

## **Free Legal aid in Moldova**

### **Theses of speech of Mr. Victor Muntean prepared for the**

### **CCBE seminar “The Legal Profession in Europe: Access to Justice/The Lawyer and the State”**

#### **Central question**

How can we increase the quality and efficiency of free legal aid in the Republic of Moldova for the indigent criminal defenders by making use of a more balanced system in terms of funds vs. efficiency, in terms of governmental efforts doubled by civil society, as it is the case EU member countries?

How can we solve the emerging dilemma of ensuring equal access to justice and legal aid in accordance with the European Human Rights standards in a context of dramatic shortage of funds?

#### **Statement of argument**

One of the important aspects of practical functioning of the rule of law is access to justice. Equal justice cannot be achieved without securing equal access to legal assistance and legal representation for everyone. There are four pre-conditions for a legal aid system to be in accordance with the internationally recognized standards:

1. the availability of legal aid in criminal cases should be broadened to secure the right to council when the deprivation of liberty is at stake
2. clear financial and substantive criteria for granting legal aid on grounds of indigence should be established
3. legal aid in civil cases should be similarly provided
4. the systems of assigning legal aid lawyers should have proper management and efficiency. What really matters is not the formal presence of a lawyer but the reality and quality of the performance.

The speech will assess the true dimension of the deficiencies in provision of legal aid in the Republic of Moldova as a typical exponent of emerging democracies in south eastern Europe, of their disproportionate negative effect on vulnerable groups in society.

In the Republic of Moldova, most persons charged with crimes cannot afford private counseling. Legal aid is provided in the frames of the *ex officio* system of assigning private counsel at state expense—which is characterized by underpayment of lawyers, deficient representation and sub-standard justice.

Republic of Moldova is a typical exponent of inefficient and under funded governmental programs of legal aid. Its European integration aspirations must follow a long and sometimes painful process of European standards setting in an environment of severe shortage of funds. Some Western European Countries models of legal aid are very successful and in the same time very expensive.

Republic of Moldova faces the following dilemma: European integration aspirations must be followed by gradual adjustment to European standards of justice including the legal aid standards. European models of legal aid delivery and management are highly developed and very expensive.

What is to be adapted to local context and how?