



ROADMAP

**Strengthening the Paralegal Profession
within the National System of State
Guaranteed Primary Legal Aid**



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LIST OF ABBREVIATIONS

ERA	the Efrim, Roșca și Asociații Law Firm
MJ	Ministry of Justice
NLAC	National Legal Aid Council
MLSPF	Ministry of Labor, Social Protection and Family
MF	Ministry of Finance
MTBF	Medium Term Budgetary Framework
GD	Government Decision

Introduction

The present *Roadmap* was drawn up within the project „*Shared Framework on Legal Empowerment in Moldova*“ implemented by the Justice Program of the Soros Foundation-Moldova. The project aims at developing, institutionalizing and implementing policies and practices of legal empowerment of the population. The project refers to the empowerment of people to independently use the legal framework in order to identify concrete solutions to everyday legal issues and thus contribute to rendering the authorities accountable. As a result, legal education of the marginalized population will empower and mobilize communities to actively participate in the decision-making processes and to monitor the activity of state institutions. Currently, these tasks are performed by community paralegals. The Justice Program aims at developing a clear mechanism for institutionalizing the profession of paralegals and supporting the creation of alternative models for providing primary legal aid services, including the creation of an association of paralegals.

This document highlights systemic problems and gaps in the legislation related to the activity of paralegals. The national consultants who developed this *Roadmap* analyzed the extent to which the current system meets the legal empowerment needs of the population, especially of the most vulnerable social groups. The study identifies major areas of intervention to improve the system of providing primary legal aid services through the network of paralegals, and establishes concrete steps for strengthening the status of paralegals.

Following the research carried out on the activity of paralegals' network, we have identified three possible options for revising/changing the concept of the paralegal network by:

- ◆ transforming paralegals into a liberal profession, similar to defense attorneys, mediators, notaries etc;
- ◆ introducing the position of paralegal in the payroll of territorial offices of the National Legal Aid Council;
- ◆ maintaining paralegals as professionals contracted by the territorial offices of the National Legal Aid Council, with the partial revision of the organization of the profession.

Following this analysis, we have found that the optimal solution is to keep paralegals as professionals contracted by the offices of the National Legal Aid Council. However, strengthening the status and development of the paralegal network can be achieved in this format, only as a result of normative, organizational and material interventions. This solution is most suitable for at least two reasons - (1) financial efficiency, including the state budget system and (2) functional efficiency.

Executive summary

This *Roadmap* was developed by the team at “Efrim, Roșca și Asociații” Law Firm (hereinafter - ERA), at the request of the Justice Program of the Soros Foundation-Moldova. It aims at contributing to the development of a clear mechanism to institutionalize the paralegal profession, including setting up an association of paralegals, and creating alternative models for providing primary legal aid. The specific objectives of the *Roadmap* are: identifying the place and role of the paralegal profession in the current national system of state guaranteed legal aid, particularly as a tool of legal empowerment and public information of vulnerable groups; determining development needs and strengthening the paralegal profession; identifying an optimal formula to institutionalize the paralegal profession. In this regard, the Roadmap focuses on strengthening the profession by professional association of paralegals, on forms of organizing and managing the association, the setting up procedure, as well as strengthening the system of financing state guaranteed primary legal aid system.

The achievement of these objectives is a complex exercise, which must be understood through the concept of access to justice. Measures to improve access to justice should focus on developing low-cost justice delivery models, taking into account the cost of legal services and legal remedies, capacity and willingness of the poor to pay for such services, overload of the court system, incentives for the judiciary and law enforcement agencies, and the efficacy of informal and alternative dispute resolution mechanisms.¹

Legal empowerment of the poor is part of a development strategy with the purpose of enhancing the capacities of rights-holders to claim their rights. The priorities of the legal empowering process should be set by the marginalized groups and for the marginalized and be guided by human rights principles, equality and non-discrimination, participation and accountability.²

Human rights violation continues to be the most common problem of the Republic of Moldova. Therefore, the community and the state must constantly ensure legal empowerment of the population, especially of the underprivileged. The Republic of Moldova has made several steps in this direction; one of the most important achievements was the adoption of Law no.198 of 26 July 2007 on state guaranteed legal aid, where the state has redesigned the entire legal aid system, focusing on ensuring equal access to justice. This law stipulates that the state guaranteed primary legal aid may be provided by paralegals and specialized public associations.

In ensuring primary legal aid, national policies and practices in this area must be harmonized with the findings and recommendations of the UN Secretary General's report A/64/133 on legal empowerment of the poor and poverty eradication. Thus, national legislation and practice must properly address the needs of legal information and facilitate resolution of legal problems of the poor.

¹ Legal empowerment of the poor and eradication of poverty/Report of the Secretary General, United Nation, A/64/133, July 2009, p.7

² Legal empowerment of the poor and eradication of poverty/Report of the Secretary General, United Nation, A/64/133, July 2009, p.16.

Despite the fact that state guaranteed primary legal aid through paralegals is one of the main forms of legal aid that the members of the community may benefit from, the legislature has not regulated this profession. The functionality of the profession of paralegal is maintained through a regulation approved by the National Council of State Guaranteed Legal Aid (hereinafter NLAC) and Law no.198 of 26 July 2007 on state guaranteed legal aid. Some punctual regulations are found in Council Decision No. 17 of 15.07.2014 on approving quality standards for the paralegal and Council Decision No. 16 of 15.07.2014 on approving the Code of Ethics for the paralegal. Unfortunately, we witness lack of a strategic long-term vision for the policies of state guaranteed primary legal aid. The network of paralegals as a tool of legal empowerment is facing functional difficulties, its extension is modest and the sustainability of the system often depends on the arbitrary decisions of the authorities. So far, donors largely organizationally support the network of paralegals, which ensures a certain pattern of development.

This roadmap examines the causal link between legislative gaps that prevent effective legal empowerment at national level through community paralegals, and the issue of their institutionalization and extension of the network. Following this analysis, a number of systemic problems have been identified, such as lack of clarity on the form of organization and status of paralegals; lack of an effective mechanism for initial and continuous training to ensure quality services; the absence of a transparent mechanism for determining the amount of remuneration of paralegals; the existence of a faulty mechanism of purchasing services provided by paralegals; a system of selection which does not ensure accession into the system on the basis of meritocracy; etc. The list of issues is not exhaustive.

In order to achieve the objectives of this study, we had to analyze the national regulatory framework in the context of the existing practice, the results of the piloted projects, and the vast international experience. As a result of this complex exercise, the authors have come up with pragmatic and relatively simple proposals to streamline primary legal aid in Moldova, namely, legal empowerment through the network of paralegals. Out of all the options analyzed in terms of risks and costs involved, we concluded that the best solution would be to maintain paralegals as professionals contracted by the territorial offices of NLAC.

In order to ensure workability of the proposed solution, the authors recommend the implementation of concrete actions presented in the form of a Roadmap (Action plan).

The action plan involves drawing specific goals towards which concrete activities were established, results indicators and partner institutions were identified. The identified objectives are: strengthening and ensuring the efficiency of initial and continuous training of paralegals; ensuring the selection of paralegals based on merit and leadership criteria; establishing a transparent and sustainable mechanism on remuneration of paralegals; strengthening the status and role of paralegals through their professional association; ensuring an effective mechanism for rendering paralegals accountable.

The problems, recommendations and solutions identified in this document reiterate the importance of services provided by paralegals; hence, the need to strengthen their status and place in the landscape of legal services provided by other professionals from the justice sector related systems.

Methodology and working techniques

The Roadmap for institutionalizing the profession of paralegals, their professional association and strengthening the budgeting system was drawn up by the team of the Associate Law Firm “Efrim, Roșca și Asociații” at the request of the Justice Program of the Soros Foundation-Moldova. The Justice Program aimed at contributing to the development of a clear mechanism to institutionalize the profession of paralegals and create alternative models for providing primary legal aid services, including by establishing an association of paralegals.

The document was developed based on an extensive review of the national legislation in the field by identifying gaps that endanger the functionality of the network of paralegals and establishing similarities and differences between the status of paralegals and other justice sector related professions. In addition, a comparative analysis was drawn up of the regulatory framework and experience of other states, the results of the piloted projects and the existing sector policies were analyzed.

Another method applied was the individual and group interviews with several paralegals in the country, representatives of both the relevant public institutions and independent experts.

In addition, a series of statistical data has been analyzed, such as the number of paralegals, their fields of activity, activity monitoring reports, the financial resources allocated from the state budget for the network of paralegals, etc. The analysis of quantitative and qualitative indicators enabled to reason alternative options for the development of the network of paralegals as a tool for providing state guaranteed primary legal aid.

Generalities

With the adoption of Law no. 198 of 26 July 2007 on state guaranteed legal aid (hereinafter - the Law no. 198 of 26 July 2007), the state has redesigned the entire legal aid system, focusing on ensuring equal access to justice for citizens of Moldova, as well for foreigners and stateless persons who need legal assistance in relation to the Moldovan authorities. One of the forms of state legal aid is the primary legal assistance, which, according to the Law no. 198 of 26 July 2007 may be granted by paralegals and public associations specialized in providing legal aid.

2010 was the year in which the state has demonstrated an increased interest (compared to the previous period) to the state guaranteed primary legal aid provided by paralegals. Thus, a collaboration agreement between the Ministry of Justice and the Soros Foundation-Moldova was signed regarding the creation of the network of paralegals to provide primary legal aid in rural areas. Following that event, the Soros Foundation-Moldova³ has implemented for over two years a project aimed at promoting a diversified system of primary legal aid. Thus, the Soros Foundation-Moldova supported the activity of paralegals from 32 communities of the Republic of Moldova, finally producing a set of recommendations for the efficient organization of the activity of paralegals in rural communities and to develop policies on replicating patterns of functioning of paralegals throughout the country. In the report "The main findings of a pilot project and recommendations for the extension of the network of paralegals in the Republic of Moldova" it was found that in the Republic of Moldova paralegals are needed for the following: training communities about their rights and means through which these may be claimed; providing primary legal aid; facilitate the involvement of community members in decision-making processes and activities of common interest. Therefore, the roles of paralegals cross various areas of social life in the R. Moldova. They can help contribute to a: better information about their rights and to increase confidence in the legal system among residents of rural areas and vulnerable social groups; reduce the number of complaints arising from lack of understanding of the law and legal proceedings; good governance and, in perspective, poverty reduction in rural communities as a result of active engagement of communities in identifying and solving their own problems".⁴

The same paper recommends, "continuing to support the piloted network of paralegals and gradual development of the network of community paralegals. The main issues requiring further consideration are: identification of the most appropriate institutional affiliation for paralegals; identifying the institution for professional training and the accreditation scheme for paralegals; development of mechanisms for procuring the services of paralegals by state authorities and the estimates required for primary legal aid services to be included in the national budget"⁵.

Thus, despite the fact that state guaranteed primary legal aid through paralegals is one of the main forms of legal assistance to which community members can address, the legislature did not regulate in detail this profession, its functionality remains to be ensured under regulations approved by NLAC and Law no. 198 of 26 July 2007.

³ <http://www.justice.gov.md/libview.php?l=ro&idc=4&id=160>

⁴ <http://www.soros.md/files/publications/documents/Principalele%20concluzii%20ale%20unui%20proiect-pilot.pdf>, pag. 2

⁵ <http://www.soros.md/files/publications/documents/Principalele%20concluzii%20ale%20unui%20proiect-pilot.pdf>, pag. 2

The profession of paralegals reappeared in the sight of national authorities with the approval of the Justice Sector Reform Strategy for the years 2011-2016⁶, the Government Action Plan for 2011-2014⁷ and the National Action Plan on Human Rights for 2011-2014⁸. These policy documents put a new emphasis on the profession of paralegals and acknowledge its place and role in the field of state guaranteed legal aid. Despite this, to date, there is no regulatory framework to completely and complexly govern the profession of paralegals with all necessary - the place and role of paralegals, conditions for accession to the profession, initial and continuing development, legal liability, remuneration, professional organization.

⁶ Law no. 231 of 25 November 2011 on approving the Justice Sector Reform Strategy for years 2011–2016.

⁷ Government Decision no. 179 of 23 March 2011 on the approval of the Action Plan of the Government for years 2011-2014.

⁸ Parliament Decision no. 327 of 27 December 2012 on the amendment of the National Plan on Human Rights for years 2011–2014.

Chapter 1

THE NATIONAL LEGISLATIVE FRAMEWORK REGULATING THE STATUS AND ACTIVITY OF THE PARALEGAL. GENERAL OVERVIEW

For the first time in the national state guaranteed legal aid system, the paralegal profession appeared in Law no. 198 of 26 July 2007 by creating it as a means of providing primary legal aid. In order to develop this law, NLAC, as the institution responsible for implementing the state policy in the field of state guaranteed legal aid, approved a series of decisions which regulate the profession of paralegal, namely NLAC Decision no. 27 of 29 October 2014 regarding the approval of the Regulation on the activity of paralegals, registered with the Ministry of Justice with no. 1014 of 30 December 2014; NLAC Decision no. 11 of 20 June 2014 on approving the Curriculum for initial training of paralegals; NLAC Decision no. 12 of 20 June 2014 on approving the Curriculum for continuous training of paralegals; NLAC Decision no. 4 of 14 February 2013 on the amount of the remuneration of the activity of paralegals, NLAC Decision No. 17 of 15 July 2014 on approving quality standards for the paralegal activity, NLAC Decision No. 16 of 15 July 2014 regarding the approval of the Code of Ethics of the paralegal. These documents constitute, in fact, the fundamental normative basis on the status and activity of paralegals.

1. Who is the paralegal?

Law no. 198 of 26 July 2007 very generally regulates the status of the paralegal, providing in art. 2 that the paralegal is *the person who enjoys high esteem from the local community, with incomplete legal education or complete higher education, is not practicing as a defense attorney and, after special training, is qualified to deliver primary legal aid to community members from the funds attributed for state guaranteed legal aid, according to a regulation on the status and qualification of paralegals.* From this definition, we deduce some basic conditions which must be met by a person in order to become a paralegal:

- 1) enjoy high esteem from the local community;
- 2) have incomplete legal studies or complete higher education;
- 3) not practice as a defense attorney;

4) follow a special training in order to be qualified for delivering primary legal aid.

At first glance, these conditions are clear. However, the condition of complete higher education together with the condition of not practicing as a defense attorney leaves room for ambiguous interpretations. Things are clear only after corroborating the notion from art. 2 of Law no. 198 of 26 July 2007 with the provision of p. 14 sp. 3) of the Regulation on the activity of paralegals, which provides that in the file for application for participation in the contest for selection of paralegals, there shall be included the *diploma of incomplete legal studies or, where appropriate, diploma of complete higher education.* Thus, we conclude that the condition of complete higher education does not necessarily refer to legal field, but to any other field.

Comparing the legal provisions in force to the reality, we have tried to identify the profile of the paralegal that currently operates in Moldova. Therefore, who are the people who have been selected as paralegals? What is their educational background and which are the additional activities that they practice? We have studied these questions in the context of the information obtained in interviews with a number of paralegals.

One of the paralegals told us that in his perception, legal studies are needed to carry out the activity of paralegal, since the issues faced by the beneficiaries of the services provided by paralegals are diverse and the initial training is not always enough to provide answers and solutions to the problems addressed. According to him, the quality of the paralegal's services depends directly on his/her legal training. The paralegal mentioned that initially in his locality, as paralegals were selected, in particular, social workers. Most social workers who conducted paralegal activity had, however, initial education in law and only two of them had no such studies. Thus, legal knowledge has certainly facilitated the delivery of primary legal aid.

At the same time, when asked whether social assistants could take over the work of paralegals, i.e. to deliver primary legal aid, the answer of the paralegal was negative, citing the high workload specific to the activity of social assistance and the lack of time needed to also conduct paralegal activity. In the cold season, these state servants are virtually bombarded with requests for calculation or recalculation of material aid for the population or with other requests specific to their area. Another impediment for social assistants to deliver primary legal aid is the lack of legal knowledge.

However, we have interviewed a paralegal who is also a social worker. He has, however, background in law; he also has experience as lawyer in a company, a background that facilitates the delivery of primary legal aid. This person is working as paralegal since 2012, being part of one of the first graduates trained by Soros Foundation-Moldova. Following participation within the project of the Soros Foundation-Moldova, that paralegal participated in the contest organized by one of the territorial offices of NLAC, where out of 30 candidates 15 were selected.

Nevertheless, we have also heard other opinions according to which legal education is not a prerequisite for pursuing the activity of paralegal, the ability to re-educate/adapt to social realities being important. Alternatively, according to that opinion, the role of the paralegal resides in ensuring qualitative information and mediation of the beneficiaries of its services, which derives from the limited area of skills and services that the paralegal is entitled to offer. The paralegal in question stated that his background is due to his previous activities, but not due to training for paralegals.

Another interviewed paralegal had studies in the field of information technology. Initially, he was employed in the local public administration, from which he resigned in 2010, since he started the activity of paralegal. Currently, the paralegal is working in the local gymnasium as teacher of information technology. This is one of the paralegals trained by Soros Foundation-Moldova in the first generation.

Another of the interviewed paralegals began his activity in 2012. At the beginning, along with the paralegal work, he was hired as a methodologist at the local kindergarten. Later, he changed jobs to work in the Mayors' Office, acting as a typist. This paralegal has an educational background in pedagogy.

Another paralegal informed us that he has been conducting such activity since 2015. The person applied in the selection contest at the request of the mayor of the

locality where he lives, since the previous paralegal had emigrated. The main job of this paralegal is in the local kindergarten, where he works as a speech therapist, and his educational background is political science, having graduated abroad. That person has work experience in various fields, having worked previously as an insurance sales clerk and teacher of English language. According to that paralegal, accepting the proposal to participate in the selection was due mainly to his active involvement in the community through various projects and cooperation with non-profit organizations, in his case with the Social Mission "Diaconia".

In all cases, paralegals argued that an important factor of the paralegal's success is his/her personality, namely his/her ability to communicate with beneficiaries, his/her reputation in the communities where he/she operates directly affects the beneficiaries' confidence.

From our observations, the experience of the paralegal's previous profession (professions), his/her studies, all represent a range of factors that determine the manner of communication, flexibility, degree of empathy thereof in relationships with the beneficiaries and their problems.

2. Incompatibilities

The Regulation on the activity of paralegals stipulates at p. 41 some incompatibilities for the activity of paralegal. Thus, this activity is incompatible with:

- 1) remunerated employment in the local public administration;
- 2) the activity of civil servant and public dignity function;
- 3) any other remunerated functions or activities, without the agreement of NLAC;
- 4) any other activities that may cast doubt about the credibility or may harm the image, reputation or interests of the state guaranteed legal aid".

According to p. 42 of the mentioned Regulation, the paralegal may carry out other paid activities, except those provided for by the Regulation on the activity of paralegals and the contract signed with the territorial office, although they could be carried out only with the consent of the NLAC.

Referring to the activities incompatible with the Regulation on the activity of paralegals, we find that if the first three points are clear, then the provision of sp. 4) is imprecise. Thus, the formulas "that could cast doubt on the credibility", "may harm the image, reputation or interests of the state guaranteed legal aid system" are subject to

interpretation, without any limit in this respect. Consequently, the interpretation of the highlighted texts will be made subjectively, depending on the moral and intellectual limits of the person applying the norm, leaving room for arbitrariness, hence to the possibility of abuse. To avoid situations of incompatibility and ensure correct and effective implementation of the norms, such characteristics should not be used in such legal provisions.

In order to exclude potential incompatibilities with the activity of paralegal, the people selected following the competition are required to inform the territorial office of NLAC about other professional activities exercised both at the time of selection, and during his/her activity as paralegal.

In the context of the practices identified in our interviews, it drew our attention the incompatibility imposed by the provision in p. 41 sp. 1) of the Regulation on the activity of paralegals – “remunerated activity in local public administration”. Notwithstanding the rule that provides for an incompatibility with any function within the local public authority, the practice shows that the rule applies only to the part that relates to other functions within these authorities. Therefore, people who are employed in local public authorities in technical or administrative positions are admitted as paralegals. Such an approach is also tacitly accepted also by NLAC and is justified by the small number of participants in contests for selection of paralegals and that holders of these positions do not have a decision-making role and are not in some way involved in the implementation of the powers of the respective administrative authorities. In such cases, often, initially, paralegals are greeted by their service beneficiaries with a certain reserve, being somehow perceived as coming “from the” authorities. However, after the beneficiaries are explained what does the activity of paralegals means and that it is independent from the authority, the beneficiary develops trust. The interviewed paralegals working in local public authorities revealed the absence of any conflict of interest in carrying out their duties of paralegals, and that the basic function they hold has never constituted a hindrance in their paralegal activity.

Even if the legislator has imposed certain incompatibilities to the status of paralegal, it did not clearly regulate the consequences of the admission of such situations. According to the Regulation on the activity of paralegals, occurrence of an incompatibility can only generate termination of the contract with the respective paralegal. However, this consequence is not treated as a mandatory one, the decision to terminate the contract is left to the territorial office of NLAC.

The facts mentioned above highlight the weak normative framework regarding incompatibilities with the position of paralegal, which promotes insecurity of legal relations arising in the work of the paralegal and those between paralegals and lawyers and NLAC. At first glance, it appears that the stated deficiencies are not so serious, but this is valid as long as no incompatibility occurred, the resolution of which would lead to conflicts?! In conclusion, regulations to exclude ambiguous wording and arbitrary interpretations regarding incompatibility and which would provide clear solutions for such situations are needed.

3. Conflict of interest

Another impediment in providing services by paralegals is the conflict of interest, explicitly regulated by the Regulation on the activity of paralegals. The regulation provides that, where there is a conflict of interest between the paralegal and the applicant for primary legal aid, the paralegal has the right to continue to provide primary legal aid only after obtaining the written consent of the applicant. Otherwise, the paralegal must indicate the applicant the existing possibilities for obtaining assistance from other bodies or competent persons.

In the context, it should be mentioned that the provision establishing these alternatives is not very accurate - pt. 38 of the Regulation on the activity of paralegals: *If there is a conflict of interest between the paralegal and applicant for primary legal aid, the paralegal is entitled, with the written consent of the applicant to continue to provide primary legal aid **or/and** indicate possible options for obtaining assistance from other bodies or competent persons.* In conclusion, it is unclear whether paralegals who found a conflict of interest between themselves and the primary legal aid applicant are required or not to communicate to the latter about the possibility of obtaining assistance services from another bodies or competent persons.

NLAC stipulates the ways in which the conflict of interest arises when there is a conflict between the exercise of paralegal powers and material or non-material interests of the paralegal that:

(1) follows: (a) from the personal needs or intentions; b) his/her relations with close people (relatives up to the fourth degree) or legal entities, regardless of the type of property; c) the personal relations or affiliations with political parties, non-profit organizations and international organizations; d) preferences or persons indicated above in letter b) and c)

and

(2) improperly influence or may influence the impartial and objective performance of the obligations of the paralegal in the process of providing primary legal aid and which violates or might violate the rights and interests of the beneficiary and the community in general⁹.

From the information presented during the interview conducted with NLAC representatives, we have not found problems in implementing these provisions. In their experience, only one case took place when they reported what was a possible conflict of interest that has not been confirmed.

The normative framework does not provide any sanction for breach of the obligation to report incompatibilities and conflicts of interest. However, these situations do not remain without response. The territorial office establishes as grounds for terminating the contract concluded with the paralegal the failure to declare a conflict of interest and the occurrence of an incompatibility with the activity of the paralegal, including where the incompatibility appeared from other activities that require the NLAC consent, and this agreement had not been previously required.

The legal provisions do not state whether the termination necessarily occurs in the event of one of the above or if the paralegal is given a deadline for removing the conflict of interest or incompatibility. Thus, in the absence of clear regulations, the application of the norm in p. 64 of the Regulation on the activity of paralegals is left to the discretion of NLAC territorial office's representatives and NLAC representatives. In this regard, we note that the tolerance level may vary, from case to case, without knowing exactly what/who is the deciding factor in applying the provisions of p. 64 of the Regulation. From the perspective of legislative provisions, such a formulation is corruptible and needs to be revised in order to exclude the arbitrary and abusive application.

Studying the practice in the field, grounding ourselves on the information obtained in interviews with paralegals and NLAC representatives, we found that usually paralegals notify the beneficiaries about potential conflicts of interest that may arise, and about the possibility of addressing another paralegal or another body or competent person. We have not identified, however, situations in which the beneficiary would have given up the assistance of the paralegals concerned.

Regarding the frequency of conflicts of interest in the activity of paralegals, this is a rare phenomenon. From

the information gathered, we found only one case in which the paralegal was accused of conflict of interest. The accusation did not come from the beneficiary of the paralegal's services, but from a servant of local public authorities. The accusation was described as an attempt to intimidate the paralegal in order to terminate to provide services to a beneficiary, the problem of whom directly targeted the respective authority. The paralegal continued his activity, carrying out his tasks exemplarily. The conflict was solved by involving NLAC that found the absence of any conflict of interest and supported the paralegal in his later work.

Theoretically, conflicts of interest in rural communities (especially small ones), which are characterized by a high level of kinship and affinity might frequently occur. However, from discussions with the interviewed paralegals, we found that they try to avoid such situations from the beginning, communicating with the beneficiaries and presenting them with alternatives that they have in case they don't trust them.

We found that the absence of conflicts of interest, potential or actual, is due to the paralegal's reputation and trust of the beneficiaries and irreproachable behavior towards beneficiaries.

In conclusion, the imperfect provisions are not an impediment for situations of potential conflict of interest. Lack of conflicts of interest is exclusively the responsibility and good faith of paralegals and NLAC representatives, which is the human factor. However, given the condition of clarity of legal norms and compulsoriness of his/her complying with the principle of predictability and legal certainty, the provisions in p. 38 and 64 would require revision in sense of having a precise wording for the obligation of the paralegal to inform or not the beneficiary about the possibility to address to another body or competent person to obtain assistance, but also the consequences of the admission of conflicts of interest.

4. Which are the services provided by the paralegal?

In general, Law no. 198 of 26 July 2007 is aimed at regulating forms of state guaranteed legal aid, not also? at regulating the status of subjects, which provide these forms of assistance. According to the law, paralegals are competent subjects to deliver primary and not qualified legal aid. We understand from the provisions of the law that the list of services delivered by paralegals consists of:

⁹P. 39 of the Regulation on the activity of paralegals, approved by NCS-GLA Decision no. 27 of 29 October 2014

- ◆ providing information on the legal system of the Republic of Moldova, the legislation in force, the rights and duties of the subjects of law, on how to achieve and make use of the rights by judicial and extrajudicial means;
- ◆ providing consultancy on legal matters;
- ◆ providing assistance in drawing up legal documents;
- ◆ provision of other forms of assistance that does not fall into the category of qualified legal aid.

The Regulation on the activity of paralegals develops their powers provided by law, empowering them only as providers of primary legal aid with the following tasks:

- a) providing information and delivering consultancy at the request of community residents;
- b) mediation, upon request of the conflicts between community members;
- c) organizing seminars and public lectures on various topics related to their professional competence;
- d) providing information to the members of the community in which they work to prevent the emergence of legal issues or conflicts;
- e) participation, within the limits provided for by law, in the local processes of decision making;
- f) referring the cases, where needed, to qualified legal aid delivered by defense attorneys, and where appropriate, to the territorial offices of NLAC;
- g) other duties provided by the legislation in the field of state guaranteed legal aid and by the present Regulation.

In the work “The main findings of a pilot project and recommendations for the extension of the network of paralegals in the Republic of Moldova” there have been identified the following functions that a paralegal **can perform**:

- ◆ provide basic legal advice to community members;
- ◆ provide community members, including local public authorities with basic training services in human rights;
- ◆ refer community members to competent institutions and/or relevant defense attorneys;
- ◆ solve local conflicts, including through mediation;
- ◆ contribute to community fundraising for particular issues;
- ◆ regularly provide information to interested parties.

The regulatory framework governing this topic is characterized by clear provisions, which indicate on the activities necessary and useful for the community, compatible with the profile and role of paralegals.

5. Beneficiaries of the services provided by paralegals

Law no. 198 of 26 July 2007, which is the framework law in the field of state guaranteed legal aid, and implicitly of the primary legal aid, expressly and exhaustively stipulates who are the subjects entitled to primary legal aid, regardless of the form of delivering it. Thus, of the state guaranteed primary legal aid can benefit citizens of the Republic of Moldova, foreigners and stateless persons, regardless of their income level. The same list of recipients is maintained also by the Regulation on the activity of paralegals.

Unlike state guaranteed qualified legal aid, the subjects that can receive state guaranteed primary legal aid are not bound by the level of monthly income they have. Basically, anyone who needs the services of a paralegal can address him/her. In practice, however, we have seen that mostly of the services of paralegals benefit rural people with low financial income. The development of the paralegal network, the popularizing of the paralegal and the range of services that he/she may provide, the expansion of the network also in urban communities would allow for legal empowerment of other categories of people, namely those marginalized, such as: social minority groups, victims of domestic violence, victims of forced labor or services, sexual exploitation, drug users, etc.

6. The paralegal within the national system of professions

So far, the paralegal, as the main subject in the system of state guaranteed primary legal aid, which is there for 9 years (de facto working for 6 years), is not yet included in the Classifier of Occupations in the Republic of Moldova (Corma 006 -14), approved by the Ministry of Labor, Social Protection and Family no. 22 of 3 March 2014 (hereinafter - *Classifier of Occupations*). The inclusion of any occupations in the Classifier of Occupations of the Republic of Moldova is carried out by the Ministry of Labor, Social Protection and Family at the request of the intended users, according to art. 7 of Law no. 102 of 13 March 2003 on employment and social protection and p. 4 of the order indicated above.

From the discussions with the Ministry of Labor, Social Protection and Family, it derives that the institution has not analyzed on the inclusion of one or another profession in the Classifier of professions, as this procedure is initiated by the users of the classifier in whose jurisdiction is the specific activity of the profession concerned. At the same time, completing the Classifier of Occupations is done based on a consistent reasoning, including labor market studies on the appropriateness of including a profession in the Classifier, indicating the exact area of competence of the profession. The need and opportunity for including a profession in the Classifier of Occupations is analyzed by the Ministry of Labor, Social Protection and Family, in the lights of international nomenclatures (classifiers) as well as international standards.

Including paralegals in the Classifier of Occupations would render this activity the status of the profession and would address a broad spectrum of issues subject to regulation of social relations and employment of paralegals, as well as those related to the assessment of the condition and dynamics of change in the structure of employment in the field of primary legal aid delivered by paralegals.

DEFICIENCIES

1. Partial legal recognition of paralegals as a profession.
2. Deficient regulatory framework regarding incompatibilities with the position of paralegal and ways of solving conflicts of interest.

SOLUTIONS AND RECOMMENDATIONS (roadmap)

Action 1. Amending the Classifier of Occupations of the Republic of Moldova by including paralegals in the list of recognized professions in the state

In order to strengthen the status of paralegals, the first thing to do is to include it in the Classifier of Occupations. This would mean first of all completing the official recognition of the paralegal profession, the first stage being achieved through the inclusion of this specialist in the Law no. 198 of 26 July 2007.

Thus, after the position

261 ⁹	Specialists in the legal field non-classified in the previous basic groups
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shall be introduced a new position

261 ¹	Paralegals
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The Classifier of Occupations should also indicate the description of the occupation and the powers of the paralegals.

Action 2. Revising the normative repertoire on solving conflicts of interest and incompatibilities with the status of paralegals

For the purposes of this action, it is necessary to materialize all consequences of admitting a conflict of interest by paralegals. Amendments must impose binding reactions and actions in case of admitting a conflict of interest.

It is also necessary to amend the regulatory framework, which refers to incompatibilities, because it is very restrictive. In this case, it is p. 41 sp. 1) of the Regulation on the activity of paralegals – “remunerated activity within local public authorities”. This change must accept less restrictive NLAC practices. Until then, however, the acceptance as paralegal of an employee of a local public authority, even if only from the technical or administrative staff, *stricto sensu*, is a violation of legal prescriptions.

NLAC’s role is to adopt a clear policy in this regard and to intervene with the Ministry of Justice with proposals to amend the primary normative framework, as well as to ensure the amendment of the secondary legal framework.

Chapter 2

THE ACTIVITY OF PARALEGALS IN THE REPUBLIC OF MOLDOVA

1. Admission/selection of paralegals

Law no. 198 of 26 July 2007 does not state the subject empowered to select competent paralegals, indicating only that they work under a regulation approved by NLAC. The Regulation on the activity of paralegals establishes a sufficiently detailed, but not very complicated procedure of selecting paralegals.

According to the Regulation, the selection of paralegals to provide primary legal aid shall be made based on a contest, organized by a Competition Commission, established locally in the jurisdiction of the territorial offices of NLAC. The selected paralegals will provide services in the territorial circumscription of the office. The information about the organization and carrying out the contest, the requirements for the candidates, and the necessary documents for announcing the contest shall be prepared and placed on the website of the NLAC at least 15 days before the date of the competition.

The Competition Commission consists of a coordinator, a representative of the territorial office of NLAC, and a representative of local public authorities. The nominal membership of the Commission is approved by NLAC. The Regulation provides the following duties of the Competition Commission: (1) carrying out the contest and drafting the necessary documents after the competition; (2) drawing up a final list of selected paralegals. Moreover, the Regulation also provides that the Competition Commission could also have other duties which are necessary for the selection process of paralegals. This last provision leaves room for broader interpretation entailing a corruptible nature, bias and potential abuse. The Competition Commission may assume responsibilities that go beyond the legal framework and leave room for bad faith.

By regulation, i.e. by legal document, the procedure for organizing and conducting the contest for selection of paralegals is based on the following principles:

1) open competition, by ensuring open access to the contest to anyone who meets the legal requirements;

2) selection on merit by selecting, based on the results, the most competent person;

3) ensure transparency by making available to all interested parties information on the how the contest is being organized;

4) equal treatment through non-discriminatory application of objective selection and clearly defined criteria so that every candidate should have equal opportunities.

At the same time, the Regulation on the activity of paralegals indicates on what does the file for applying for the contest contain and where should it be submitted. Thus, people who are interested to work as paralegals must submit to the territorial office of NLAC in the jurisdiction of which the competition is announced the following documents: 1) application for the contest with an indication of the village requested; 2) copy of the ID; 3) diploma of incomplete legal studies or, where appropriate, the diploma of higher education; 4) a letter of motivation; 5) declaration that the applicant is not in any of the cases of incompatibility referred to in p. 42 of the Regulation on the activity of paralegals; 6) declaration on conflict of interest in case of such a conflict; 7) survey completed by the mayor (according to Annex no. 1 to the Regulation on the activity of paralegals); 8) other documents that the candidate considers necessary to prove qualification.

The Regulation on the activity of paralegals also regulates the situations where no file has been submitted for the contest, as well as when as a result of the competition, not all vacant units of paralegals were filled. In these cases, according to the procedure, repeated contest is announced for the unfilled units. The announcement on the organization of the competition is repeatedly placed on the website of NLAC at least 7 days prior to its deployment.

The submitted files shall be examined by the Competition commission according to the selection criteria, and those who have submitted complete files are invited to interview. During the interview, each member of the

Commission completes for each candidate an evaluation document of the candidate; the format which of is included in Annex. 2 of the Regulation on the activity of paralegals. On the form, the score for each selection criterion and total points accumulated shall be indicated. The candidate who has accumulated the highest number of points is considered selected to provide state guaranteed primary legal aid.

When selecting paralegals by the Competition Commission, the availability to deliver primary legal aid also in neighboring localities and willingness to provide primary legal aid more than 15 hours a week is considered an advantage.

The meetings of the Competition Commission are to be recorded in the minutes, indicating: members of the Commission present at the meeting, the content of the debates and the decision taken, the issues put to a vote and the voting results. The Regulation provides that the minutes of the meeting shall be made within 3 days after the meeting, signed by Commission members and kept in the archives of the territorial office of NLAC. The Commission's decision on the results of the competition shall be made in writing, includes the members of the commission, date and place of adoption, the agenda and is signed by the members. The decision of the Competition Commission is made known to the candidates in written form within 5 days of its adoption.

If we were to give an assessment of the procedure of selecting paralegals, as it is governed by the Regulation on the activity of paralegals, we could say that it is sufficient. The regulatory framework in this regard, ensures visibility and transparency both in terms of informing the public about the opportunity to be paralegals, i.e. to participate in the competition, and on the organization and conduct of the contest. In addition, such a procedure allows the selection of paralegals under the principle of meritocracy, ensuring the identification of the most suitable people to work as paralegals.

However, referring to the practical application of this legal framework, the reality turned out to be other, and we reached the conclusion based on the information obtained in the interviews. The contests for selection of paralegals are held annually and, as mentioned by some interviewees, currently, these are carried out much lighter and the selection is not as rigorous as it was at the beginning of establishing the network of paralegals. Moreover, one of the paralegals even qualified the current selection process as superficial and stated that it does not demonstrate genuine competition.

The interviewed paralegals made reference specifically to the selections made by Soros Foundation-Moldova, especially those that took place at the initial stage. A paralegal stressed that in the selections organized by the Foundation the accent was put on the personality of the paralegal, on his/her level of involvement in community life, etc., which are very appreciated elements.

Paralegals who have participated in the interviews are consistent in their work and submit the documents to each of the competitions for the selection of paralegals organized by the territorial offices of NLAC in the relevant districts. The experience in the field of delivering state guaranteed primary legal aid, that, for some, is of about 6 years working as paralegals and professional training that takes place annually, are key factors to promote the selection contests.

Some of the interviewed paralegals welcome the idea of instituting a more rigorous selection especially since lately, in the locality where they operate, there is a high rate of participation in competitions, namely greater competition. From the statements of a person interviewed in Nisporeni, for example, in the last selection contest for selecting paralegals, 3 people have applied for one position. Only a rigorous selection of paralegals can generate healthy competition and choosing the best of the participants.

On the other hand, some of the interviewed paralegals said that the current selection of paralegals is sufficient and introducing more stringent selection requirements would discourage participation in the contest. Currently, there is little interest in this position, because of the low remuneration of the paralegal. A paralegal affirmed that even the paralegal activity is not very sought by potential beneficiaries. Given that the statement in question was a singular one, we believe that this view is generated perhaps by the situation of the paralegal in question.

DEFICIENCIES

1. Corruptible rules relating to the powers of the Competition Commission.
 2. The annual character of the selection competitions, which determines the temporal character/annual contract with paralegals.
 3. Superficial attitude of the selection committee in the examination and evaluation of the files and candidates.
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2. Initial and continuous training of paralegals. Positive and negative norms and practices

Referring to the training of paralegals, the legal framework in force is not too generous. Law no. 198 of 26 July 2007 states only that the training of paralegals is undertaken by NLAC, from budgetary means and other means from other sources not prohibited by law, allocated for this purpose. Also, NLAC is the competent authority for instituting and periodic review of activity standards and professional training of paralegals (art. 12 par. (2) j) of Law no. 198 of 26 July 2007).

In a broader context, the initial and continuing training are covered by the Regulation on the activity of paralegals, and it is not explicit in some aspects, such as the time of initial training, consequences of its failure etc.

Under the Regulation, NLAC ensures, from the budget attributed for state guaranteed legal aid, both initial training and continuous training of paralegals based on the training curricula approved by NLAC.

The Regulation on the activity of paralegals states that the training of paralegals is carried out through the National Institute of Justice and other entities. For the latter, the Regulation imposes two conditions: recognition and accreditation of the entities by NLAC and the existence of a cooperation agreement concluded in this respect between NLAC and the respective entity.

According to normative provisions, the paralegal is obliged to pay sufficient attention to the process of initial, continuous and self-training. At the same time, the Regulation requires paralegals to yearly attend at least 40 academic hours of training and additionally further refine their knowledge and practical skills by participating in training courses organized by both NLAC and other organizations.

The normative framework refers to training in general and is not sufficiently explicit in terms of initial training. It provides, in general, for mandatory training courses organized under the NLAC. Partial or full absences are accepted only in exceptional cases, from professional reasons, health or family. Failure to attend training and the reasons for absence shall be necessarily notified in writing, including by e-mail to that territorial office in the district of which the paralegal is working. Otherwise, the absence shall be qualified as not grounded. Moreover, under the Regulation on the activity of paralegals, unauthorized absence for more than 10 hours per year from training courses organized by or in cooperation with NLAC constitutes grounds for terminating the contract.

At first glance, the rules imposed by NLAC strengthen the understanding about the quality of training of paralegals, on which depends the quality of primary legal aid services provided by them.

The situation found during the interviews shows, however, another practical situation and attitudes. The opportunities provided by the regulatory framework are not fully used.

These findings are based on statements of some paralegals that are part of the first generations of paralegals who have received initial training organized by the Soros Foundation-Moldova. In fact, all interviewed paralegals appreciated the initial trainings provided by the Soros Foundation-Moldova, as being more complex and aiming at varied and useful topics for the activity of the paralegal. However, we were unable to obtain information about the initial trainings organized by NLAC. These trainings were assessed as sufficient for the paralegal to provide primary legal aid, including for those paralegals that have legal background. One of the paralegals affirmed that even in these trainings, he has learned more than in the university.

Regarding the initial trainings organized by NLAC the situation was not as good. For the question whether they have received initial training after each selection contest, the interviewed paralegals provided no affirmative answer. The justification of such a situation can be reasoned by the fact that they have already had experience as paralegals, the initial knowledge has been acquired during the first period as paralegals. Ultimately, it may be a logical argument. However, at the question of whether they know about initial trainings organized by NLAC, they were unable to respond firmly positive.

The issue of initial training was addressed in discussions with NLAC representatives, who also did reveal a good situation. We found that they have relied mainly on trainings organized by the Soros Foundation-Moldova, which is the main partner of NLAC in promoting state guaranteed primary legal aid, as form of assistance provided through the network of paralegals. The most important achievement of NLAC in the field of initial training for paralegals was the approval in 2014 of a curriculum for the initial training of paralegals¹⁰, developed under a project implemented by the Soros Foundation-Moldova. The curriculum for the initial training has not yet been implemented due to the lack of financial resources and

¹⁰ NCSGLA decision no. 11 of 20 June 2014. http://www.cnajgs.md/uploads/asset/file/ro/379/Hotarirea_nr_11_din_20.06.14_aprobarea_curriculumului_de_instruire_iniciala_a_PJ_anexa.pdf

austerity conditions imposed to public institutions by the Government.

The activity of NLAC in training paralegals was similarly appreciated also by the Soros Foundation-Moldova. According to it, NLAC manifests minimum involvement in the organization of initial or continuous training of paralegals. The problem of financing such training from the public budget is obvious, but the reluctance to establish cooperation agreements with other partners that could provide such services at affordable prices is not understood.

Overall, the situation regarding continuous training of paralegals is better than the initial training, but not enough as to not require intervention.

All paralegals argued the need for continuous training, understanding their importance, especially on a background of ever changing regulatory framework. All paralegals with whom we have interacted know about the number of hours of mandatory continuous education, but they have noted that these are not held regularly. Paralegals mentioned that most continuous trainings are organized by NGOs (Soros Foundation-Moldova, "Institute for Penal Reforms", "Casa Mărioarei", "Promo-Lex" etc.), NLAC being passive in this sense.

By NLAC decision no. 12 of 20 June 2014, the Curriculum for continuous training of paralegals was approved, but had the same fate as that of initial training. As to the continuous trainings, NLAC maintains contact with organizations that are interested in organizing and conducting continuous training of paralegals. We have not identified, however, situations where cooperation with NGOs would occur at the initiative of NLAC. However, as mentioned both by NLAC representatives and some paralegals, the institution is open for the trainings provided by private subjects. The institution also ensures communication between paralegals and non-profit organizations that are willing to undertake continuous training.

The topics for continuous trainings are selected depending on the demands of paralegals, deriving from the problems which the community is facing (inheritance, domestic violence etc.).

Overall, the conducted continuous trainings were assessed as sufficient. However, according to an opinion, trainings conducted before, at the beginning of creation of paralegal network, were of a higher quality and complexity, and trainers were more qualified.

Paralegals suggested that continuous trainings should be organized quarterly to ensure uninterrupted con-

nection of paralegals to developments in the regulatory framework, practices in the field and train how to implement legislative innovations. One of the proposals referred to the need to address certain topics in a more specific or narrower manner, not just in a general one. Almost all paralegals with whom we have communicated for the present study confirmed that there is need for trainings with psychologist-trainers to acquire listening and communication skills (interaction) with primary legal aid beneficiaries. Such trainings are particularly needed for paralegals who come from other much tougher professions, such as former police or other state agents.

Generalizing, we can conclude that from the perspective of the current legal framework, training of paralegals is a subject, which, in part, would require additional regulation, especially in the part referring to the initial training. However, no existing provision limits in any way the possibility of action from the side of NLAC in order to streamline the regulatory framework and opportunities offered by interested development partners.

Qualitative, adequate and effective training is determined by the financial involvement of the state. So far, we find, however, that the training of paralegals was not a priority or even a necessity, no money has been allocated to NLAC budget for this purpose. We do not know if it was due to lack of insistence from NLAC or objectively, lack of financial resources in the state budget. It is certain that training of paralegals is a neglected area, and its effects are far-reaching, the consequences of which are felt in time.

DEFICIENCIES

1. Lack of primary legal framework for organizing and conducting initial training of paralegals.
2. Lack of initial training organized by NLAC.
3. The reduced frequency of continuous training of paralegals.
4. Lack of financial, human and infrastructure capacity of NLAC to organize and conduct the initial and continuous training.
5. NLAC passivity in the development and implementation of policies on initial and continuous training of the paralegal network.
6. Lack of sustainable and constant partnerships between NLAC and interested subjects in offering trainings for paralegals.

3. Organization of the activity of paralegals. Norms, positive and negative practices

Law no. 198 of 26 July 2007 does not expansively regulate the activity of paralegals, noting only that in their work, paralegals will consider NLAC decisions which are mandatory for them as they are binding for all its territorial offices, and for defenders providing state guaranteed legal aid¹¹. More details are described in the Regulation on the activity of paralegals, which establishes the powers and duties of paralegals.

The Regulation also indicates the minimum activity program of paralegals. The audience hours of paralegals are established on a schedule basis, in agreement with the community in which he/she operates, but cannot be less than 15 hours a week, evenly for at least 3 different days. The graph of activity and amendments there-to shall be notified to the territorial office of paralegals within 3 days from the establishment. On first analysis, it would appear that the requirement is too strict, but we understand that its role is to provide community access to primary legal aid, representing a guarantor, at least in quantitative terms, to achieve the right of the beneficiaries of the concerned legal aid.

In order to ensure the effective realization of the right to primary legal aid, the Regulation on the activity of paralegals details the relationship between paralegals and the applicant for primary legal aid, actions to be taken by paralegals and the deadlines within which some of the actions are to be taken.

Referring to the organizational form of the work of paralegals, neither the Law no. 198 of 26 July 2007, nor the Regulation on the activity of paralegals contain special provision, and those that exist are insufficient to provide the necessary tools to achieve them. The only provisions in this respect are those of art. 16 par. (2) of Law no. 198 of 26 July 2007, under which paralegals may carry out their activity associated in consulting offices. For these offices, nevertheless, no legal status has been attributed. It derives from the legal norm that the association of paralegals in offices is not a binding legal form, so that they are able to operate. However, this rule suggests that the work of paralegals is individual.

The organizational form of the activity of paralegals is a topic that remains unregulated, although the absence of such framework does not hinder the free activity of paralegals. Introducing by law of mandatory organizational arrangements for the work of paralegals, would, at present, constitute only a useless bureaucracy. Estab-

lishing forms of organization of paralegals would be justified if any decision were taken by the state to regulate them as liberal profession like defense attorneys, mediators, notaries etc.

Failure to regulate the form of organization of paralegals does not prevent, in principle, their individual activity.

4. Interaction/cooperation of paralegals with public authorities (local public authorities, NLAC, other public authorities), as well as legal clinics, NGOs etc.

From the carried out interviews it was found that paralegals mainly interact with local authorities, the offices of NLAC, police, sometimes with notaries and the Mediation Council.

According to our observations, the relationships with local public authorities are generally good. Typically, the presence of paralegals in the village is appreciated and supported even by local public authorities, who understood that they could put on the shoulders of paralegals some problems of their citizens, which were previously attributed to them. In localities where paralegals operate, there is already the practice of referring the community members who are addressing the town hall, local council, to the paralegals, who often provide more qualified services and solutions. There is the support of local public authorities, in particular, the logistical organization of the work of paralegals by placing at his/her disposal a premises, where needed, a computer, paper and other consumables.

Some of the paralegals, additionally to the primary legal aid services, also engage in project writing activities for community development. This involvement, in addition to the fact that is provided in the job description, is often carried out at the proposal/request of the representatives of local public authorities. Attracting paralegals in community development projects is generated primarily by the knowledge that they hold, but also due to the good reputation they enjoy in that community.

Following the activity of paralegals in those localities, the citizens' complaints (applications) become clearer, the claims submitted are formulated specifically, the legal culture of the community grows, its members being better informed about the rights they have. Therefore, it generates accountability of local authorities to address the issues more professionally and take account of the law. This is also the opinion of a mayor of a locality where there is a community paralegal. Furthermore, the respective mayor argued that the existence of a para-

¹¹ art. 11 par. (6) of the Law no. 198 of 26 July 2007.

legal in the community is mandatory, especially when talking about rural areas. However, he has revealed the need for better remunerating the paralegal to ensure continuity and motivation for his/her activity.

Following the interviews, we learned that both mayors and local councilors ask to be consulted by paralegals. In these cases, paralegals inform the territorial office of NLAC and make corresponding records in the register of beneficiaries. Such situations generally occur due to lack of a jurist – employed by local authorities. Despite the fact that the given circumstances, in theory, could lead to conflicts of interest, the interviewed paralegals reported such cases. Some paralegals serve several localities, so that local authorities, including those of second level take care to provide paralegals with an office/place where he/she could deliver services.

However, we identified one case in which the paralegal informed us about tense relations with the city hall. The hostile attitude of the local authorities is explained by the requests of paralegal's beneficiaries targeting these authorities, most often being about complaints of inaction or inadequate actions of representatives of local authorities. Such reactions from local authorities occur when people, following explanations, information obtained from paralegals, make use of justice in order to defend their rights against the local authorities. In this context, one interviewed paralegal told us that he was even threatened by the representatives of local authorities, and they attempted to require payment for use of premises offered by authorities to the paralegal, etc. Despite the malicious actions of local authorities, this paralegal noticed an increase of accountability of the authorities in issuing documents, as well as meeting the deadlines in responding to requests from citizens.

Clear and legally reasoned requests require a more responsible attitude from the authorities concerned, which often leads to reluctance. Only in this way, we can understand the statement of an interviewed mayor in whose locality there is no need of a paralegal, which consequently deprived the respective villagers of primary legal aid services.

According to opinions expressed in interviews, local authorities are forced to act to solving real requests submitted by community members just after instituting a paralegal in the village.

Overall, we find that there are beneficial relationships between paralegals and local authorities, particularly where the paralegals' position was established with the support or at the active insistence of the community.

Paralegals have also communicated us that generally, they cooperate satisfactorily with the district police, especially in cases of domestic violence, as well as with notaries. There are cases where paralegals approach the Mediation Council, where the parties have agreed to mediate.

Necessarily, paralegals cooperate with the offices of NLAC. They ask for the support of territorial offices for consultations on more complex issues that have been raised by citizens and for suggestions regarding how to approach the beneficiaries, the behavior to adopt, eventually in case of possible conflicts. Cooperation with territorial offices takes place also by directing people to them if there is the need for qualified legal aid and those concerned correspond to the criteria to qualify for this form of assistance. In these cases, paralegals help people to gather necessary documents confirming their eligibility to receive state guaranteed legal aid. Public defenders are also available for consultations or proper referral of paralegals' beneficiaries.

On cooperation between paralegals and non-governmental organizations or legal clinics, none of the paralegals has communicated us about such cooperation. Connecting paralegals to these entities remains a future objective that can provide strategic legal empowerment oriented towards certain categories of vulnerable beneficiaries (e.g. victims of domestic violence, drug users, people with low incomes, carriers of HIV virus, commercial sex workers, etc.)

Currently, there are several non-governmental organizations oriented towards different categories of vulnerable people, whose services relate to psychological, medical, physical assistance or social inclusion. Few organizations, however, have the capacity to provide legal empowerment of these individuals. Therefore, partnerships between these organizations and paralegals would meet the need for primary legal services for the most vulnerable and marginalized groups. In addition, paralegals could also act as "instrument" for non-governmental organizations to identify potential beneficiaries. In these relationships, the role of paralegals would extend to the legal empowerment by correct redirecting of the beneficiaries.

The cooperation of paralegals with legal clinics represents a platform of great perspective, but unfortunately unexplored. Partnerships could be developed on the dimension of delivered legal services, consultation/training of paralegals in complex legal areas, as well as in order to provide comprehensive assistance, from consultation to empowerment and representation.

Legal clinics could become an alternative and sustainable partner of paralegals, which would serve the needs of legal empowerment in urban and semi-urban areas. Subsequently, the state could consider mechanisms for cooperation between law faculties of higher educational institutions, university legal clinics and NLAC, to take over some of the workload in the legal empowerment area exclusively placed now on the shoulders of an underdeveloped network of paralegals.

DEFICIENCIES

1. The reluctance of local public authorities towards paralegals as a whole. Refusing to engage in organizational support (infrastructure) of the activity of paralegals.
2. Lack of partnerships between paralegals and non-governmental organizations strategically focused (towards vulnerable groups) on delivering assistance to beneficiaries.

SOLUTIONS AND RECOMMENDATIONS (roadmap)

1. SELECTION OF PARALEGALS

In general, the implemented selection mechanism seems reasonable and justified. However, we believe that the process of selecting paralegals must be de-bureaucratized and prospective paralegals should be identified among citizens who demonstrate social activism, increased interest for the development of local community, a minimum socio-political knowledge and intellectual capacities. In other words, paralegals should be looked for among people who care and demonstrate leadership. The mechanism of selection should be less technical but more creative.

Action 1. Revising the conditions of selecting paralegals by instituting the requirement of graduating initial training courses

Conditions for the selecting paralegals, which are currently in force should be supplemented by introducing a mandatory initial training/graduation of initial training of future paralegals; only holders of a certificate of completion of these courses may enroll in the contest for positions of paralegals.

The condition of an adequate training before admission to a certain activity is provided by law for all legal professions. Mediators are required to undergo initial training in mediation, and other professions such as defense attorneys, notaries and bailiffs, have the condition to graduate from law. This condition is necessary to ensure quality services, whereas initial training ensures namely acquiring the minimum necessary skills. A system of initial training prior to the applying for the competition of selecting paralegals would represent the main guarantee of quality of the state guaranteed primary legal aid.

Action 2. Conclusion of contracts with paralegals for indefinite or extended time and introduction of appropriate legislative changes

A topic that needs clarification in the legislation relates to the period of the contract of providing services of state guaranteed primary legal aid concluded by the paralegal with the territorial office. Despite the fact that the current legislation does not indicate that this contract is for a fixed period, due to lack of funding/remuneration of paralegals, the contracts with them are currently concluded for a period of one year. Therefore, paralegals are forced to annually participate in the selection contest, which in reality is a competition for reemployment. It is undeniable that a fixed-term contract of one year cannot provide any professional guarantees and the sustainability of primary legal aid is compromised. We recommend for an express specification in Law no. 198 of 26 July 2007 of the undetermined period of the contract concluded with the paralegal. Solutions to the problems concerning the remuneration of paralegals will be presented below.

Action 3. Exclusion of the corruptible nature of the provisions governing the powers of the Competition Commission

The action can only be achieved by revising the provisions of p. 11 of the Regulation on the activity of paralegals by exhaustive regulation of the powers of the Competition Commission for the selection of paralegals.

2. INITIAL AND CONTINUOUS TRAINING OF PARALEGALS

Action 1. Establishment, including at normative level, of the mechanism for organization and conduct of the initial training of future paralegals before the selection to the profession

Initial training of paralegals, as reflected above, is poorly regulated by the Law no. 198 of 26 July 2007 and by the Regulation on the activity of paralegals, therefore additional regulation is needed to ensure qualitative and professional training. It is therefore necessary to mandatorily institute initial training prior to the selection contest.

Access to initial training for paralegals must be open to an as large as possible number of solicitants. The graduation certificate of the cycle of initial training will allow a person to start his/her career of community paralegal or to contribute to legal empowering of underprivileged social categories, including through non-governmental sector, either to use the knowledge gained to become an informed citizen and active in protecting their own rights.

Given the fact that these trainings should provide the knowledge needed to deliver paralegal activity, i.e. to provide state guaranteed primary legal aid, three essential questions arise: (1) who coordinates the training (both initial and continuous) of paralegals, (2) who establishes and monitors quality standards for the training of paralegals and (3) who finances the training of paralegals.

To the first question, the answer seems to be very clear - NLAC. The answer derives from the role granted to NLAC by Law no. 198 of 26 July 2007 - the institution responsible for policy making in the field of state guaranteed legal aid, but also as an institution responsible for ensuring initial and continuous training of people involved in the system of delivering state guaranteed legal aid.

A step towards ensuring adequate initial training of future paralegals is the development and approval of a curriculum in this regard, which was already achieved with the participation of NLAC representatives and of the Soros Foundation-Moldova. Thus, by NLAC decision no. 11 of 20 June 2014 a curriculum for initial training of paralegals, reflecting the overall objectives of initial training, management of the training, topics and distribution of hours for training, and how to evaluate paralegals and the initial training was approved.

However, given the rather administrative role of the institution, and in light of the information reflected in the interviews, we found that NLAC should show more involvement in the organization of trainings, especially in the part referring to the identification of subjects able to offer a qualitative training of trainees and ensure their evaluation. The second question is *who establishes and monitors quality standards for the training of paralegals*.

NLAC must realize that it does not have the capacity to independently carry out training of paralegals, having neither infrastructure nor human resources. Thus, both initial training and continuous training should be conducted in a specialized training facility or in another relevant institution.

Carrying out the training of paralegals in a specialized training facility would be (maybe) an ideal option. Currently, however, this is an almost impossible solution; NLAC does not have a center to provide initial and continuous training of subjects with the competence to deliver state guaranteed legal aid and its creation would require substantial financial and human resources.

One alternative could be the National Institute of Justice, which is now a consolidated center for initial training of candidates for judges and prosecutors, continuous training for acting judges and prosecutors in office, clerks, judicial assistants, heads of chancelleries of courts, prosecutor consultants, probation counselors, defenders providing state guaranteed legal aid, as well as initial and continuous training of others working in the justice sector, in the cases provided for by law¹².

An alternative to the National Institute of Justice could be accredited universities from the Republic of Moldova, namely law schools, those of pedagogy or social assistance, for example.

The training (initial and continuous) process and the assessment of trainees should be conducted by people with training and evaluation and development of curricula for adults skills, namely legal training of non-lawyers.

NLAC must be the main actor to seek a viable solution for training, to demonstrate responsiveness, flexibility to ensure lasting cooperation with a legal education institution.

¹²Art. 2 par. (1) of Law no. 152 of 8 June 2006 on the National Institute of Justice, Official Monitor of the Republic of Moldova, 2006, no. 102-105, art. 484.

The state should be the main sponsor of the mechanism of *initial and continuous training of paralegals*. There must be a “state command” where NLAC’s task is to identify the required number of paralegals needed to identify geographical coverage. Thus, NLAC has several options: one jurist per locality or a jurist for several localities, but it is important that these options are assumed by the state. There must be a better-concerted relationship between NLAC and various state institutions because, in the end, each potential beneficiary identified in art. 6 of Law no. 198 of 26 July 2007 can access the paralegal services.

Given the state’s reduced financial capacity, we cannot require the state to ensure the presence of paralegals in each of the 1,463 localities in the Republic of Moldova¹³. Precisely for this reason, the state must establish more flexible and creative mechanisms.

At the same time, the state should be open to cooperate with partners who are interested in developing the network of paralegals. Therefore, it is considered justified the use of other ways to finance the initial training courses. In this respect, as alternative, these courses could be paid: a) 50% by the state - 50% by the candidates for paralegals (audience); b) 100% by candidates for paralegals; c) local public administration; d) other subjects available to engage in this process.

Each person wishing to obtain a primary enrollment in law field/obtain a qualification as paralegal – regardless if he/she will practice this activity in the future or not - should be able to do so, even if he/she pays for the training.

For other situations, when it is intended to supplement the system of paralegals and financial capacities are reduced, the state can implement payment mechanisms for initial training to be shared with the applicant for these studies or in partnership with other subjects interested in promoting the paralegal system in our country, as currently the Soros Foundation-Moldova is.

Regardless of the method of training and evaluation chosen by NLAC, this process should result in the awarding of a document, certificate. The role of this certification is to confirm that the person has attended the initial training and has the knowledge to provide primary legal aid. Only those who shall hold such a certificate should be accepted in the paralegal network and only those persons should participate in the contest for selection of paralegals.

Where a person who attended the courses on the state’ account will neither want to participate in the selection nor will be selected following this contest, there is a risk of bearing expenses from the state budget, without achieving the objective pursued. To reduce this risk, in the contract of training there could be provided clauses that oblige the person to participate in the selection of paralegals or to continue working in the locality of residence or to pay back the amount allocated for his/her studies.

Regardless of the method of payment of the undergone initial training, the organization of the competition, the selection of paralegals for the delivery of state guaranteed primary legal aid, the quality monitoring and evaluation of the activities of paralegals must remain the prerogative of NLAC.

Opening the paralegal system for any interested whether or not the person intends to practice this activity will create conditions for a healthy competitive environment in the selection of paralegals. At the same time, offering the possibility to accede to these courses in private will be a factor/condition of minimum legal literacy of community members.

Action 2. Identification of strategic partners to carry out continuous trainings of paralegals

Continuous training is less problematic and the regulatory framework is sufficient. This allows organization of trainings in the training sessions organized by NLAC, organized by different donors. In this respect, the relevant provisions of pt. 23 and 24 of the Regulation on the activity of paralegals are relevant. However, continuous training is not very sustainable. NLAC should identify partners and extra-budgetary sources of funding for organizing and conducting continuous training of paralegals or examine the possibility of taking over the training on thematic segments by directly interested partners/donors in this subject.

One means of carrying out continuous training could be through identified institutions to achieve initial training. However, continuous training should not be limited to training in these institutions of higher education or, where it will be decided - the National Institute of Justice. In conducting continuous training, especially when it comes to thematic trainings, a source and a valuable resource would be non-governmental organizations that already

¹³ Law no. 764 of 27 December 2001 on the administrativ-teritorial organisation of the Republic of Moldova, annex no. 3.

have in their work, activities of providing legal aid for their own categories of beneficiaries (e.g. NGOs providing palliative care, social rehabilitation and care for the elderly, assistance for drug users, victims of domestic violence, commercial sex workers, etc.).

In this context, an alternative mechanism for continuous training of paralegals would be NLAC's cooperation with the Bar Union, which could provide advice or carry out thematic seminars for paralegals. To motivate defense attorneys to be involved in these actions, activities for paralegals could be calculated for the account of continuing education hours of defense attorneys. The cooperation mechanism would be established jointly with the Bar Union.

Action 3. Develop national policies on initial and continuous training of paralegals, taking into account the needs of legal empowerment of disadvantaged social categories

Training of paralegals is a priority of the state guaranteed primary legal aid system and fundamental prerequisite for developing adequate policies in professional training/education in the field. Reforming the initial and continuous training system of paralegals should not be an end in itself but should be a prerequisite for strengthening the paralegal profession and the network of paralegals nationwide.

The key elements in developing a national policy on the national system of initial and continuous training of paralegals to be considered by NLAC are:

- proper support of paralegals and trainers so that they can appropriately respond to the needs of the legal empowerment of the community;
- defining minimum competencies which should be possessed by paralegals and their trainers, given their role in the legal empowerment of the community;
- ensuring appropriate qualification to the people who accede to the paralegal profession;
- ensuring a higher attractiveness of the profession of paralegal;
- orienting the training system towards competence and professional performance.

3. INTERACTION/COOPERATION OF PARALEGALS WITH PUBLIC AUTHORITIES (LOCAL PUBLIC AUTHORITIES, NLAC, OTHER PUBLIC AUTHORITIES) AS WELL AS LEGAL CLINICS, NGOS ETC.

Action 1. Identifying and implementing mechanisms for raising awareness of local authorities, other authorities, in order to support and promote paralegals in the community, as well as mechanisms to promote the utility paralegals in the community.

NLAC as the responsible institution for implementing the state policy of state guaranteed legal aid should develop strategies, action plans aimed at increasing responsiveness of public authorities, especially local ones, to the role and work of paralegals.

Also, policies are needed to promote the utility of paralegals' services to the community.

Action 2. Building partnerships between paralegals and legal clinics, and non-governmental organizations oriented towards vulnerable groups

Cooperation between paralegals and non-governmental organizations is an activity that currently is not an objective neither for the authorities responsible for implementing policies in the primary legal aid field (NLAC and its territorial offices), nor for the authorities responsible for the field targeting those categories of people (e.g. Ministry of Health, Ministry of Labor, Social Protection and Family, etc.).

Given that there are no rules to limit such partnerships or regulate them in any way, their freedom is guaranteed and their creation remains a prerogative of paralegals, on the one hand, and those organizations, on the other hand.

However, NLAC may be the body to promote the use and benefits of cooperation between NGOs and paralegals.

Chapter 3

THE ACTIVITY OF PARALEGALS AND OTHER LIBERAL PROFESSIONS

In the Republic of Moldova, paralegals represent a relatively new legal profession. Although it is regulated for 10 years, this profession began to be practiced 5-6 years ago, with the support of Soros Foundation-Moldova.

The paralegal is a profession related to the justice system, along with other professions such as notaries, defense attorneys, bailiffs, mediators, etc., with the main role of legal empowerment of people through primary legal aid services.

The law does not clearly provide whether the paralegal is a freelance or constitutes an institutionalized profession, which belongs to an institution.

The projects of piloting this profession undertaken to date should clearly indicate on one of the options: strengthening its liberal character or its institutionalization within one of the existing authorities. This chapter is reserved for comparative analysis of the paralegal profession with other professions – defense attorneys, notaries, bailiffs and mediators in terms of institutional guarantees offered by the legislator: material insurance and remuneration, legal liability, self-administration.

1. Material insurance and remuneration of liberal professions

The normative repertoire deals with the issue of remuneration differently for each profession.

As opposed to these, material insurance and remuneration of paralegals is modestly regulated by primary normative acts. Law no. 198 of 26 July 2007, states that the services of paralegals are paid from the state budget, and other sources not prohibited by law. The remuneration shall be based on a cooperation agreement concluded between paralegals and territorial office of NLAC in whose circumscription the services are provided¹⁴.

Additionally, the law provides, permissively, that local public authorities could provide necessary premises and technical and material means for paralegals. The legislator, however, did not mention who has the obligation to ensure the paralegal with necessary premises and technical and material means, if the local authorities do not allocate the necessary amounts to meet these needs. The situation is different in the case of notaries, defense attorneys, bailiffs, mediators.

For **defense attorneys**, for instance, Law no. 1260 of 19 July 2002 on the legal profession provides that they shall be paid from the fees received from individuals and legal entities. Under the law, the amount of the honorarium shall be determined by agreement of the parties and cannot be changed by the public authorities or court. The tariffs are in general, reviewed periodically, depending on a number of socio-economic factors. To provide a benchmark in setting fees for the services of defense attorneys, the Council of the Bar Union adopted by Decision No. 2 of 30 March 2012 the *Recommendation concerning the amount of attorneys' fees and compensation by the courts of the legal expenses*. It should be noted that the recommendations of the Council of the Bar Union are not binding.

Referring to **defenders providing state guaranteed legal aid** - public defenders and qualified legal aid lawyers upon request - their remuneration is done in accordance with the rules established by Law no. 198 of 26 July 2007. Thus, state guaranteed qualified legal aid is paid from the state budget. The public defender receives fixed monthly remuneration in the amount determined by NLAC, indicated in the contract concluded between the territorial office of NLAC and the public defender or the public defenders associate office. The defense attorney delivering qualified legal aid upon request receives remuneration established for each particular case, according to tariffs approved by NLAC. To receive remuneration for the delivered legal aid services, the lawyer who provides legal assistance on request shall present the respective territorial office an activity report on the case, according to the model approved by NLAC. The amount and manner of remuneration of public defenders as well

¹⁴ Art. 14 par. (2) let. c) of the Law no. 198 of 26 July 2007.

as lawyers, who deliver qualified legal aid upon request, shall be governed by the Regulation on the amount and manner of remunerating lawyers for state guaranteed qualified legal aid, approved by the NLAC Decision no. 22 of 19 December 2008.

In case of **notaries**, the payment for notary services shall be determined by the notary individually, taking into account the methodology approved by the Parliament¹⁵. From the funds received by the notary, the notary services expenses related to professional activity shall be covered, ensuring their technical and material endowment, rent and maintenance of the notary office, payment for the employed technical personnel. The amount remaining after all indicated expenditures constitutes the notary's income, from which the social insurance contributions and other obligatory payments stipulated by legislation shall be paid. The contributions to social insurance set by the Law on state social insurance budget provides for the insured persons - notaries, the right to social insurance pension, allowances for temporary disability, for pregnancy and childbirth, the insurance for occupational accidents and professional diseases, childcare allowance and unemployment benefit. Taxation of notaries is carried out in accordance with tax legislation.

The honorarium of the **bailiff** – manner of establishing it and payment thereof - is regulated by the Enforcement Code of the Republic of Moldova no. 443 of 24 December 2004. The Code provides that subject to pay the bailiff fees is the debtor, unless the law provides otherwise. The law also determines the amount of fees for various enforcement documents – of pecuniary and non-pecuniary nature. The law allows bailiffs to negotiate the advancement of the entire or a part of the fee to the creditor, but advance payment of fees cannot constitute a condition for the execution of enforcement documents. For intern bailiff, the law indicates that, during the training period, he/she shall be paid by the bailiff remuneration in the amount that cannot be smaller than the minimum guaranteed salary in the real sector.

Regarding the **mediators**, Law no. 137 of 3 July 2015 on mediation states that the activity of mediator may be exercised against payment or free of charge. The mediator is entitled to fees and reimbursement of expenses incurred in mediation, in the amount established by agreement with the parties. The mediator can negotiate with the party who contacted him/her to advance the costs related to searching and contacting the other party. The law expressly provides that the mediator has no right to charge fees for the information session on me-

diation, the explanations or recommendations offered to the parties regarding the mediation process until the conclusion of the mediation contract. If the mediation process does not take place or the mediator withdrew from the mediation process, he/she is required to return the payments taken in the timeframe and amount set in the mediation contract, unless the parties agree otherwise. The mediator's fees and other expenses related to the mediation process shall be borne in equal parts, unless the mediation agreement has not determined otherwise.

As to the state guaranteed mediation, Law no. 137 of 3 July 2015 is more incomplete, lacking clarity and certainty, ruling that "in the mediation process, a part or both parties have the right to benefit from state guaranteed services of a mediator in the manner prescribed by law" without indicating, however, what are the circumstances, the conditions in which the parties have the right to state guaranteed mediation. However, at present, despite the adoption of a new Law on mediation - Law no. 137 of 3 July 2015 – the Government Decision no. 303 of 21 April 2009 continues to remain in force, by which the conditions of payment from the state budget of the mediation services in criminal cases were approved. Thus, mediation services are paid by the state only in criminal cases and only under the conditions regulated by Government Decision no. 303 of 21 April 2009. The remuneration of the mediator by the state is based on its written report on the conducted mediation process (data about parties, the number of meetings that took place, the measures applied during the mediation process, the outcome of the mediation, etc.) within the amounts provided by Government decision, without providing a maximum total threshold per case.

Comparing the normative framework regulating the remuneration of professions, it can be found that that the "remuneration of paralegals" is one of the most problematic. The law does not clearly stipulate how does the remuneration of paralegals' services from the state budget take place. To pay for services provided under contracts, NLAC applies public procurement rules, under Law no. 131 of 3 July 2015 on public procurement. Therefore, there is "purchase" of services of paralegals as a result of the application of public procurement procedures. Thus, while going through a procurement process, paralegals are not able to offer a price for their services, the amount of compensation is determined by NLAC by Decision no. 4 of 14 February 2013 on amount of remuneration of the activity of paralegals.

The law does not specify which is the particular procurement procedure to be applied for the "purchase" of paralegal's services. Over time, various procedures have

¹⁵ Law no. 271 of 27 June 2003 on the methodology of calculating the fees for notary services

been applied. In some regions of the country, these procurements occur annually, although no legislative act indicates that the contract concluded with paralegals is for a fixed period. However, even given that procurement takes place, it is not clear why art. 72 par. (1) of Law no. 131 of 3 July 2015 on public procurement is not applied, which states that *"For the procurement of goods, works and services whose period of realization is bigger than one year, the contract may be concluded for the entire acquisition, but its realization will be effected within the limits of annual allocations provided for these purposes and yearly specified in the contract"*.

From interviews with representatives of NLAC and the Ministry of Finance, it was found that the use of public procurement procedures stems from the fact that, currently, there is no provision in the state budget intended to cover the remuneration of paralegals. Accordingly, these expenses are charged from the sources provided in the item "other expenses of NLAC" alongside current expenditures on maintenance of the organization and its apparatus (electricity, heat, water, etc.). Unlike the paralegals' services, budgeting for lawyers' services is done in subprogram "State guaranteed legal aid". It remains unclear why the expenses for the paralegals' services are not listed in the same chapter.

The lack of an explicit regulatory framework that would regulate the coverage of expenditures required to remunerate paralegals and use of public procurement procedures to "purchase" services of paralegals requires annual competitions for the selection of paralegals and thus, implicitly prevents ensuring sustainability of the activity of a paralegal for an undetermined period. Consequently, paralegals who want to continue working in the field also in the next year, must annually participate in the selection of paralegals.

Due to this complicated mechanism, in some regions of the country - the North, the territorial office of NLAC Balti - just extends the contracts with paralegals in the region every year, without organizing public procurements. From the discussions with NLAC representatives and the Ministry of Finance, we have concluded that the annual task of carrying out the procedure of public procurement is due not to any legal norms, but to the human factor, i.e. the understanding of the employees of the territorial branches of the State Treasury of paralegals' services. Thus, in Chisinau and Comrat the services of paralegals are perceived as a "lot of goods" without clearly understanding that they are actually professionals "employed" by the state for carrying out an activity that the state has assumed and has delegated it to them.

Following the discussion with the Ministry of Finance, the institution concerned has convened a meeting with representatives of the State Treasury to address the issue of remunerating paralegals, particularly to exclude the obligation to use the annual public procurement. Following that meeting, the Ministry of Finance informed us about solving the problem. However, we understand that this is a temporary solution that can be turned upside down with a new change of the employees of one of the institutions concerned - NLAC, Ministry of Finance and State Treasury.

In the selection contest (public procurement) of paralegals there participate not only NLAC members, but also members of local public authorities. Given that these competitions are held annually, it always arises the question of why do they select the paralegals who are already in the network, but not those who apply for the first time in such a competition, which is, specifically, the concern of the local public authorities representatives. In such cases, NLAC representatives, every time, draw attention to the work and experience the concerned paralegals have, upon the fact that they, by virtue of experience and knowledge gained, will be made usable much faster than those who would just begin to carry out this activity and would require training.

Another problem in determining the remuneration for the services of paralegals is lack of transparency. There is no legislative framework to provide precise and clear method of calculating remuneration for the services of paralegals. In addition, the reference indices that such a calculation would rely upon cannot be deduced. Neither the Law no. 198 of 26 July 2007, nor the Regulation on the activity of paralegals do not provide rules on the formula, calculation method or reference indices for determining the remuneration of paralegals. In this sense, there is only one NLAC decision - Decision no. 4 of 14 February 2013 on the amount of remuneration of the activity of paralegals - approving a sum of 1640 lei per month, without calculation or indication on the period for which this payment shall apply. The fact is that the amount of remuneration is outdated, requiring to be annually revised in line with the fiscal policy.

Based on the information submitted by NLAC in the preparation of the Medium Term Budgetary Framework for 2016, there were presented spending proposals for the remuneration of the work of paralegals worth 1045,8 thousand lei, the cost of monthly remuneration per paralegal being estimated at 2075 lei. Unfortunately, these calculations are not detailed, neither is the benchmark on which the estimations were made is explained. However, the amount of 2075 lei does not derive from the average salary of a social worker or from the minimum

guaranteed wage in the real sector established by the Government for the year 2016 reported to the minimum working hours per month, which should be delivered by a paralegal. Thus, we find again the lack of transparency in budget planning, which is due, in turn, to lack of calculation methods and of reference indices to carry out these calculations.

Other issues on the remuneration of paralegals that we have identified are: the small amount of remuneration, procedures for “procurement” of services of paralegals, and delays to pay such remuneration.

Referring to the low quantum of the paralegal’s remuneration, representatives of NLAC and the Ministry of Finance revealed the difficult mechanisms for identifying sources to remunerate the work of paralegals, which under austere budget in the past two years has become more difficult. The amount of the paralegal’s remuneration is established by a low fixed amount - about 1640 lei. There are no mechanisms to allow its increase proportionately to the activities, which exceeds the minimum required by contract. The lack of motivational mechanisms is an impediment to development and expansion of paralegals’ activities. A confirmation in this regard are statements made during interviews, according to which, if there were established a higher fixed remuneration or if at least there was a mechanism that would allow the application of the principle of “more for more”, meaning a higher remuneration for more action, the interest for work of paralegals would increase considerably.

When asked whether the establishment of the paralegal activity as a core activity with 8 hours/day regime would be justified, the interviewed paralegals revealed that in some periods of the year it would not be justified, as the number of recipients is small, given the period spring - autumn, when rural people are employed in agricultural works. The situation is different during the cold season, when the members of those communities are oriented toward domestic activities and therefore have more time to start identifying solutions to various legal issues.

However, an acceptance of paralegal activity as a core activity with full employment would depend on the condition of increasing the remuneration, either by increasing the fixed payment existing today, or by establishing a mechanism to obtain higher remuneration proportionately to the conducted activities.

Despite the financial drawbacks, we found that the activity of paralegals is appreciated by those who practice it, since as a result of their involvement in this area; they have gained access to another type of qualitative information, to other views on the legal and social relations,

enabling them to become more involved in developing the communities they serve. However, the low quantum of remuneration, accompanied by irregular payment of it, sometimes with two months delays, demotivates the people involved in the paralegal work and ensures continuation of the activities only according to the minimum limit established by the contract with the territorial office of NLAC.

In this context, we draw attention to the fact that each of the paralegals with whom we spoke communicated us about the problem of delays in payment of remuneration, which is naturally qualified by paralegals as a negative factor. Delays are also caused by faulty mechanism to “purchase” paralegal services - through public procurement procedures. Therefore, it outlines the idea that the continuity of the paralegal activity is normally supported only by the enthusiasm and personal responsibility of paralegals, which is actually welcomed, but can also have negative consequences, such as bias and impartiality.

Coming back to the comparison of the mechanism of compensation of paralegals to that provided by the legislature for the other related legal professions, we consider that the nearest mechanism that could be undertaken for paralegals is the one for lawyers who provide qualified legal aid on request. The current mechanism of compensation of paralegals is similar to that of public defenders - fixed monthly payment regardless of the volume of services, additional activities carried out additionally to the established minimum by the normative/contractual requirements. Thus, under a small fixed remuneration, there is no incentive to perform more actions than the minimum required by contract, and if these actions are performed, they remain to be backed by passion of the paralegal. Given that there is still not too much competition in the contests for selecting paralegals, given that the state needs these professionals, the state must identify mechanisms to support and promote the paralegal work. A solution in this regard would be addressing in case of paralegals, of a mixed remuneration mechanism - for achieving the minimum of actions under the contract, the paralegal is paid a fixed payment, and for each additional action follows a proportional compensation, under a certain quantum eventually established by NLAC. Initially, taking into account the financial capacities of the Republic of Moldova and not to cause/incite for abuses, the additional payment may, for example, be capped to a certain maximum.

Taking into account the interest and dedication of paralegals for their work, we tend to think that following the identification of a mechanism of remuneration that will solve the problems outlined above, ensuring sustainabil-

ity of the activity of the selected paralegals for a period longer than one year, but also ensuring a compelling financial satisfaction, there will be real conditions for strengthening and development of the position of paralegals in the state guaranteed legal aid system.

DEFICIENCIES

1. Incomplete legal framework concerning the funding source for remunerating paralegals.
2. Lack of a clear mechanism, including at normative level, for determining the remuneration of paralegals.
3. Deficient practices of “procurement” of services of paralegals (public procurement).
4. Lack of transparency and predictability of the mechanism of remunerating paralegals.
5. Disproportion between the amount of remuneration of paralegals and minimum guaranteed salary in the real sector.
6. Lack of strategic vision of NLAC to the state guaranteed primary legal aid in general, and to strengthening and ensuring the sustainability of the paralegal network in particular.

2. Legal liability

Like in the case of material insurance and compensation, in case of legal liability of defense attorneys, notaries, bailiffs, mediators, the legislation in force is much broader than in case of paralegals. The conceptual difference relates to disciplinary liability of those professionals. Each of the laws regulating the status of defense attorneys, notaries, bailiffs, mediators contain rules on liability with all that means this form of liability - disciplinary violations, disciplinary sanctions, the competent bodies with responsibilities in examining disciplinary cases and disciplinary proceedings. The need for extensive regulations for this form of legal liability also derives from the fact that the liberal professions mentioned above have a liberal character and there is a clear mechanism for self-administration.

In case of paralegals, they do not have the status of liberal professionals, or the status of employees, they operate on the basis of service providing contracts concluded with the territorial offices of NLAC. The Law no. 198 of 26 July 2007 does not contain rules that would regulate the paralegals' liability. This is also true for the Regulation on the activity of paralegals. Consequently, there is no enforcement mechanism to disciplinary liability of parale-

gals and, therefore, paralegals remain to be applied contravention liability and criminal liability - in the order of the relevant codes. However, given that paralegals work as contracted professionals and the nature of the legal relationship between them and the territorial office of NLAC with which they conclude the contract to provide services for state guaranteed legal aid is civil, only civil liability remains to be applicable to the paralegals (contractual liability). In general, this liability *may* intervene by termination of the contract based on grounds stated in p. 64 of the Regulation on the activity of paralegals as follows: 1) failure or improper performance of its duties set out in legislation, in this Regulation and the contract; 2) one serious breach of the rules of the Code of Ethics for paralegals and non-compliance with quality standards of the paralegal work, approved by the National Council; 3) failure to declare conflict of interest; 4) the presentation by the candidate in the selection process of erroneous information in the application file and in the interview; 5) occurrence of a situation of incompatibility with the paralegal work and in cases where it is allowed with the consent of the National Council, if there is no such consent; 6) ungrounded absence for more than 10 hours per year from the training courses organized by or in cooperation with the National Council, repeated and unjustified infringement of the activity program. However, the legal provisions do not mention exactly whether the occurrence of any of the grounds specified necessarily attract termination of the contract or it is left to the territorial office of NLAC to terminate or not the contract. Thus, there is a lack of certainty regarding the mode of action of the territorial office of NLAC.

In this context, we interfere with a good example regarding a ground for termination of the contract with paralegals, at the p. 64 sp. 6) - *repeated and unjustified infringement of the activity program*. The example was introduced by a NLAC representative who revealed the situation of a paralegal whose contract had been terminated because of lack of observance of the activity schedule. We note that in this case the termination occurred only after several warnings and the violation of the schedule was admitted during several months, the paralegal was missing from the locality where the paralegal work should have been delivered, which has deprived the community of access to state guaranteed primary legal aid.

Apparently, given that it is a contractual relationship, the parties are free to express their will in one way or another. However, given that it is about services of state guaranteed primary legal aid (i.e. fulfilling obligations of the state), and that their remuneration is taken from public money, it is not justified such an attitude in applying the norm on the termination of the contract with the paralegal.

DEFICIENCIES

1. Lack of a predictable regulatory framework regarding legal liability of paralegals.
2. The subjective character of the mechanisms for enforcing contractual liability.

3. Self-administration and association within liberal professions

A further guarantee of justice system related professions is their mechanism of self-administration. Thus, the legislature stated, in line with international standards that defense attorneys, mediators, bailiffs, notaries are administered by their own means. For some professions, there is a more detailed mechanism of self-administration, for others – a less detailed one. In addition, for some professions - such as notaries, bailiffs and mediators - the administration is done with the involvement of state representatives (Ministry of Justice).

Overall, self-administration of the indicated professions occurs through non-commercial professional associations, which in turn are organized into bodies of control and selection, evaluation and ethics and discipline.

Therefore, the self-administration body of the **legal profession/defense attorneys** is the Bar Union, which consists of all members of bar associations in the country. In this regard, it must be borne in mind that: (1) the bar is set up and operates only within the Bar Union and the establishment and operation outside the Bar Union is prohibited. Therefore, every defense attorney, which operates under the Law on legal profession, is part/member of a bar. In conclusion, we find that Bar Union consists of all licensed lawyers and operates in accordance with the law.

Self-administration of **bailiffs** is done through the National Union of Bailiffs and its bodies. The National Union of Bailiffs is a noncommercial association which includes all bailiffs, who become members of the National Union of Bailiffs when being invested in office.

As to the **notaries**, we mentioned that according to the Fundamental Principles of the Latin Notary System, adopted by the Bureau of International Notaries Cooperation Commission on 18 January 1986 and the Hague Permanent Council on 13 to 15 March 1986 in any country must be a central body to be composed only of notaries and represent all the notaries in the country. All notaries are obliged to become members of this body. This body has the task of supervising the execution of professional

duties of a notary in strict compliance with the requirements of professional ethics.¹⁶ The Law on notary is operating with the term of general meeting of notaries, but does not regulate it in any way. Such an organization does not exist in the Republic of Moldova, it is not provided by the legislation in force, the organization of the activity of notaries being mainly attributed to the Ministry of Justice. The lack of a self-administration, however, does not prevent notaries, as well as representatives of all other related legal professions to join professional organizations. Currently in the Republic of Moldova there are registered five nonprofit organizations that promote the interests of notaries: Union of Notaries of Moldova, Association of Notaries “Note”, non-governmental association “National League of Notaries”, “Foundation for Development and Support of Law and Notary System” and the NGO “NotPel”.

Mediators are self-governing through the Mediation Council, which is a collegial body with the status of legal person of public law and established under the Law on mediation for policy implementation in mediation. However, the Mediation Council is not a classic self-administration body, since its composition is not constituted only of mediators and on areas which are fundamental to the profession and status of mediator: the final decision is taken by the Ministry of Justice, the Mediation Council having only the power to make proposals. Thus, it cannot be stated that they were allowed to self-administer the organization and functioning of their profession, even if essentially, by their manner of organization and conduct of activity, they are a liberal profession.

Returning to the situation of paralegals, we conclude that, compared with the professions listed above, they are not self-governing. They are not, at present, a liberal profession, having, however, by law, the right to join in professional associations.

Referring to the self-administration of paralegals through a professional association, interviewees have told us unanimously that they would not see the usefulness of such an association. Each of them mentioned that the issue of association of paralegals has been raised several times, including by the Soros Foundation-Moldova even at the beginning of the creation of the paralegal network, approximately since 2010. However, up until now, paralegals we have communicated with have failed to identify a goal of such an association. The respective opinion was based mainly on two representative judgments:

¹⁶ Study on the functioning of the profession of notary in the Republic of Moldova. Ministry of Justice. http://www.justice.gov.md/public/files/file/Directia%20notariat%20si%20avocatura/studiu_functionarea_profesiei_de_notar-04-07-2013.pdf

- ◆ lack of vision from paralegals on a professional association, both in terms of organization, and in terms of identifying the destination/purpose;
- ◆ difficulties of managing an association that would be caused by lack of financial resources and lack of human resources. Or, currently, the paralegal network is characterized by a large fluctuation of people. However, the relatively small number of paralegals working today - 42 paralegals, is considered insufficient to ensure the creation of a professional association, especially an association with the role of self-administration body, which would work effectively. Such an association is deemed unable to attract the necessary funds to make a living on its own, without requiring financial involvement of the state or any other partner.

Only a single paralegal admitted that a possible association could provide probably more guarantees and protection for paralegals. However, it was an intuitively/subjectively expressed opinion, without being substantiated by plausible arguments.

Most paralegals who took part in interviews did not show confidence in their ability to self-manage independently. They expressed their lack of vision regarding the usefulness of such associations. In these circumstances, any question would seem unsuccessful from the beginning. We could consider that the current opinion of paralegals is caused by the feeling of convenience, fear of the new, fear of taking responsibility to maintain professional development and quality of services provided by them.

However, the paralegal network needs a higher level of development, following that in the coming period there is the need to strengthen the functional perspective. Ensuring sustainability and strengthening the profession in time can only be achieved by involving the representatives of the profession, through their own initiative and participation in the management of the profession, in developing the services provided by them for the purposes of legal empowerment of the society.

Is it the case to currently regulate the profession as an absolutely liberal one? Perhaps it would be premature. However, there are some topics such as - approval of the Code of Ethics of the paralegal, which is currently approved by NLAC, the legal liability of paralegals, promoting the profession and standards for achieving it, admission to the profession - which would put in the competence of paralegals.

DEFICIENCIES

1. Lack of vision among paralegals on the usefulness of professional association.
2. Lack of initiative from paralegals to actively involve in professional self-administration.

SOLUTIONS AND RECOMMENDATIONS (roadmap)

1. MATERIAL INSURANCE AND REMUNERATION OF PARALEGALS

Action 1. Express indication in Law no. 198 of 26 July 2007 of the "budgetary funds allocated for delivering state guaranteed legal aid" as a financial source for remuneration of the paralegal

From the information presented above regarding the remuneration of paralegals we clearly found that, currently, the regulatory framework is weak on this subject and the practice of its application demonstrates cumbersome mechanisms and questionable financing system for paralegals in the state budget. Thinking on some alternative solutions to solve the problems the system faces, we certainly found one thing – **the public procurement procedure should not be applicable to the remuneration of paralegals**. Paralegals should not be regarded as a consignment of goods, who will be accepted into the system depending on the "price at which they sell themselves". Admission to the system should not be done according to the "cheapest" but the "best".

To ensure predictability of the manner of remunerating paralegals it is deemed necessary to review the provisions of art. 16 par. (2) and (3) of Law no. 198 of 26 July 2007, clearly regulating that the training and remuneration of paralegals is carried out from the "budgetary funds allocated for state guaranteed legal aid" but not as provided today - "from the state budget". Thus, in the state budget developed for each year there should be provided budgetary means to deliver state guaranteed legal aid as a whole, and not just for state guaranteed qualified legal aid.

Action 2. Stipulate by a law the remuneration adjusted to the salary in the real sector, with annual adjustment or another periodicity

Alternatively: Identification of a mechanism for determining the amount of the remuneration according to the principle "more for more".

If it is deemed best to maintain the remuneration of paralegals - a fixed monthly payment, the NLAC is recommended to fix each year, by its decision, the amount of the fixed remuneration applied for next year. In that decision it is required to indicate the method of calculation or at least reference indices based on which it was calculated. As benchmarking could be taken, for example, the minimum guaranteed salary in the real sector for the respective year or the salary of a social assistant. However, if the reference index is taken the social assistant's salary, it must be borne in mind that the social worker has a full-time program and paralegals - partial.

To ensure predictability in remunerating paralegals, a solution would be the appropriate amendment of Law no. 198 of 26 July 2007, by supplementing it with a separate article, as follows:

"Article 16¹. Remuneration of paralegals to provide primary legal aid

(1) For granting primary legal aid, paralegals are remunerated through a fixed monthly payment annually approved by the decision of the National Council.

(2) The calculation of the payment shall be based on the minimum guaranteed wage in the real sector in the amount determined by the Government for the respective year, compared to the number of compulsory hours provided by paralegals in a month.

(3) The minimum number of compulsory hours delivered by paralegals in a month is approved by the decision of the National Council".

Action 3. Establish clear benchmarks to ensure transparency and predictability in the determination of remuneration rates

Changing a law requires a longer time, which is justified by the many stages of lawmaking process and deadlines for these stages imposed by Law no. 239 of 13 November 2008 on transparency in decision-making and Law 780 of 27 December 2001 on legislative acts. However, including these provisions in a legal text will ensure, as mentioned above - transparency, predictability in determining the remuneration of paralegals and legal certainty. Moreover, the existence of a clear legislative framework will facilitate the accurate assessment and transparent remuneration of paralegals, enabling a consistent budgetary planning for their remuneration.

An alternative to supplementing Law no. 198 of 26 July 2007 with the article above would be to include these provisions in the Regulation on the activity of paralegals, approved by NLAC Decision no. 27 of 29 October 2014. This amendment would involve completing p. 43 of the Regulation with provisions on the method of calculating the remuneration, clearly specifying the reference indices that are grounds for the calculation of that remuneration.

Financial estimations

In accordance with action no. 3.1.3.5 of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011-2016 approved by Parliament Decision no. 6 of 16.02.2012, the paralegal network is to be expanded every year by approximately 10 paralegals. From this perspective, we present below the budgetary financial implications needed for maintaining paralegals as contracted specialists, as it is required by the legislation. Therefore:

a. The financial implications which are based on the amount of minimum wage in real sector

In average, the paralegal network annually requires from the state budget about 446.44 thousand lei. These expenses are allocated as follows:

1. The cost for remunerating the paralegals / year (42 paralegals) - **745.8 lei** × 42 paralegals × 12 months = **375.88 thousand lei**;

2. Fixed assets: 10 laptops, 10 printers, Internet access:

2.1. The cost of a laptop - 9000 lei (price includes licensed software) × 10 units = **90 thousand lei**;

2.2. The cost of printers - 2200 lei × 10 units = 22 thousand lei;

2.3. Internet access (10 GB traffic included): 42 paralegals × 140 lei/month × 12 months = **70.56 thousand lei**.

1. The cost of a monthly remuneration of a paralegal

For the estimation of the costs for remunerating a paralegal, as mentioned above, there are no regulations regarding the method of calculation. Often these expenditures were calculated based on the average salary of a social assistant. Since paralegal work is, however, different from that of a social worker, NLAC issued only one decision - Decision no. 4 of 14 February 2013 on the amount of compensation of the activity of paralegals, by it was approved the amount of remuneration of paralegals of 1 640 lei per month, without specifying the calculation method or the period for which this amount will apply, but in average this amount constitutes 75% of the salary of a social assistant.

Another practice of the NLAC is to use as reference the amount of minimum wage established by Government Decision no. 165 of 9 March 2010 on the minimum guaranteed wage in the real sector. According to the latest amendments, as of 1 May 2016, the minimum guaranteed wage in the real sector (enterprises, organizations, institutions with financial autonomy, regardless of the type of property and juridical organization further - *units*) is determined in the amount of **12.43 lei/hour** or 2100 lei per month, calculated for a comprehensive program of work of an average of 169 hours per month.

According to NLAC Decision no. 27 of 29 October 2014 regarding the approval of the Regulation on the activity of paralegals, paralegals must provide a minimum of 15 hours per week, which would constitute a monthly average of 60 hours of work with beneficiaries. In order to calculate the remuneration of a paralegal for a month shall be calculated the minimum guaranteed amount per hour - 12.43 lei with the number of hours to be delivered per month - 60 hours. Thus, the remuneration of paralegals for a month would amount to **745.8 lei** (12.43 lei × 60 hours). Since at this point in the network there are 42 paralegals, of the above calculations the cost of remunerating the paralegals per year would be the sum of **446 440 lei**.

2. Fixed assets

The cost of equipment is planned for a total of 10 new paralegals that were to enter the system in 2016. The calculations are estimates and reported to the market price of these supplies necessary for the proper activity of paralegals. These expenses do not include costs for lease of premises in which the paralegals operate. In most cases, the local authority provides a space so that local beneficiaries have access to primary legal aid delivered by paralegals. In some places the space can be offered by secondary school or the local school.

3. Estimates for increases in the cost of maintaining the network of paralegals

The expenses model described above is drawn up based on the needs of the year 2016, taking into account the 10 new units of paralegals. If the policy of the Ministry of Justice focuses on the extension of the paralegal network with 10 units each year, the spending will increase accordingly. In order to determine how much it will cost to extend the network, the detailed figures above provide an insight of spending, which will increase each year with about **89 566 thousand lei**, of which 89 496 thousand lei will be the cost of the remuneration of the 10 new paralegals entering the system and respectively 70 560 thousand lei - the costs of fixed assets for ensuring the smooth functioning.

The paralegal network could cost more if the responsible authorities (Ministry of Justice, Ministry of Finance and NLAC) considered appropriate to establish a clear system of performance evaluation and remuneration for extra hours. It would be a motivating factor for paralegals to deliver more than the minimum required under the contract. Following interviews with paralegals we could find that exceeding the number of extra hours is not a rule. Or, as mentioned above, the number of hours or beneficiaries depends on the specific problems in the community, on the period of the year. At this stage it would be difficult to make a precise calculation of the cost of hours worked extra-program and what would be the mechanism for calculating them, as there is no figure of reference, such as to the delivery of services by public defenders, where costs are set *per* file, hours spent in court or *per* procedural actions. For an indicative assessment, these costs should not exceed 15% of the yearly total costs that NLAC plans to cover associated with the maintenance of the paralegal network.

b. Financial implications given the fixed remuneration established by NLAC Decision no. 4 of 14 February 2013 on the amount of remuneration of the paralegals work

Considering that there is a calculation method to determine the monthly remuneration of paralegals and starting the remuneration of 1,640 lei per month established by NLAC Decision no. 4 of 14 February 2013, we find that the

annual remuneration of paralegals in the system would be of **826 560 lei** (1640 lei × 42 paralegals × 12 months). Thus, the expansion of the paralegal network with 10 units annually would mean a rise in costs for the remuneration paralegals with about **196 800 lei** (1640 lei × 10 paralegals × 12 months). With regard to fixed assets for 10 paralegals, the figures would be about the same as those detailed above.

The lack of a method for calculating the remuneration of paralegals makes it difficult to estimate costs for the entire system of paralegals. For a consistent estimate of the costs it would be necessary to provide at least the reference indices to carry out these calculations.

Regardless of the calculation method and reference indices selected to develop the methodology for calculating the remuneration of paralegals, this option of “institutionalization” the paralegals allows for the use of other legal sources for funding such networks. Thus, the Law. 198 of 26 July 2007 provides in art. 16 par. (3) and (4) that the training and remuneration of paralegals can be made “*from the budget and funds from other sources not prohibited by law, allocated for this purpose*”. The same is stated in p. 43 of the Regulation on the activity of paralegals “*Compensation of paralegals is done from the state budget based on the contract to provide services for delivering state guaranteed primary legal aid concluded with the territorial office or other sources not prohibited by law*”. Thus, the state leaves space to create partnerships with other subjects interested in the work of paralegals and development of this network, which may be public local authorities, NGOs etc.

Infrastructure expenses – alternative solutions

For carrying out paralegal work, under current legislation, local public authorities have only an alternative, but not the obligation, to provide paralegals with rooms and necessary technical and material means. However, since in the selection of localities that would have a paralegal the opinion of local public administration was taken into consideration, it would be correct that these, especially if they ask for a paralegal in their locality, provide all facilities needed for effective and continuous work. Of course, by law, under the principle of decentralization governing the operation of local public administration, the establishment of such obligations without consulting them is not allowed¹⁷. However, through communication and cooperation between local authorities and NLAC, the conditions of employment of paralegals could be improved considerably.

An alternative solution, identified in the process of writing this analysis, is the cooperation between NLAC, Soros Foundation-Moldova, any other NGO, local public authorities or, if that were created - the association of paralegals, with the National Program “Novateca”¹⁸. The program “Novateca” aims to facilitate the transformation of libraries of the Republic of Moldova in vibrant community institutions. With the guidance of trained librarians and supported by community partners, community members will enjoy free access to modern technologies and innovative library services harmonized to modern needs of information, including training to access, work with new information technologies.

At first glance, it would seem that the paralegals would have nothing in common with library work. However, given that libraries aim to be transformed into modern community centers of information, it would be a good place to access primary legal aid services, meaning primary legal information and primary legal training. Therefore, libraries could be an optimal, comfortable place (environment) for finding and activity of the paralegals. In turn, librarians could be good prospective paralegals. Such a tandem would help support the general culture and legal culture of a community.

The option to keep the current formula of the status of the paralegal among justice sector related professions is considered to be the most optimal in financial terms. This would not involve much higher costs than those currently existing, taking into consideration the perspective of expanding the network of paralegals. Moreover, this formula allows for the involvement of other subjects, in partnership with the state, in maintaining and developing the network of paralegals. The state representatives competent in this field, mainly NLAC have all legal levers to attract other entities, from the private sector, to develop mechanisms for providing state guaranteed primary legal aid, namely through paralegals, and also in order to strengthen this network of professionals.

¹⁷ Art. 8 of the Law no. 435 of 28 December 2006 on central decentralization, Official Monitor of the Republic of Moldova, 2007, no.29-31, art.91

¹⁸ <http://www.novateca.md/ro/>

2. LEGAL LIABILITY

Action 1. Establish an appropriate regulatory framework to govern the contractual liability of the paralegal

The regulatory framework is not very explicit regarding the application of liability in the event of termination specified in p. 64 of the Regulation on the activity of paralegals. It is therefore necessary to regulate explicitly that, if any of the grounds specified by regulation, termination is required.

If some seem too trivial grounds for termination of the contract with paralegals, NLAC is to establish foreseeable procedures to rule gradual application of legal liability. Such a provision would exclude corrupt nature of normative provisions and ensure compliance with the principle of legal certainty.

3. PROFESSIONAL ASSOCIATION OF PARALEGALS

Action 1. Promote the utility of association among paralegals

We reiterate that the association of paralegals is allowed by law, but its usefulness is not thoroughly perceived by paralegals. However, the association of paralegals could bring in time several benefits for the development of paralegal network, their association may become not only a partner of NLAC in the field of primary legal aid granted through paralegals, but also a subject of law with equal rights and obligations in relations between NLAC and representatives of this profession.

In order to achieve these objectives, initially, it is necessary that paralegals understand the appropriateness, effectiveness and benefits that their association can offer.

The understanding that we are referring to may be carried out only by promoting the concept of association, its goals and potential outcomes among paralegals and the message to come from all paralegals. To this end, it is necessary to identify paralegals who understand and support the need of association; establishing an action plan to promote the concept of association and its sequel. Since NLAC is not quite active in the development of the paralegal network, we are skeptical that it could be involved in promoting the concept of association of paralegals. A valuable partner in this regard could be the Soros Foundation-Moldova, which would continue explaining the benefits and opportunities of an association and would eventually support the network in establishing the association – from the stage of registration of the professional association to that of identifying and carrying out activities useful for the association.

Action 2. Initiating the procedures for professional association of paralegals. Establishing the activity policy and activity directions of the association

Following the acceptance of the idea of professional association, it is necessary to start procedures to formalize such an association. Quality implementation of these procedures will be held with the support of NLAC or another partner in the field. In this regard, it would be best if the Soros Foundation-Moldova involved, other donors interested in legal empowerment of underprivileged social categories in their capacity as strategic partners for development of the field of state guaranteed primary legal aid delivered by paralegals.

For further activity of the association it is necessary to establish its activity directions. The main objective of the association should be strengthening the status of paralegal and the network of paralegals in the state guaranteed primary legal aid system. Paralegals - members of the association - must identify their strategic benefits that could be different. One of the areas of activity that they might involve in primarily could be “training of paralegals” through actions such as: identifying the subjects to provide training and required fields training. Also, the professional association of paralegals should be actively involved in the development and implementation of development projects and support the network of paralegals in finding partners interested in the field of primary legal aid in general, and to provide this assistance through paralegals, as a special form of legal empowerment.

In time, the association of paralegals could become the sole beneficiary of NLAC in state guaranteed primary legal aid delivered by paralegals, taking over the following tasks: setting quality standards in the training of paralegals and in carrying out the paralegal activity; contributing to the financial health of the network; assuming the role of subject, mediator or not, in the remuneration mechanism of paralegals.

Chapter 4

PARALEGALS IN THE EXPERIENCE OF OTHER STATES

Delivering state guaranteed primary legal aid through paralegals vary from country to country depending on their socio-economic realities and the legal culture among the population. Not all states have created the profession of paralegals, but each of the selected states regulates the primary legal aid as instrument of legal empowerment of the population. Thus, for the analysis of relevant experience in several regions of the world there were selected few states, such as South Africa, Canada, Mongolia, Sierra Leone, Philippines, Poland, USA, Great Britain (Wales including), Netherlands, Russian Federation, Lithuania, Australia, Czech Republic, Israel, Slovenia and Georgia.

Following the carried out analysis it can be found that the profession of paralegals is institutionalized in South Africa, the United Kingdom (Wales), Netherlands, Canada, Poland, USA, the activity of which is monitored by the state or by professional associations. In other states, usually the paralegal activity is not institutionalized, supposing further creation of sustainable networks of qualified staff with legal background and a feasible system of budgeting them.

1. Positioning paralegals within legal professions

Institutionalization of the paralegal profession would mean that this would constitute a core activity, not a hobby or volunteer action in the community, paralegals becoming qualified in the work they perform. Once institutionalized, clear criteria for access to the profession are established, a rule of conduct and ethics as well as an adequate level of quality of the delivered services are guaranteed.

Institutionalization of the profession has taken various forms in the countries mentioned above. For example, in **Canada** (Ontario province) paralegals constitute a justice related profession. In Ontario, there is a clear distinction between paralegals and other legal professions, such as judicial assistants or other officials from different government institutions. In accordance with the Law on access to justice of Ontario, paralegals are allowed to

become licensed by the Law Society of Upper Canada. Once certified accordingly, they are not obliged to work under strict supervision of a defense attorney. Paralegals who do not have such certification, and work under the supervision of a defense attorney are not considered paralegals in Ontario, although the activity carried out by them is similar to the work performed by paralegals from other regions of Canada.

The experience of **South Africa** experience is similarly relevant as regards institutionalization of paralegal profession. To reach this stage of development of primary legal aid system, the initiative started from the community by piloting primary legal aid in several regions. Following the implemented initiatives the Community Law and Rural Development Center was created, which was piloted by creating five centers under the rural tribes. 2 paralegals who were trained and monitored by representatives of the Centre were working in every center. The service was supported by legal clinics, Street law clinics. Paralegals are employed mostly by Legal Aid South Africa, law firms, legal firms, real estate agencies, and government departments.

In the **Netherlands**, since 2003, in the system of reforming the legal aid system there were created points of delivering legal aid, supported by the Council for legal aid of the Government, where paralegals were working with defense attorneys and provided legal consultations.

An already system would be in the **United Kingdom**, where paralegal work is guided by the Institute of paralegals who have an important role in certifying this profession.

A relevant experience is that of the **United States**, where in most states paralegals must operate under the supervision of a qualified lawyer. Although it is a separate profession, they cannot give legal advice, but with the support of defense attorneys and can not represent clients before the courts.

Another system is providing primary legal aid through the Centers of Consulting Citizens, such as the **Polish**

model. This system operates primarily through volunteers in cooperation with some public agencies such as the Ministry of Social Protection or the Office of the Ombudsman.

2. Certifying/licensing paralegals in different states

The certification system differs largely from country to country, depending on the status that the paralegal activity has and the degree of institutionalization as a profession. States that have decided to offer paralegals a special status through institutionalization of the activity imposed more selective criteria for accession to the profession than the states where the paralegal work remains an activity under the aegis of non-governmental organizations.

In **South Africa**, in order to have the status of paralegal, candidates must follow the initial training courses organized by the Community Law and Rural Development Center. Courses last for two years, and this program includes six months of academic study and 18 months of practice. The same center is responsible for conducting continuous courses lasting from 3 to 8 days. Certification can be obtained at: Tshwane University of Technology, National Diploma in Legal Assistance/Paralegal, University of Johannesburg, Damelin College Paralegal, etc.

In **Canada** (Ontario), in order to become a licensed paralegal, the candidate must pass the following procedure: complete an accredited course of study and select in advance the location where he/she will operate; make an affidavit that has an honorable reputation; pay the registration fee, write and pass the licensing exam; keep the license following 12 hours of annual continuous education and pay the annual membership fee to the Association of Paralegals of Upper Canada.

In Canada (Ontario) three study programs are provided: certificate, diploma or degree.

Certificates can be obtained in a year and focus only on the training of paralegals, without other general training. These certificates are aimed at people already working who want a change of profession at their professional middle decay or for those who want to obtain a diploma or a university degree. Some certificates (courses) are offered online or at evening classes, or on Sunday. To obtain such a certificate, the candidate must already have a license or a university degree.

For those working in the justice field in Ontario without a license of paralegal, there are programs specifically de-

signed for legal assistants, which provide knowledge for a better understanding of the legal aspects of Canadian law and civil procedure.

Paralegals diplomas are valid for candidates who have some post-secondary studies or those with experience in the legal field. Since paralegals diplomas do not require extensive training in general, they can be obtained in a period of 2 years. Most often, students who were enrolled in a course of study for paralegals study together with law students who attend the university for a license in law. The latter cannot act as paralegals until they graduate from university.

License of paralegal includes general and specific courses for paralegals work. These licenses can usually be obtained within a period of 4 years.

In the **United Kingdom**, a paralegal must also be accredited and follow the initial training. The approval is provided by the Association for Regulating Defense Attorneys.

3. Remunerating paralegals

In **South Africa**, paralegals may be remunerated on the basis of a full or part time program. For those who carry out voluntary work, the organization shall cover all the expenses for transportation and other direct costs. Salaries in general are low and vary from year to year. They also depend on the experience in the field.

In the **United Kingdom**, the salaries of paralegals working in law firms may begin from at least 12.000 pounds per year in some rural or suburban areas, but can reach up to 60-80.000 pounds for the highest officer of the firms in larger towns. A paralegal may work as a freelancer, offering services to beneficiaries.

In the vast majority of states, paralegal work is financed from external sources through NGOs, who access grants from international organizations or governments of developed countries. In countries where this system is institutionalized or quasi-institutionalized separate budgetary resources are planned and allocated from the account of resources allocated for state guaranteed legal aid.

4. Professional association of paralegals

Canadian paralegals (**Ontario province**) can join one of the two professional associations – the Association of Paralegals in Ontario or the Association of Licensed

Paralegals in Ontario. The Association of Paralegals in Ontario provides support, advocacy and training to licensed paralegals. The members of the association have the right to vote and shall ensure good cooperation with the Law Association of Upper Canada. Moreover, the members of the association must have professional insurance. The Association provides assistance to paralegals to get licenses and keep them by offering necessary mentoring, provide continuous training and pay the fees for participation in professional training. The members of the association promote the use of paralegals services by the general public.

In the **United Kingdom**, the largest number of paralegals is represented by the Chartered Institute of Legal Executives (CILEx). Unlike other paralegal structures, CILEx is an approved regulator, its members are supervised by this organization and must follow a code of conduct. There was instituted also the National Association of Licensed Paralegals (NALP) that award qualifications for paralegals in England and Wales. NALP's objective is to raise the profile of paralegals in the UK, helping to promote the status of paralegals and legal assistance training in the UK and abroad. NALP offers affordable courses and qualifications at all levels.

In the **United States**, paralegals also have the possibility to associate. In this regard, there are three associations: the National Federation of Paralegals Associations (NFPA), National Association of Legal Assistants and the Association for Legal Professionals. These organizations provide certification of paralegals. Since educational programs in universities may vary from one university to another, paralegals are obliged to pass these certification exams that demonstrate excellence and their commitment to the profession.

5. Activities performed by paralegals

The range of services offered by paralegals differs greatly depending on the needs of the community. Thus, in most states they are specialized in providing primary legal aid, with few exceptions they can represent in court. In all cases, their work cannot be confused with the services rendered by qualified lawyers.

In **South Africa**, paralegals ensure the liaison with people who need help in legal matters by preparing the file for the court or in consulting beneficiaries. Paralegals may be specialized in criminal law and criminal procedure, civil procedure, property right or debt collection.

In the **Netherlands**, paralegals that deliver services within the Legal Aid Centers provide general informa-

tion on the legal framework of interest to the recipient, ensuring the link to some institutions, provide advice on simple cases, refer beneficiaries to qualified lawyers in more complex cases.

In **Canada** (Ontario), a paralegal can represent in court in a variety of areas such as:

- ◆ litigations whose value is small;
- ◆ provincial disputes, such as non-payment of public transport ticket;
- ◆ in defending human rights, such as disputes between landlords and tenants, safety at work, immigration and refugee proceedings;
- ◆ minor criminal litigations (whose damages do not exceed \$ 500 Canadian, ex. minor thefts);
- ◆ recovery of damages due to accidents;
- ◆ mediation.

The experience of Canada is an almost unique one in which paralegals can represent in court in a series of disputes.

Chapter 5

ALTERNATIVE SOLUTIONS FOR INSTITUTIONALIZING THE PROFESSION OF PARALEGAL

The brief research presented above allowed us to identify two possible concepts for reviewing/changing the status of paralegals and, therefore, the concept of paralegal network:

a. transforming paralegals into a liberal profession, similar to defense attorneys, mediators, notaries etc.;

b. instituting the position of paralegals payroll of territorial offices of NLAC;

The choice of the optimal solution of those presented must start from a few principles:

- ◆ streamlining the paralegal activity;
- ◆ strengthening the status of paralegals;
- ◆ minimal costs.

Whichever solution is adopted, strengthening the status of paralegals should have the first action the completion of the Classifier of occupations with this profession, the arguments in this regard being exposed above.

1. Paralegals as liberal profession

Instituting paralegal profession as a liberal profession involves initially the freedom to sell primary legal aid services. This possibility will distort the meaning of paralegal's existence, which was instituted by the state to provide free access/free of charge of community members to primary legal aid services. However, access to such services for a remuneration at present could be done through defense attorneys or commercial companies rendering legal services, which generally provide services against payment. Therefore, the emergence of a new liberal profession in the field of legal aid, even if it's primary legal aid would double the legal profession and legal advice. Moreover, when asked the opinion of paralegals on such a perspective, they did not support

such an activity model, claiming that such distortion will transform the original role of paralegals.

At the same time, the creation of liberal profession of paralegal requires the creation of self-administration bodies (administration, selection, evaluation, discipline bodies). Given that today the number of paralegals is very small - 42 paralegals compared to the number of defense attorneys - about 3000, public notaries - 295, bailiffs - 226, creating these self-administration bodies would be, if not impossible, then very difficult.

Also, given the specific training of paralegals, not having qualified legal training, even after regularly attending of initial and continuous training, there are doubts regarding the effectiveness of self-administration bodies constituted solely of paralegals.

Another impediment in accepting this option is the training of paralegals, as it is difficult to identify the entity in charge of training or, at least, to organize their training.

The liberalization of the profession of paralegal in a format similar to the legal profession will remove from NLAC's burden certain tasks on the selection of paralegals.

A key obstacle in the implementation of this option is the paralegals' attitude towards the idea of association. Or, as discussed above, the interviewed paralegals expressed reluctance to their association. They failed to identify the benefits that can result from an association. In conclusion, while the representatives of the profession do not have a certain vision of possible ways to self-manage and strengthen their position, to achieve the option of transforming paralegals in a new liberal profession is difficult.

Currently it is difficult to identify, even approximately, the financial implications required to implement this option.

Consequently, the option of creating a liberal profession is not optimal under the given circumstances.

2. Paralegals – employees of the territorial office of NLAC

Another option for strengthening the paralegal profession is its institutionalization within the territorial offices of NLAC. Under this option, in the payroll of the staff of the offices is to be established the function of paralegal, with the completion of the Classifier of Occupations. According to Government Decision no. 461 of 2 July 2013 regarding the approval of the Classifier of Occupations in the Republic of Moldova, *“The Classifier of occupations in the Republic of Moldova shall be applied in all areas of economic and social activity and is mandatory for all central and local public administration authorities, budgetary units, businesses, organizations and institutions, regardless of the type of property and juridical organization, employers’ union, trade unions, professional and political organizations, foundations, associations and other legal entities and individuals operating on the territory of the Republic of Moldova, in completing official documents whenever required to indicate the occupation”*.

This would solve one of the most acute problems faced currently by the paralegal network - the **issue of remuneration**, without being necessary to resort to the procedure of public procurement, facilitating at the same time forecasting the necessary budget for the salaries of these employees.

At the same time, the status of employee will impose working relationship between the office, in its capacity of employer, and the paralegal, as an employee, which involves remuneration rights and obligations such as annual leave, bonuses, respecting a hierarchical subordination. The status of employee requires a labor discipline and disciplinary proceedings, an area which is not covered today.

Implementing this option preserves the NLAC’s tasks to ensure and organize continuous training of paralegals, but not necessarily their initial training. It is considered that hiring paralegals should be made on a competitive basis and after initial training already performed. Given that, in this formula, paralegal’s work remains to be concentrated on state guaranteed legal aid, a segment undertaken by NLAC, the institution concerned will have to think about a mechanism for initial training of future paralegals.

We should note that the status of employee of the paralegal deprives him/her of independence that he/she currently enjoys or would have if it were a freelancer. The principle of independence of paralegals in carrying out his/her tasks is essential. However, while the territorial offices of NLAC are geared toward ensuring access

to state guaranteed legal aid, we could say, keeping, however, a certain reserve that the principle of independence of paralegal shall not be affected in providing state guaranteed primary legal aid. Or, in a similar position are public defenders.

Compared to the first option - “paralegals - freelancers” the option in question allows for a rough estimate of the expenditure required for its implementation.

Thus, hiring paralegals would require concluding individual employment contracts, similar to the staff in the regional offices of NLAC. Since the offices of NLAC are units financed from the state budget, the staff of these institutions is salaried employees under Government Decision no. 1180 of 25 September 2006 concerning the remuneration of staff of institutions financed from the budget (Annex no. 2).

In order to estimate whether there will be financial implications as a result of including the functions of paralegals in the staff payroll of territorial offices of NLAC, it was taken as a reference the remuneration of employees as consultants for the degree of remuneration no. 16, which is the average position. Thus, the wage of paralegals is estimated at 3 217,50 lei/per month, which is made up of:

- 1) functional wage - **1300 lei** (according to wage category 16, established in Annex no. 2 of the Government Decision no. 1180 of 25 September 2006). This salary category was taken as a benchmark of an average employee;
- 2) bonus for labor seniority - **130 lei** (reference - 10% of the salary, according p. 4 of Government Decision no. 1180 of 25 September 2006);
- 3) bonus for high work efficiency, work intensity - **715 lei** (reference - 50% of the salary, according p. 5 par. (2) of Government Decision no. 1180 of 25 September 2006).

Annual expenditure for remuneration of paralegals hired as employees of the territorial office of NLAC would require, in the end, higher amounts because they are supplemented by employer contributions, as follows:

- 1) material aid (par. 6 of p. 5 of the Government Decision no.1108 of 25 September 2006):
 - 1.1. total material aid - **2145 lei**;
 - 1.2. including material aid that is not subject calculating of mandatory state social security contributions - **2145 lei**;

2) annual award established under Government Decision No. 180 of 11 March 2013) - **1300 lei**;

3) impact of the annual bonus on the amount of the vacation allowance - **108, 33 lei**;

4) annual salary fund - **42 163, 3 lei**;

5) mandatory state social security contributions (23% of the annual salary) - **9 697.1 lei**;

6) compulsory insurance premiums for healthcare (4.5% of the annual salary) - **1 897.3 lei**.

In total, annual personnel costs for a single paralegal would cost the public budget - **53 757.7 lei**. Given the number of units in the paralegal network - 42 units, annually there shall be planned personnel costs for paralegals in the amount of **2 257 800 lei** (two million two hundred and fifty-seven thousand lei) - 53 757.7 lei × 42 paralegals.

At this development stage of the paralegal network, both options for institutionalizing the paralegal profession are difficult and unlikely to be achieved immediately.

In conclusion, whatever the path chosen, it carries certain risks. Thus, one opts for the liberalization of the paralegal profession according to the model of notaries, defense attorneys, bailiffs, the risks relate to insufficient human resources, availability of services of community paralegals that must remain accessible. Similarly, achieving the goal of legal empowerment of certain social categories in the meaning of equipping them with legal knowledge and encouraging them to defend their rights becomes problematic: the paralegal as a freelancer is unlikely to act as an agent of change and legal empower. The second option carries the risk of additional costs for the public budget. It depends on political will and the seriousness of the intentions of the state to legal empower the marginalized population, the issue of capital costs is a relative one, because early resolution of legal issues or encouraging a poor man to take appropriate action in a timely manner on a legal issue he faces is always cheaper than solving the dispute to court. The state has two options: either to insignificantly increase expenses for the remuneration of a network of paralegals, or to bear higher costs for overloading the courts with litigations that could have been solved through alternative channels, involving paralegals at the conflict state without procedural consequences.

ACTION PLAN

on strengthening the state guaranteed primary legal aid delivered by paralegals

No.	Objective	Actions	Indicators	Responsible institutions
1.	Strengthening the concept of state guaranteed primary legal aid through paralegals	<p>1.1 Development of national strategy and action plan on the development of paralegal network as a form of delivering state guaranteed primary legal aid.</p> <p>1.2 Finalize the process of recognizing the status of paralegal as official profession in the Republic of Moldova</p> <p>1.3 Identification and implementation of mechanisms to raise awareness of public local authorities, other authorities, in order to support and promote paralegals in the community, as well as mechanisms to promote the utility of paralegals in the community</p> <p>1.4 Building partnerships between paralegals and non-governmental organizations oriented towards vulnerable groups</p>	<p>1. Policy documents approved</p> <p>2. Classifier of Occupations of the Republic of Moldova by including the paralegal in the list of professions recognized in the state – amended</p> <p>3. Mechanisms of raising awareness implemented</p> <p>4. Partnership agreements concluded</p>	<p>NLAC Ministry of Labor Ministry of Justice NLAC NLAC NLAC Paralegals</p>

No.	Objective	Actions	Indicators	Responsible institutions	
2.	Strengthening and ensuring the efficiency of initial and continuous training of paralegals	2.1	Development of national policies on initial and continuous training of paralegals, considering the needs of the legal empowerment of the community	1. Policy documents approved 2. Curricula adjusted and approved	NLAC Ministry of Justice NLAC Partners: National Institute of Justice, Bar Union, Moldova State University, etc. NGOs
		2.2	Identifying the mechanism of initial training and certification of future paralegals and a mechanism for continuous training of paralegals.	3. Financial resources allocated 4. Selection contest carried out	
		2.3	Planning budgetary resources by NLAC for the item of expenses for training of paralegals (the part funded by the state budget).	5. Cooperation agreements concluded. 6. No. of courses conducted	
		2.4	Selection and contracting of an institution (higher education institution, National Institute of Justice, company or possibly Bar Union) to carry out the initial training and certification and continuous training of paralegals.	7. No. of courses conducted 8. No. of paralegals trained	
		2.5	Identifying strategic, alternative partners to carry out continuous training of paralegals		
		2.6	Review, when necessary, preparation and approval by NLAC in partnership with the institution(s) selected for carrying out the initial and continuous training, drafting the curricula for initial and continuous training, according to current training needs of paralegals.		
		2.7	Conducting training courses and initial certification of paralegals under the proposed formula		
		2.8	Monitoring of the implementation of initial and continuous training courses provided by the institution contracted for this purpose.		

No.	Objective	Actions	Indicators	Responsible institutions	
3.	Ensuring the selection of paralegals based on meritocracy and leadership criteria	3.1	Reviewing the condition for selecting paralegals by instituting the mandatory graduation of initial training.	1. Draft laws (Law no. 198 of 26 July 2007 and Regulation on the activity of paralegals) approved	Ministry of Justice NLAC Ministry of Justice NLAC Ministry of Justice NLAC Ministry of Finance Agency of Public Procurements
		3.2	Creating the Registry of certified paralegals, approved by decision of the National Legal Aid Council.	2. Registry of certified paralegals created 3. No. of paralegals certified	
		3.3	Amending the regulatory framework by clarifying the purchase of paralegals' services, to enable their contracting on a contractual basis for a period exceeding one year or, where appropriate, for an indefinite period. Exclusion from public procurement mechanism / procedure for contracting paralegals. (Law no. 131 of 03/07/2015 on public procurement, Law no. 198 of 26.07.2007 on state guaranteed legal aid, the Decision of the National Legal Aid Council no. 27 of 29.10.2014 regarding the approval of the Regulation on the activity of paralegals)	4. Amendments to the legislative framework drafted and adopted 5. Selection contest organized	
		3.4	Revise the powers of the Competition Commission to exclude the corruptible nature of provisions governing them.		
		3.5	Carrying out the contest for selection of paralegals under the criteria established by Decision no. 27 of 10.29.2014 regarding the approval of the Regulation on the activity of paralegals and not the general criteria provided by Law no. 131 03.07.2015 on public procurement.		

No.	Objective	Actions	Indicators	Responsible institutions
4.	Establishing a transparent and sustainable mechanism for the remuneration of paralegals	4.1. Reviewing the legislation in place in order to expressly state that the remuneration of the paralegal work and maintenance and development of paralegal network is made from the funds allocated for state guaranteed legal aid budget (Law no. 198 of 26.07.2007 on state guaranteed legal aid)	1. Amendments to the legal framework drafted and adopted. 2. Expense item included 3. Proposals on planning expenses included in MTBF	Ministry of Justice NLAC Ministry of Finance
		4.2. Establishing a separate expenditure item in the Subprogram Guaranteed legal aid intended for remuneration, maintenance and development of paralegal network.		
		4.3. Annual budgetary planning of public financial resources intended for the maintenance and development of paralegals (Medium Term Budgetary Framework).		
		4.4. Changing the regulatory framework by including rules on the manner and procedure for determining the amount of the monthly remuneration of paralegals. (Law no. 198 of 26.07.2007 on state guaranteed legal aid, Decision of the National Legal Aid Council no. 27 of 10.29.2014 regarding the approval of the Regulation on the activity of paralegals)		
5.	Strengthening the status and role of paralegals through their professional association	5.1. Identifying the most active paralegals (leaders) to promote the need of professional association and initiation of registration of an association of paralegals.	1. NGO registered 2. No. of paralegals associated 3. No. of public events organized	Paralegals Ministry of Justice National Centre for State Guaranteed Legal Aid Soros Foundation-Moldova
		5.2. Registration of public association of paralegals within the Ministry of Justice.		
		5.3. Promoting through public debates and events the advantages and opportunities of the association of all paralegals in a professional association.		

No.	Objective	Actions	Indicators	Responsible institutions
6.	Ensuring an effective mechanism for rendering paralegals liable	<p>6.1. Changing the regulatory framework regarding the inclusion of express rules on the liability of paralegals and exclusion of the equivocal nature of the conditions for terminating the contracts with paralegals (Law no. 198 of 26.07.2007 on state guaranteed legal aid, Decision of the National Legal Aid Council no. 27 of 29.10.2014 regarding the approval of the Regulation on the activity of paralegals)</p> <p>6.2. Amending service providing contracts concluded with paralegals by including additional grounds for terminating the contract.</p> <p>6.3. Review of normative framework on solving conflicts of interest and incompatibilities with the status of paralegal</p> <p>6.4. Signing of new service providing contracts with paralegals including express grounds for terminating the contract in case of faulty performance.</p>	<p>1. Amendments of the normative framework drafted and approved/ adopted</p> <p>2. Standard contract model-amended</p> <p>3. Amendments to the Law no. 198 of 26 July 2007 and of the Regulation of the activity of paralegals approved.</p> <p>4. No. of contracts concluded</p>	<p>Ministry of Justice National Centre for State Guaranteed Legal Aid</p>



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