term used in other studies of this kind, which served as a model for the Moldovan survey methodology. The survey methodology defined the term “problems of a legal nature or justiciable problems” as follows: life events which raise legal issues, regardless whether the citizens recognize them as “legal” or not and regardless of whether in response to the problems the formal legal system have been used. Crime related problems do not fall within the concept of justiciable events (except issues related to compensation for crime-related problems and police response to these complaints). The problems should have happened to the respondent in her personal capacity and not in the course of business relationships. Life is diverse and conflicts and problems often occur. In order to qualify a problem as justiciable it must be significant or in other words to be non-trivial problem. The level of seriousness is a matter of case by case assessment and depends on the respondent’s estimate of the problem’s impact on his life. The idea is to filter out the small issues that would / should not come to the legal system.

¹⁵ For example, 14.4% of problems were classified as no problems while the respondent used a lawyer for it, which indicates that it might have been a problem of a legal nature.

¹⁶ Half of all respondents are firmly convinced that people with more money receive better justice, then 25% are less affirmative but still answer with “rather yes” and only less than 10% think that the justice system is blind for the social and economic position of the disputants.

mechanisms (courts, as well as other mechanisms), the less likely it is for a person to recognize his/her problems as legal and resort to formal justice mechanisms. In terms of types of problems, as it was expected, people from the rural areas experience more often family relationship issues, land related problems, and problems with welfare benefits.

- The study also showed what people did when experiencing a serious and difficult to resolve legal problem. It found that 20% of those who experienced a serious and difficult to resolve legal problem did nothing in response; 38% of the people who had employment problems took no action; the most frequent reason for inaction was that the respondent did not know what to do. This means that the population is in need for more education about rights and ways to claim the respect of their rights.

What the study shows in terms of paralegal services is that the project's focus on rural communities which are far away from the cities where the courts are located (one of the selection criteria for the paralegal communities), the focus on family, property and social protection issues in the Basic Legal Guide for Citizens and the initial paralegal training (the biggest number of allocated numbers) is in line with the needs of the communities to be served by paralegals and should be further kept. The focus on education and awareness raising about rights and ways to challenge their violation is a critical mission of the paralegals' work, due in particular to low rates of identification of problems as being of a legal nature and inaction when faced with a serious legal problem due to lack of knowledge what to do. Presentation of the paralegal services as being firstly designed for poor people should be kept, although no means test is necessary or relevant.

2.3. How did paralegals respond to communities' needs?

As envisaged by the project, the paralegals' work was largely focused on three main areas of work:

- Provision of basic legal advice;
- Community education about rights – through public lectures and other awareness raising methods;
- Engagement of community in activities of community interest.

The main challenge of the paralegals was to win the trust and confidence of the community members in their role and abilities to help. This challenge was expected by the project team and was among the risks of the project. Especially in small communities, establishing contacts with the members, gaining the trust and obtaining tangible results required considerable amount of time and personal commitment. Paralegals were effectively in place for 1 year, since the first two months were largely devoted to practical arrangements (getting the office, settling all administrative issues etc.). This period coincided with the parliamentary elections of November 2010, which took away the attention of the communities. Hence November-December 2010 were largely "settling in" months. This was also the period of the first training workshop during which the paralegals only got an introduction to their job. It is important to note these aspects for any future replication and new hiring of staff, to reserve 1-2 months for initiation into the job and settling of administrative issues, as these aspects often tend to be ignored, but they can be time and effort-consuming at the beginning of any project, irrespective of the source or amount of funding.

Paralegals' basic legal advice to beneficiaries: Since the concept of a paralegal is a new one for Moldova, the main focus of the paralegals was placed on informing the community about the paralegal, their role and hence creating a demand for paralegal services. As expected, the biggest portion of paralegals' time and efforts was spent on providing basic legal advice and working individually with beneficiaries. Paralegals provided legal advice in face to face interviews in their offices or by telephone. The paralegals keep record of all their activities, including the advice provided, in the paralegal's registry. In total, the paralegals provided 5,986 consultations /instances of advice for the period November 2010 – December 2011 (14 months, 29 paralegals). This makes an average of 15 consultations per month per paralegal.

The specifics of a paralegal activity is that the project trained and instructed paralegals not to simply wait for the beneficiaries to come to their offices, but to actively identify the problems of the communities and those that their members face and help within the ambits of the paralegal's skills, abilities and job description. As the project emphasized during the initial training and in the guidelines to the paralegals, the paralegals' role in advising the beneficiaries was not necessarily to provide the solution unless s/he is certain about it and it is in the interest of the beneficiary. Often, due to the complexity or nature of the beneficiary's problem, the paralegal cannot offer a solution. When the problem cannot be solved by the paralegal or the paralegal is not certain about the appropriate solution, the paralegal's role is to correctly refer the beneficiary to the appropriate public or private institution that can offer the solution or further relevant information. Regrettably, experience shows that often people go to the wrong institution or send complaints to completely irrelevant public authorities wasting their own time and that of the public authority and not getting correct resolution at the end. The paralegals are supposed to cover this gap in the Moldovan legal system by correctly referring the people to the appropriate institution, which in the long term should also lead to a decrease of inadmissible complaints to public institutions (petitions) and faster resolution of complaints.

Hence the main skills paralegals needed were to accurately identify the beneficiary's problem, which is crucial for finding the solution. In general paralegals handled well this part of their work. However, often the paralegals themselves were not sure how to classify the problem, where to look for answers, or the problem was already so complex due to lapse of time or errors made by public authorities (especially in cases of documentation or land / inheritance registration), that the paralegal needed advice in order to be able to correctly identify the problem and direct the beneficiary to the appropriate institution. For this purpose, the possibility to call the project coordinator or the trainers was crucial and it is an element that needs to be provided in any paralegal scheme.

In addition to advising individual beneficiaries, the paralegals were trained to carry on conflict resolution through negotiation and mediation. The project operated on the assumption that many small conflicts do not get resolved on the local level and this leads to escalation of problems reaching the courts, while these could have been resolved much earlier, faster, and cheaper (both for the parties and the state). Although Moldova has a Law on mediation and a Mediation Council was established to certify mediators, this dispute resolution model is at a very rudimentary stage of development. Both the population and the legal profession do not yet recourse to mediation as a viable alternative to court mechanism. Paralegals were encouraged to use negotiation and mediation techniques for resolution of disputes. This was successful to a certain degree. More needs to be done in the future in order to increase the paralegals' role in early conflict resolution at community level. The initial training should perhaps provide more training on alternative dispute resolution and the organization that will

lead the paralegal network should consider integration and/or more cooperation with the Mediation Council and the mediators' network.

Examples of problems solved by paralegals:

- Assistance in obtaining the birth certificate for a 7 year-old girl, who was abandoned by her mother and is living with her grandmother. The girl was born in Transnistria and had no records (medical or civil) about her birth. The paralegal-social assistant, with the help of the raion's specialist in child protection, filed a request with the court and obtained the birth certificate. The paralegal further assisted the grandmother to obtain the documents that enabled her to receive state benefits for the minor child;
- Advice on an employment dispute. A group of the community, of Roma origin, complained to the paralegal that they worked during the summer in a village for the mayor who refused to pay them and they did not know what to do. They did not have a labour contract. The paralegal advised them to talk to the leader and explain that in case he does not pay, they will complain to the raion council. The group talked to the leader who paid them a part of the owed money and promised to pay the remaining part in a few months. The paralegal is monitoring this case;
- Advice regarding inheritance. A beneficiary inherited a house and a plot of land, but the heir's certificate included only the plot of land. The beneficiary went to the real estate registry for advice, who advised her to go to court. The beneficiary came to the paralegal, who advised her to go to the notary that issued the respective certificate and request to correct it. The notary corrected the certificate and the beneficiary was able to continue the registration procedure of her full inheritance;
- Help to obtain the identity card. a beneficiary could not travel to Ukraine for urgent treatment due to lack of an identity card, which was refused by the civil registry because the person did not have a certificate of divorce. The person was divorced by Ukrainian authorities, hence the paralegal sent a request for receiving the copy of the divorce certificate. In parallel, the paralegal went to the civil registry, together with the beneficiary, and explained the respective officials that lack of the divorce certificate is not an impediment to receive the identity card. As a result, the civil registry issued the identity card and the beneficiary was able to go to the treatment site in Ukraine;
- Advice to two community members on regulations about the small business enterprises. Based on the received advice, one of them opened a business of manufacturing tomb stones, and the second opened a tire repairing service. As a result, the two men provided the community with access to the needed services;
- Mediation of a conflict between two neighbours regarding garbage deposited on the street. The paralegal helped the parties come to an agreement about collecting the garbage in an appropriate place;
- Advice and mediation regarding land lease contracts. In a village, the land was leased by many villagers without any contracts, which created practical problems regarding the payment later on, the villagers ending up often with no retribution for their land. The paralegal worked together with the mayor of the village on signing lease contracts: the mayor convinced the farmers that took the land and the paralegal worked with the villagers that leased the land. To date, almost all villagers who leased their land had contracts;
- Advice on social aid during the cold period of the year and explanation of the rules. The explanation by the paralegal reassured the beneficiary of the correct answer provided by the social assistant and avoided useless petitions to the raion and/or central authorities (such requests are frequent);

- Advice on social aid. A father of 4 children was refused social aid by the raion Department for social protection because it did not recognize the validity of the student's certificate of one of the daughters, issued by an academic institution in Tiraspol. The paralegal filed a complaint with the raion department and then contested the response to the MLSPF, which accepted the complaint and ordered the raion Department to allocate the social aid.

Paralegals' community education: The project was developed on the assumption (which was later on confirmed by the legal needs survey results and the paralegals' observations) that the population in Moldova is not aware of their rights, rarely claims their rights and rather avoids the legal system seeking other conflict resolution methods. For this reason the paralegals were trained and the job description was designed for paralegals to devote a substantial amount of time on community education/legal literacy activities. The project envisaged public lectures and seminars to targeted groups of community members on topics of their interest as the main community education tool. The paralegals were encouraged to apply other human rights education methods and techniques to transpose in practice this project objective. The paralegals carried out in total 367 public lectures. One paralegal made an agreement with a local Radio Station ("Vocea divina", Nisporeni) to hold weekly sessions on radio, during which he would explain a certain topic and would respond to questions addressed by the audience. For difficult questions, the paralegal would note their contact details and would contact once he found the solution.

The one-year experience showed that paralegals need more training and support from experienced trainers in order to correctly identify the community needs that could be covered by adequate education about rights and mechanisms for redress. The project's conclusion is that realistically paralegals can become good agents for education and awareness raising in their communities only after they receive initial training and practical work (over a period of one year). This does not mean that during this period paralegals should not carry out human rights education in their communities. It rather means that the expectations regarding the extent to which the paralegals can engage effectively in community education is limited and should not be pressed until at least the mid-term of initial training, so that paralegals gain sufficient knowledge and skills to both identify the needs and later on engage effectively in community education.

Examples of topics on which paralegals held public lectures: No to violence!; conditions for registering marriage; marriage contract; parents' rights and obligations; children rights and migration / travelling abroad; inheritance; wills; neighbours' relations; pensions; donation contract; rental contract regarding land; right to health; civil registration documents and their importance; right to property; the public notary and its competencies; labour contract; taxes; why do we give bribes?; what do we need to know about the police?

Paralegals' engagement of the community in activities of community interest: The project views paralegals as agents of change in their communities, which entails (besides legal advice, conflict resolution and community education) engagement with the community and the public authorities in identifying the local needs, which can be solved through active engagement of both community members and the public authority, empowerment of the community members to participate in the local decision-making processes. In this respect, the Basic legal Guide for Citizens included a separate section on public participation; the paralegals' guide included a section on community mobilization and the paralegals were trained during the initial paralegal training on community mobilization techniques and on

methods of community participation in the decision-making processes. The paralegals were also encouraged to advise the local authorities when they need help with understanding laws, conditional on paralegal's ability to provide such an advice.

This area is of interest and has a potential to be further developed, but it depends to a great degree on the personality and ambitions of the paralegal. The paralegals are appropriate catalysts for engaging the community in the local decision-making processes, but as long as the powers of the local government are limited in terms of decisions on the budget, there is very little space for community engagement in decision-making processes. The paralegals are very appropriate for organizing the community and mediating initiatives between different groups, given that the paralegals are energetic, possess a pro-active attitude and have good organisational skills. The main challenge paralegals face is the inertia of the community, the limited abilities / resources of the local public authorities, and limited funding available at local level. At the same time, given different technical assistance and infrastructure projects which are made available by foreign donors or some of the national centrally managed funds (e.g. ecological, regional development etc.) and given the lack of well-prepared human resources in rural communities, including the local authorities, the paralegals are very well-placed to cover this gap if adequately trained on fundraising and project management.

Examples of paralegals' initiatives in the interest of the community:

- A paralegal worked with the local public authority to initiate a project to support the renovation of the community kindergarten, the paralegal was elected as a member of the board that was entrusted with preparing the documents necessary for project approval (project approved on 18 February 2011, village Ciutulesti, Floresti raion);
- A paralegal negotiated with the mayor of the village to take action regarding the garbage that was deposited in a big pile nearby the village. The local health centre also used to deposit their garbage, including used medical supplies, on the pile. The garbage presented danger to the health of the community since there was no treatment of the garbage, which was located too close to the village and produced a bad smell, especially during heat or heavy rain. As a result of the paralegal's efforts, the mayor agreed to contract a few community members to remove the garbage from that location and clean the place. The garbage is currently located further away from the village. Further actions should follow regarding the management of the garbage, but this requires more time and money (village Taraclia, Causeni raion).

2.4. Costs involved

The project main costs are presented here only to indicate what types of costs are necessary for establishing a network of paralegals. As with any new initiative, the start-up costs are the most expensive part of the budget due to the novelty of the initiative as well as the inevitable period of trials and errors. The main project costs include the following:

- (1) Paralegals set up and running costs:
 - Remuneration of paralegals: the project provided the paralegals with a monthly gross salary amounting to 3,060 lei to paralegals-only and 1,500 lei to paralegals-social assistants, overall the gross salary costs for 12 months raising to 36,720 lei per paralegal-only and 18,000 lei per paralegal-social assistant;
 - Paralegals' offices: since one of the project conditions was for the local government to provide the paralegals with office space (including basic furniture), the project did

not cover any office space costs. The experience proved this as a good decision and it is further recommended that it be left to the local authority to provide the office space for paralegals, given the scarce resources of Moldova. This option entails only one risk, namely the potential conflict of interest when the paralegal deals with an issue or a conflict in which the local authority is involved. This risk can be reduced by proper supervision of paralegals and ensuring that paralegals understand their role and firmly adhere to it. Another argument in favour of the requirement that local government provides office space for paralegals is the fact that the paralegal services benefit the community and the public authority, whose main goal is to serve the interests of that community, which is easier to attain in a community which is proactive and aware of its rights and obligations. Given the problems that citizens refer to the paralegal, the paralegal should have a separate office or at least opportunities to hold office hours in private. Besides offices, the paralegals were provided by the project with a laptop, access to internet (USB modems) and a printer. The offices should be equipped with possibilities to keep files confidential;

- Running costs of paralegals – the project covered the paralegals' monthly charges for mobile telephone services and for internet access.

(2) Training costs:

The Project team organized 6 trainings (1 lasting 2 weeks and 5 lasting 1 week each) outside Chişinău, in Vadul lui Vodă. The following training costs were covered by the Project:

- Training venue (accommodation, meals and conference room),
- Trainer's fees (the remuneration for 1 training hour was 200 lei net and each trainer received an additional 100 lei net for each training day, covering the time spent travelling to and from the training venue);
- Travel costs (the Project reimbursed paralegals' and trainers' travel costs to and from the training venue).

(3) Paralegal manuals:

- Each of the 14 authors received 12 USD net per conventional page of 4,000 characters (including spaces);
- The Project funds also covered the costs related to editing and printing the first versions of the manuals;
- The manuals were revised and updated. Each author received a gross fee in the amount of 120 lei per conventional page of 4,000 characters (including spaces);
- The Project funds also covered the costs related to the editing and publishing of the two manuals in their final versions.

(4) Management of the paralegals' network:

The project hired 2 full-time coordinators and a part-time financial manager to manage the project. In addition, 3 national and 1 international consultants, as well as the project director, were involved for specific tasks of the project. The project concluded that 2 full-time coordinators are at minimum necessary for adequately managing the project. With the increase of the number of paralegals, the number of managing staff should also be increased. At least one/some of the coordinators should be lawyers able to provide legal advice and support to paralegals in their daily work.

3. Recommendations for replicating community-based paralegals throughout the country

3.1. General recommendations for the Government, National Legal Aid Council and donors:

- Paralegal services are necessary in Moldova and should become part of the services supported by the state, be it through establishment of a paralegal network directly managed and supported by the state or through procurement of services from individual paralegals. However, the replication of paralegals nationwide needs to be done gradually and after a more extensive period of further piloting;
- It is recommended to test the paralegal scheme for another 3-4 years within the framework of a demonstration project in order to prepare the necessary legal framework, the practical arrangements, as well as the state budgetary planning;
- During the demonstration period some state funding could be provided, for example for hiring additional staff within the legal aid system responsible for paralegals' network monitoring and development of relevant secondary legislation;
- The main aspects that need further testing and analysis refer to the following: identification of the most appropriate institutional affiliation of the paralegals; identification of the training institution and accreditation scheme of the paralegals; testing and finalization of the training curriculum (initial and continuing /in service); development of rules for procurement of paralegal services by state authorities and budget estimations for paralegal services afforded by national budget;
- Engagement and cooperation of the three most relevant state institutions – the MoJ, MLSPF and NLAC – are crucial for developing adequate tools for replicating the paralegals;
- Civil society groups should be involved in the demonstration project in order to ensure representation of various marginalized groups, as well as to ensure a link between paralegals and specialized NGOs.

3.2. Recommendations for a demonstration project:

If the above suggestions regarding a demonstration project are accepted, the following are suggested regarding the respective project:

- *Communities where paralegals are placed:*
The project methodology for selecting communities proved to be functional. For the demonstration project the same methodology can be applied. Paralegals can be selected through public competition as well. The pilot project allowed for a limited experimentation with paralegals who serve two small neighbouring communities. This model shall be further explored, perhaps even trying clusters of small neighbouring communities.
- *Profile, role and model of a paralegal:*
The profile and the role of a paralegal as developed by the project proved reasonable and they should be replicated further. In particular, the future projects should focus on the 3 main dimensions of the work of the paralegals: basic legal advice to individual community members; community legal literacy/education work, and community engagement in activities of common interest. The paralegals should be carefully

selected to correspond to the following main criteria: residence in the respective community, dedication to observance of human rights, critical thinking, pro-active attitude, proven leadership record or potential for such, and incomplete legal studies or completed higher education studies.

In terms of the model of a paralegal-only or paralegal-social assistant, the project experience shows that both models are viable for Moldova and the most important is the personality of the paralegal, as well as the size of the community and the availability of suitable social assistants for the paralegal position. It is hence recommended that both models be kept and decisions be made based on the available human resources in the community rather than the type of the paralegal, as well as financial resources available. One caution to be kept in mind regarding the paralegal-social assistant model is the risk that the paralegals focus more on social problems at the expense of the legal problems and disputes.

- *Training of paralegals - initial and continuing:*

The curriculum for the initial training for paralegals has been developed and adjusted throughout the pilot project to respond best to the existing needs and be relevant to the paralegals' functions. The project team has formulated a series of recommendations to the curriculum, which can be easily incorporated into any new curriculum and appropriately implemented.

Regarding the initial curriculum, it can largely be tested in the final version of the pilot project, with slight amendments to the total number of hours allocated for a series of areas (state and administration; family law; methods for alternative dispute resolution, human rights) in view of adding hours for topics such as anti-discrimination, elections, domestic violence. The approach to individual work (home work) should be revised to ensure a wide coverage of issues of interest for paralegals' work, as well as a mechanism for verifying how the paralegals understood the given topics. The evaluation methods of paralegals should be improved to reduce to a minimum the theoretical or memory-based questions and allow for the testing of paralegals' knowledge and skills to identify problems, their solutions, ways to explain the solution to the beneficiary, as well as interviewing, public speaking and teaching skills. The initial paralegal training should keep the extracurricular sessions, which would include paralegals' demonstration of public lectures and seminars, discussions with specialists on specific issues of paralegal interest, as well as meetings with representatives of the public authorities relevant to paralegals' work.

The paralegals need continuing training and this has to be developed within the new demonstration project. However, continuing training should be significantly less intensive than the initial one and the curriculum should be developed based on a needs assessment of the current paralegals. Continuing training should be provided on specific legal issues and follow a more collegial experience exchange and workshop approach.

The pilot project created a relatively small group of reliable trainers. The pool of trainers needs to be extended and further training of trainers to be provided in order to ensure relevant training from the methodological perspective. More non-lawyers should be involved as trainers, for example specialists who work with victims of domestic violence, communication specialists etc. The project should assign at least

one trainer specialized in building the paralegals' skills, who should work with all trainers involved in the paralegal training to ensure that skills training elements are followed. A train of trainers' session of at least 4 days is recommended for the trainers.

- *Paralegal manuals:*

Paralegal manuals – the Basic Legal Guide for Citizens and the Methodological Guide for Paralegals – are ready to be used and uploaded on the web for a wider use by the audience. However, the manuals will need an annual or biannual review in order to be kept updated with the constantly changing legislation. The content of the manuals has to be expanded.. For example, the manuals need more content on topics such as anti-discrimination, elections and domestic violence. When posted online, the manuals can be updated at a certain interval of time, with only electronic copies provided to paralegals every year.

- *Resources involved:*

The pilot project has demonstrated that a project of such scale needs at least one person fully dedicated to training, with legal and training experience relevant to paralegal training needs. Another project member has to deal with monitoring and provision of legal advice to the paralegals, as well as provision of financial and managerial support given the procedures that require adequate time and other resources.

The legal back up should be available on a permanent basis in order to help paralegals when difficult questions occur. Such a professional should be able to take exceptionally difficult cases or at least signpost them to qualified lawyers.

- *Training institution for paralegals:*

The pilot project mapped all potential training institutions in Moldova and came to the conclusion that the NIJ would be the most appropriate institution given its profile and pool of trainers. However, the NIJ does not have sufficient staff to be able to oversee a paralegal training program and does not have tools for developing such a training program with outside partners on contractual basis. Further work needs to be done with the NIJ in order to assess well the opportunities and develop a joint activity for creating a paralegal training program run by the NIJ. However, the NIJ is already burdened with numerous tasks regarding the training of judges, court personnel, court bailiffs and prosecutors. Hence, for the demonstration project it is crucial to determine if the NIJ can allocate sufficient time and other resources for a paralegal training and whether it might not be more appropriate to consider a partnership between the NLAC and the Bar, if the latter makes some progress on training of lawyers, or, eventually, NLAC and a law faculty.

- *Accreditation of paralegals:*

Directly linked to the training institution but not entirely, it is further needed to analyze the best options for accreditation of paralegals. During the pilot project it became clear that only after a full cycle of initial training and practical work by paralegals it was possible to do a final evaluation of paralegals and decide on whom to award graduation certificates. In this respect both the paralegals' results during the six training workshops were taken into account and the performance of the paralegals during the one year of practical work. Finally, the evaluation committee gave a written

test and held an interview with each paralegal. This thorough method proved necessary as only a complex evaluation gives the accurate results.

Hence, it is suggested that for the future a similar stage is developed and paralegals receive certificates (are accredited). While developing the respective system one needs to consider if the paralegals are placed as a new freelance profession within the Moldovan legal system or are incorporated as one type of the professions in the national registry of professions/ positions. During the pilot project two options have been considered but none could be followed up due to short project duration and lack of similar mechanisms, namely: (1) paralegals become a similar profession with the mediations, court bailiffs and a mechanism for state procurement of their services is developed or (2) paralegals becomes a qualification for the social assistants, who receive it after the successful graduation of the paralegal initial training and practical work during one year. These, as well as other options should further be considered during the demonstration project.

- *Institutional affiliation of paralegals and cooperation model of paralegals with the Government:*

The project team has provided supervision and all sort of support to the paralegals. A network needs always a central managing and coordination unit. Similarly, the paralegals will need one. The project initially envisaged that NLAC is the best placed public authority to coordinate the paralegals given their role in the legal aid system. However, to date the NLAC does not have a permanent administration and hence this option is not feasible.

The MLSPF is coordinating the social assistants' network and is not the appropriate body for coordinating the paralegal network as well, given their complimentary nature (otherwise we risk the paralegals being gradually incorporated into social assistance work only).

On the other hand, throughout the project it became clear that paralegals' role is of such a nature that they will inevitable have to be able to question the authority of any public institution while defending the rights of their beneficiaries. From this perspective, an idea that has not been initially envisaged is to create a paralegal association that would act as an umbrella organization for the paralegals, ensuring ethics and negotiating with the state on behalf of the network, might be worth exploring. Paralegals' association can be either a non-profit or a professional organization. In the latter case, which seems more useful and relevant, although more time-consuming, the paralegal institution would have to be developed like one of the professional networks such as the associations of attorneys, bailiffs or public notaries. However, since the paralegal services are not profit-making, state support for the association, at least partial, is absolutely crucial. In that respect the NLA is the most appropriate mechanism to channel public funding into the network of paralegals. However, the demonstration project has to further test and present recommendations regarding the mechanism of procuring services from paralegals, accreditation of paralegals and quality control mechanisms.

Hence one needs to further test and analyze the pros and cons of these and possibly other models in order to develop a workable model for the paralegal profession, as

well as the state rules on procuring or outsourcing public functions (we see paralegal service as a public function that the state needs to cover) to paralegals.

- *Budget estimations:*

Budget estimations regarding the costs of paralegal services to the state can be done only after the above mentioned areas are clarified. What is clear from the pilot project is that the workload of the paralegals during the pilot project was of minimum 20 hours per week in a medium size community, which means a part-time job. Some paralegals carried out their functions well, even within this time limit and serving more than one villages. Hence the project definitely suggests that there is no need for a paralegal in every village of Moldova but rather in clusters of villages. Moreover, the project team came to the conclusion that not all paralegals might necessarily be supported through the same system. There are villages that can themselves pay for a paralegal from the local funds. On the contrary, there are marginalized communities that cannot afford a paralegal. More demonstration period will provide more data for analysis and a map of where paralegal services would be more appropriately supported by the state and where by local government or other sources.

- *Public outreach activities:*

The project should envisage a comprehensive public outreach strategy in order to inform the public about the paralegals' role and the opportunities offered. The demand for paralegal services might fluctuate over time, but it should be more or less predictable by the end of the project in order to make adequate estimations for the future.