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PRACTICAL EXPERIENCE SUPPORTING DEVELOPMENT OF LEGAL AID IN MOLDOVA

INTRODUCTION

On behalf of the American Bar Association Central European and Eurasian Law Initiative – CEELI, I'd like to thank the CCBE for the opportunity to address the Seminar and to take part in this discussion. While I am a new arrival in Moldova, ABA CEELI has been working here for 12 years. We welcome the occasion that the program today provides to exchange ideas about problems and approaches to legal aid in Europe and Moldova, and perhaps lay the groundwork for future collaboration in promoting access to justice. I thought it would be a useful complement to the points made by the other speakers to describe CEELI's work supporting legal aid in Moldova because our practical experience with these programs can offer some more general insights and ideas about how to improve the civil legal aid capacity in Moldova.

NEED FOR CIVIL LEGAL AID IN MOLDOVA

As has been stated, there is currently no organized system to provide free legal consultation and representation in civil disputes in the Republic of Moldova. As a result, many indigent, elderly and otherwise socially disadvantaged groups are unable to protect their rights and interests through the courts or other legal mechanisms. This creates great hardship for individuals grappling with immediate problems with the basic needs of life – income, and family matters. At the broader societal level, it also perpetuates a lack of confidence in the rule of law and the legal system as a whole and may encourage unlawful or even violent means of resolving disputes. So an equally important unmet need is to give ordinary people, those without power and money, the belief that law and the justice system can be an effective tool that is actually available to them.

BACKGROUND ON CEELI/USEFUL LESSONS

A few words of background: CEELI is a public service project of the American Bar Association, working to advance the rule of law and civil and criminal law reform in 22 countries in Central Europe, Eurasia and the Newly Independent States. We are funded primarily by the U.S. Agency for International Development for rule of law activities on the civil law side and by the Department of Justice for criminal law activities. My comments today will deal with our civil law activities and I'll highlight CEELI's work on advocacy, public education and capacity building.

ADVOCACY: TRAVELLING LAWYERS/CLINICS/NGO's

CEELI supports three primary sources of legal aid in Moldova. We fund a network of licensed advocates we call the Traveling Lawyers. We also assist 4 legal clinics in the regions where trained and supervised law students provide legal assistance --my colleagues at Soros support and manage the fifth clinic, located here in Chisinau. Finally, we fund the work of a number of non governmental organizations that provide legal consultations and education, mostly to specialized groups or on special issues. More generally, we also work with the Moldovan Bar Association, other professional organizations and law faculties to provide training and legal compilations.

TRAVELLING LAWYERS

Our Traveling Lawyer program funds advocates based in 7 different districts of Moldova. Each advocate travels every week to a different village within his or her area to provide legal consultations to indigent people who would otherwise be unable to obtain legal advice because they would not be able to pay for the services or travel to obtain it. The advocates most often meet with clients in the mayor's office of the village and the consultation days are advertised in advance.

The Traveling Lawyers provide a substantial number of consultations. During the first 9 months of 2005, they assisted about 2700 clients in hundreds of different villages. Many clients are pensioners, unemployed or handicapped persons. The most common cases involve land disputes

such as rental contracts and inheritance problems, social protection and family matters including custody and support, and employment problems.

In order to ensure that these 7 advocates provide high quality assistance, CEELI brings them together at least once a month for training by local experts on substantive topics that they themselves request based on issues they are handling in their cases. For example, because so many clients have problems with social protection issues, last month, a former Deputy Minister conducted a session on this topic. This month, we asked the ngo Transparency International to provide training on recognizing and handling legal issues involving corruption. After one training on trafficking issues, one of the CEELI Traveling Lawyer took this knowledge directly into a village school, meeting with girls to teach them how to avoid trafficking and their rights if they become victims.

The Traveling Lawyers also conduct outreach and educational activities in the community. They distribute pamphlets CEELI prepares called “Know Your Rights”, which present information in very simple language. Examples of the topics covered are consumers’ rights, lease relations in agriculture, labor rights, women’s rights in marriage and voters rights. These are disseminated as widely as possible through our partners and other ngos. Our Traveling Lawyers have observed that the Know Your Rights pamphlets have directly resulted in an increase in the number of clients asserting legal rights on an issue illustrated in a “Know Your Rights” leaflet – in other words an individual reads the leaflet, relates the information to his personal situation and seeks legal assistance. We think this is very positive. This is a two way educational street as CEELI also responds to direct requests for education in particular areas from partners, as in the case with a Women’s Rights in Marriage leaflet used by Peace Corps volunteers working in areas with a high incidence of domestic violence.

The Traveling Lawyer Program has been very successful, but because it meets only a small portion of the need, we hope we can improve it by integrating it more closely with our clinics ngo partners providing legal assistance and the services sponsored by other organizations. Two

other limitations of this program are that, not all matters can be resolved during the limited time the advocate is in a particular village, particularly if a client does not bring all the necessary documents. A permanent or at least more regular presence in the regions is needed. In addition, sometimes the services of a notary are needed and not available or not affordable and the client has to be instructed to go to a nearby town to see a notary and call the advocate at his office at a later time. Court costs and filing fees can be a barrier and clarification of the Moldovan law on when such fees can be waived for low income clients would be very positive

CLINICS

CEELI supports the work of 4 legal clinics: 2 are in the south of Moldova, one in the north and one in Tiraspol in the Transnistria region. All are closely integrated with the law faculties at the university except for the one in Tiraspol, which operates a free-standing clinic. These legal clinics utilize the free services of law students supervised by lawyers to provide pro bono legal consultations and assistance to the needy. The legal clinics benefit legal aid in Moldova in several important ways:

First, they provide needy people with high quality pro bono legal assistance . In the first nine months of 2005, students assisted about 470 clients. The clinics report a caseload and client profile that is substantially similar to those of the Traveling Lawyers. An interesting feature in several of our clinics is that some students visit villages outside the towns where the universities are located, in order to reach clients who can't get to these towns, sometimes even meeting at clients' homes, especially the elderly or handicapped.

The legal clinics also provide an invaluable opportunity for law students to acquire practical knowledge not taught in the regular law school curriculum. In Moldova, as in many other former Soviet countries legal education largely consists of lectures with memorization and little critical thinking. The skills obtained in the clinics set the students apart from thousands of other law students graduating each year.

Finally, clinic students CEELI has interviewed about the experience say they have a better understanding of what it means to be a lawyer and a real-life view of the legal problems facing the majority of the population. These skills and sensitivities should improve the legal profession in Moldova in the coming years as clinic graduates become lawyers with skills and a conscience.

NGOs PROVIDING LEGAL SERVICES

Moving to NGO's as a source of legal aid, the majority of NGO's in Moldova that provide legal aid free are focused on a particular topic, such as human trafficking, environmental law, or the rights of handicapped, and operate within a limited geographic area. The local NGOs in Moldova are primarily funded by international donor organizations, including USAID.

CEELI works with 5 local ngo partners who provide legal consultations to clients on consumer rights, work with the disabled, human rights. Often more complicated cases with a larger time commitment are referred to these organizations by the Traveling Lawyers or other partners for court action. Two organizations illustrate some specialized needs and the scope of services.

AGAPE is a charitable organization located in Chisinau that provides legal services to handicapped individuals. Most clients have cases involving housing or payment for heat, water, and electricity. AGAPE staff notes that even if a handicapped person can afford an advocate, many advocates will not take on such cases because the client's disability (for example, blindness) makes it more difficult to communicate. AGAPE assisted almost 700 clients in the first 9 months of 2005.

Eco-Lex is an NGO providing legal services and education on environmental rights. Eco-Lex has more experience than other NGOs with prosecuting class actions and large damages cases. For example, Eco-Lex represented a village in northern Moldova where a gypsum mining company used improper mining operations which poisoned the groundwater in almost every well in the village. Eco-Lex undertook and won a lawsuit against the company and compensation for the villagers. Eco-Lex successfully brought a case on behalf of two men raising fish in a hatchery near a sugar factory, whose livelihood was destroyed by pollution from the factory. The

case took five years to prosecute but ended with a monetary judgment for the plaintiffs.

CAPACITY BUILDING

CEELI works to develop the capacity of the legal profession and local NGOs by funding both professional skills/ substantive knowledge trainings for lawyers and judges and by organizational development activities. Examples of skills trainings involve such as ethics, election law, interactive teaching methods and other needed topics.

Institution Building assistance is a unique feature of CEELI's work in most countries. CEELI recognizes that local ngos themselves must develop the capacity for long term sustainability if they are to be successful in delivering legal aid. A staff person with expertise in organizational development, strategic planning, fundraising works closely with the organizations we support to provide individualized training and consultations on these issues.

In conclusion, CEELI believes that there is substantial vitality in the Moldovan legal community and bar association, NGO's and law students and looks forward to continued work with them and with other international organizations to build on these to develop and support a truly effective legal aid capacity in Moldova.
