Review of

The Norwegian Mission of Rule of Law Advisers to Georgia (NORLAG)

and

The Norwegian Mission of Rule of Law Advisers to Moldova (NORLAM)

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Acronyms and Abbreviations

MOJ/N	Royal Norwegian Ministry of Justice and Police
MFA	Royal Norwegian Ministry of Foreign Affairs
MOU	Memorandum of Understanding
MOJ	Ministry of Justice in respective countries
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
NORLAG	The Norwegian Mission of Legal Advisers to Georgia
NORLAM	The Norwegian Mission of Rule of Law Advisers to Moldova
OSCE	Organisation for Security and Co-operation in Europe
TOR	Terms of Reference; Review Team's task description

1 EXECUTIVE SUMMARY

In late 2002 and early 2003 the Norwegian Ministry of Foreign Affairs (MFA) took an initiative vis-à-vis the Ministry of Justice (MOJ/N) to create a roster of justice-system personnel for deployment abroad to cover the whole "chain of justice" (rettskjeden), more specifically, the chain of *criminal* justice. In late 2003 the MOJ/N established the "Norwegian Judicial Crises Response Pool" *(Styrkebrønnen).* It comprises judges, public prosecutors (statsadvokater), police prosecutors (politijurister), as well as personnel from the prisons and probation (friomsorg) services and later expanded to include independent defence attorneys.

In October 2004, the Norwegian Judicial Crises Response Pool deployed the *Norwegian Mission of Legal Advisers to Georgia (NORLAG)*, which was the first-ever operation of its kind. In March 2007, the *Norwegian Mission of Rule of Law Advisers in Moldova (NORLAM)* followed in Moldova. These two projects are the subject of the present review.

The *mandate* and broad objectives of the two projects follow from the Pool's overall purpose and are further set out in the two Memoranda of Understanding (MOUs) between Norway and Georgia and Moldova, respectively, and which are quite similar. According to these frameworks, the projects focus on the *criminal-justice chain,* which consists of several laws and actors – often constitutionally independent from each other – in interplay. The main legal elements of the chain are penal and procedural codes. The main actors involved are the police, prosecution, defence lawyers and courts, as well as prisons and probation services. The main processes pertain to the interaction between them all. The ultimate purpose of the Pool is to strengthen the totality of this complex system in the host countries.

Both Georgia and Moldova have introduced many rule-of-law reforms. Although the projects have supported further improvements in legislative frameworks, the main thrust has been to improve *knowledge of new laws,* stimulate the appropriate *mind-frames,* and help counterparts adapt *practices* to fit new requirements.

In terms of *impact*, NORLAG has contributed to the strategic planning for justice-system reform in Georgia by participating in the formulation of Georgia's so-called "Strategy Plan for the Criminal Justice System in Georgia" in 2005. More importantly, it is now well-placed to impact on the country's future criminal-justice policy as a prominent observer-member and deliverer of premises to the so-called "Criminal Justice Reform Inter-Agency Coordination Council" established in 2008, which is operationalising the Strategy Plan.

Other reported achievements of NORLAG revolve around humanising the penal system and improving the fairness and efficiency of trials. With regard to improving the penal system, a draft law will give all convicts a right to meaningful activities in jail. Moreover, the project appears to have played a central role in motivating the parliament to enacting legislation that widens considerably the applicability of community-service sentencing; and in motivating the government commit to strengthening the Probation Department and, thereby boosting the implementing apparatus for increased use of community-service sentencing.

NORLAG efforts seem to have contributed to a commitment by the judiciary, too, to expand the use of community-service sentencing. Another achievement is that the judiciary is publicly committed to effectuate trial by so-called continuous main hearings, rather than by splitting trials up into a string of smaller hearings as is the practice today.

NORLAM's impacts have been considerable. It has by many accounts managed to put criminology on the national policy-making agenda, and this has in turn led to a significant reduction in punishment levels under the country's penal code, so that Moldova's punishment levels are now close to alignment with EU standards. NORLAM played a crucial role in the revision of punishment levels, and some 65% of its proposals in the end became law. NORLAM has triggered various other reforms in national criminal justice policies, too. The government has made the implementation of trials by consecutive main hearings an official policy, and is in the process of adapting legislation to that end. And the government is pursuing various policy initiatives to enact measures to halt the use of torture in holding facilities: notably, special prosecutors have been appointed to combat torture in police isolators; and a draft law is being considered to introduce state liability where an individual torturer cannot be identified. Another law has been introduced that gives prosecutors discretion whether to pursue minor cases. The judiciary is publicly committed to effectuate trial by continuous main hearings. Finally, it seems that NORLAM has made a significant contribution toward improving Moldova's compliance with international human-rights standards pertaining to pre-trial detention. More concretely, it has designed a template (legality check-list) for prosecutors to justify any request for pre-trial detention, and this template has become mandatory for prosecutors and is reportedly being used, though further training will be necessary. The evidence available to the Review Team suggests that the introduction of this template is having the impact of improving the quality of the courts' pre-trial detention decisions and of reducing the use of detention. Many interviewees expect Moldova to suffer fewer judgements in the European Court of Human Rights as a result.

Both projects are often said to have a catalytic effect on the role understanding among drivers of change across the range of court actors. Many interviewees claim that this is likely to have a positive influence on the rule of law in the years to come, if efforts are sustained. For example, there seems to be a perception in both countries that the projects are helping to enhance the status of defence lawyers in criminal processes (who are traditionally not always permitted to speak, present evidence or contradict the prosecutor), and that both prosecutors and judges are increasingly concerned with observing the law, and referring to it, when making decisions. The Review team finds such statements to be credible expressions of a widespread perceived shift towards the better; but concrete impacts so far are anecdotal, sketchy, fragile and difficult to document.

In order to ensure that criminal-justice reform policies and new legal frameworks are actually implemented in practice, both projects have undertaken a wide range of competence-building *activities*. The various individual activities constitute a coherent strategy to enhance systems and processes, skills and knowledge, as well as attitudes and behaviours across constitutionally separate but interdependent links in the chain of justice. Although the activities are broadly similar for the projects, the effect has been more visible in Moldova. An illustrating example is the introduction and training of all court actors in

the use of pre-trial detention templates. In Moldova this has ostensibly reduced the number of detentions and improved detention requests and decisions; whereas in Georgia the project has struggled to get the actors to actually use the template. This reflects an underlying difference of the "climate" in the two countries.

In effect, both projects have pursued a two-prong strategy; first, of securing top-level commitment in counterpart institutions to pursue certain changes; secondly, to train working-level practitioners accordingly.

The projects have been good at generating demand for their services, often by offering help to the leadership of counterpart institutions in order to live up to expectations from the international community and international obligations undertaken – and then supplying top-notch advisory and training services to meet the demand for their advice and co-operation. The modus operandi has essentially been to approach the host-country government, courts, prosecution service, prisons system and probation service at high levels, where policies and strategic decisions are made. The teams bring little or no funding to their counterparts. Instead, they offer theoretical and practical advice on strategic issues and how to implement reforms in practice. This top-down approach had been combined with training and awareness-raising of practitioners at the working level. Unlike other, larger international actors, the two Norwegian teams are not suspected of having any hidden agenda.

A common characteristic of both projects seems to have been good skills, compared to other international actors, at conducting training activities. NORLAG and NORLAM have identified truly strategic subjects, with great potential for impact on the criminal-justice chain. They have managed to secure the attendance of potential drivers of change. And – crucially – they have designed and delivered the training in a way which, by all accounts, have inspired and engaged the attending persons significantly and shows signs of succeeding in "planting seeds" among potential drivers of change in different branches of the criminal-justice chain. This training modality has been possible not only due to the technical and practical maturity of team members, but also by the fact that they are resident advisers with a good understanding of national laws and inner workings, including the interplay of the various institutions comprising the chain of justice. Both projects have underpinned training activities by production of legal opinions, templates, compilation of legal texts, textbooks and curricula.

The combination of high-level and working-level contacts in the host country, and active participation in international forums, has by all accounts given both projects a surprising degree of "soft power". Both projects seem to be perceived by national and international stakeholders as leading international efforts and enjoy great respect and significant influence.

Both projects have *coordinated* well with other international donors since their inception. Project staff participates in regular meetings between international actors involved in their fields. But there are also differences. NORLAG has been more proactive and has played an increasingly influential role within the donor community in Georgia. NORLAM, by contrast, has opted for a lower profile in Moldova. This may be explained by the fact that in

Moldova many donors are perceived as having a clear political agenda and that it is conducive for NORLAM not to be too directly associated with these, and that it prefers to be seen as more independent and with less of a political agenda.

There are some important *characteristics* of NORLAM and NORLAG, which may explain why they have been so successful with their achievements. First, there is the size of the teams, which allows for a flexible, non-bureaucratic and responsive way of working. Then there is the composition of the teams, which consist of experts across the criminal-justice chain, and who see the impact on other links in the chain of reforms pertaining to one of them. They come from the same country background and are easily able to provide a unison, coherent voice. The members are not only strong in theoretical knowledge, but they are also practitioners who can assist counterparts with "tricks-of-the-trade" advice. They live in the country over time and make it a point to study and understand local laws and ways. Lastly, their style and perceived lack of a hidden agenda adds to their credibility.

RECOMMENDATIONS

Continuation or discontinuation of NORLAG and NORLAM

The main recommendation of the Review Team – provided that the main objective of the projects is to actually make a sustainable difference in the two host countries – is that both projects should continue for the time being.

In Georgia, it is recommendable that NORLAG remains in place until at least the end of 2010. This recommendation is based on an impression that NORLAG should remain for at least one year after the parliament adopts a new policy for implementation of the objectives set out in the country's so-called "Strategy Plan" for justice reform, an effort ongoing at the moment through the *Inter-Agency Working Group* in which NORLAG is an influential player. The parliament is expected to adopt the new policy by the end of 2009. An additional argument is that the OSCE mandate for Georgia has not been prolonged and that NORLAG's presence then becomes even more important.

In Moldova, NORLAM should continue well into the term of the new government formed as a result of elections April 2009. It is difficult to recommend a timeframe in lack of any particular strategic process or benchmark; but the project is on such a good track that all interviewees – internationals and nationals alike – hope that the project will remain for at least another two-to-three years.

Against this background, it seems recommendable that both projects be extended until the end of 2010. A subsequent assessment should be undertaken at that time to provide advice on whether to continue into 2011 or beyond.

Possible adjustments and improvements

The Review Team does not see the need for any major change, but some adjustments may be in place.

The two ministries should review how support from Norway may be strengthened; both with regard to practical management; and with regard more substantive aspects related to reforms of the justice sector.

The two ministries should review and update their objectives and expectations of the two projects. This review could feed into planning for a continuation of the projects, or even expansion to other countries if that is a consideration.

The two projects should undertake a planning exercise. This should put in place a comprehensive project document. It should, in turn, describe the contextual background and establish a flexible "Log Frame" with a coherent set of goals, purpose and indicators to measure performance and impacts, so as to serve as a practical managerial tool and improve project reports. These documents should facilitate a continuation of the operational flexibility that has served the projects so well to date.

On the more practical side it is recommended that efforts should be made to ensure continued recruitment of top qualified staff, and how longer contract periods may be feasible. Systematic feed-back from leaving staff to the Response Pool as well as to newly recruited staff is important. Overlap of leaving and in-coming staff should be ensured as well as good hand-over notes.

The two ministries should consider the potential for drawing more upon existing competence in institutions which are otherwise working with Norwegian development co-operation.

Finally, it is the opinion of the Review Team that the experiences from the two projects should be of relevance to other areas of Norwegian development co-operation. The subject of "Good Governance" is an increasingly high-profiled theme, and the two projects may harbour reflections that could benefit other Norwegian interventions. It is recommended that efforts are made to ensure better exchange of experiences between the two projects and other relevant Norwegian development cooperation activities.

2 INTRODUCTION

2.1 Background

In late 2002 and early 2003 the *Norwegian Ministry of Foreign Affairs (MFA)* took an initiative vis-à-vis the *Ministry of Justice (MOJ/N)* to create a roster of justice-system personnel for deployment abroad to complement CivPol, so as to cover the whole "chain of justice" *(rettskjeden)*. They clearly had in mind only the part of the justice system that deals with crime and punishment, ie, what this report shall refer to as the *"criminal-justice chain"*.

At this point, a short description of the criminal-justice chain is in place. In democratic states, based on the rule of law and separation of powers, this is a highly complex system. Main

components include laws, a multi-stage investigation/trial/punishment-process, different independent organs and interplay between them. The criminal-justice chain is anchored in legislation. The baseline is often a *criminal (penal) code*, which declares what is forbidden and prescribes punishment. The *multi-stage process* in question typically runs from arrest, interrogation and pre-trial detention, through indictment, trial and sentencing (or acquittal) to punishment, release and reintegration. The main institutional *actors* include the police, prosecutors, defence attorneys, judges, the probation service and/or penitentiary department. The *interplay* between these actors at the different stages is highly complex and need not be detailed here; but the steps of the process and the roles of the involved actors are normally regulated in a *criminal-procedure code*, which sets out the methodology regarding how forbidden actions should be pursued, including the rights and responsibilities of the various actors. These are just the main elements of the criminal-justice chain; there is often a long string of other laws, actors and processes that have a bearing on it.

The sources make it clear that the Pool aims to "strengthen" this chain. Strengthening is essentially held to mean upholding or developing its *efficiency* and *human-rights compliance*.

Following MFA's initiative and discussions between the two ministries, a broadly composed working group was established and submitted its recommendations[1] in September the same year. Subsequently, in late 2003, the MOJ/N established the *"Norwegian Judicial Crises Response Pool" (Styrkebrønnen)*, referred to as *"the Pool"* in this report. It comprises judges, prosecutors, police-lawyers (politijurister), as well as personnel from the prisons and probation (friomsorg) services. In November and December the same year, the first recruitments for the roster took place. The Pool was later widened to include private defence attorneys as well.

From the outset, the MFA saw the deployment of Norwegian police and justice-system personnel as an "instrument of foreign policy". In the spring of 2004, the two ministries discussed guidelines for deployments and emphasised "good governance and anti-corruption efforts" as potential areas of focus.

In May 2004 the two ministries issued *guidelines* that set the following priorities for use of police and chain-of-justice personnel: (1) international organisations of which Norway is a member (e.g. United Nations, NATO and OSCE) and the EU; (2) assignments in co-operation with Nordic and other compatible countries; (3) assignments in countries where Norwegian police and chain-of-justice personnel may contribute to developments desired by Norway, including countries with which Norway is engaged in development co-operation or human-rights dialogue; (4) the Pool would focus on provision of advice and training, though police may also be used for assignments of a controlling character.

The Pool is administered by the MOJ/N, which maintains the roster and assumes the responsibilities of employer and remunerator from the line agencies that provide personnel. The MFA refunds expenses to the MOJ/N.

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[1] "Etablering av beredskapsgruppe for internasjonal sivil krisehåndtering, Arbeidsgruppens innstilling, 9. september 2003"

Since its inception the Response Pool has deployed personnel to Afghanistan, Bosnia, Liberia, Georgia and Moldova.

In October 2004, the Norwegian Judicial Crises Response Pool deployed the so-called *Norwegian Mission of Legal Advisers to Georgia (NORLAG)*, which was the first-ever operation of its kind. In March 2007, the *Norwegian Mission of Rule of Law Advisers in Moldova (NORLAM)* was established in Moldova. These two missions are the subject of the present review. They are also referred to as two separate projects.

The basis for the two projects is a Memorandum of Understanding (MOU) between Norway and Georgia and Moldova respectively. These will be analysed in more detail in chapters 3, 4 And 5 below.

2.2 Terms of Reference - Methodology for the Review

In 2008 the MFA and MOJ/N agreed that the MFA would commission an independent review of NORLAG and NORLAM. The MFA gave the task to Norad, which in turn awarded the assignment to Scanteam. The full Terms of Reference (TOR) are enclosed as Annex 1. The main points are as follows:

The stated dual *purpose* of the review is *"to have an assessment of NORLAG and NORLAM, and to provide guidance as to whether this assistance should continue and, if so, how it should be organised in the future"*. The review has three, given *objectives*:

- Assess to what extent the projects contribute to reform of the justice sector in the host countries
- Assess the extent of coordination of the projects with other international efforts
- Identify strengths and weaknesses to the projects

The TOR states that the Review Team should assess achievements against four *criteria*: i) effectiveness, ii) relevance , iii) co-ordination and iv) sustainability. The TOR present the definition of these terms and questions to be answered. The last three elements are clear and do not pose any particular problem. But the first – *effectiveness* – poses some challenges that have to be addressed.

The TOR explains effectiveness as follows: *"Effectiveness, i.e. the extent to which the purpose has been achieved or is expected to be achieved."* Under effectiveness, the TOR specify the following four questions for the review team to address:

- "To what extent have the projects had an impact on the ongoing judicial reform process in the areas where the projects have operated, and in that sense contributed to strengthening the rule of law in the host countries?"
- "Which projects have had an impact and which have not?"
- "How has the objectives been achieved?"
- "Have external or internal factors contributed to or hampered the attainment of objectives?"

There are several reasons why it has been a challenge for the Review Team to analyse well the effectiveness and the two first questions to be addressed. First, as we shall see, neither the Pool's purpose nor the MOUs make any reference to any "ongoing judicial reform process" in the two countries; so it is not clear whether this, conceptually speaking, is an appropriately-worded assessment criterion. Second, neither project has a formal project document which formulates a goal, purpose and outputs in a so-called "logical framework" with performance indicators for each of these project elements. In order to address the question of *effectiveness*, the Review Team has therefore chosen to use the way the *purpose* for each of the projects has been stated in the two MOUs, albeit interpreted against the backdrop of the Pool's essential purpose of strengthening the criminal-justice chain in the host countries. The problem, however, is that the way the purpose is expressed comprises several elements, as explained in the introductory sections in the chapters where each of the two projects have been reviewed (chapters 4 and 5).

A second challenge is how to measure "the *extent* to which the projects had an impact". As already stated, the two projects have no baseline or corresponding indicators. One should also take into account that the nature of the projects is such that it is, in itself, very difficult to measure the impacts of NORLAG and NORLAM; first, because it is difficult to isolate impacts which are exclusively attributable to the projects; and secondly, because much of their activities aim to influence actors and therefore do not necessarily produce tangible outputs. In chapters 4.2 and 5.2, where we assess main impacts of the two projects, we try to categorise impacts in three groups; impacts that appear to be directly attributable to project activities; impacts that appear attributable to a combination of activities by the projects and other actors; and we state where it is too early to identify clear impacts, but where impact seems likely to occur in future. But all this is inherently discretionary and, in this case, based on a rather limited range of sources available and time allocated.

The third challenge has to do with the level of analysis. At one level, the Review Team is asked to assess *individual* project activities for impact, ie, impact on a particular beneficiary (eg, a court). At a higher level, the team should also assess impact of each activity – and of the totality of activities – on the host country's larger "judicial reform process" and contribution to "strengthening the rule of law". It is often difficult to measure impacts, and more so, to attribute impacts to a single activity or a combination of activities, even a combination of efforts involving external stakeholders too. The difficulty is particularly pronounced when it comes to "soft influence", as opposed to assessment of achievements of more tangible endeavours like building so-and-so many kilometres of road.

Both NORLAG and NORLAM have engaged in a large number of activities – at times also referred to as "projects". (Annex 3 and 4 list the main activities for each of the two countries.) The Review Team has chosen to use individual activities as the basic analytical unit. Some of the activities, those that appear to be the most prominent ones, have been singled out and assessed to determine which of them have had an individual impact on the direct beneficiaries (e.g., a district court) and which did not. Moreover, the selected activities have also been assessed toward higher-order achievements, ie, to what extent they have contributed to the "ongoing judicial reform process" and to "strengthening the rule of law".

When it then comes to NORLAG and NORLAM, as projects, we have reviewed each as to how they have contributed to the *purpose* - as comprised by three factors: first, the mandate of the Pool (strengthen the criminal-justice chain); second, as expressed in each of the two MOUs (promote good governance, strengthening the rule of law, etc); and third, as per the TOR of the Review Team (impact on the judicial reform process in the two countries). The three are not, at least on the surface, identical – but the essence seems to be that that of improving the criminal-justice chain with regard to efficiency and human-rights compliance.

Basically, NORLAG and NORLAM are very similar. Their MOUs appear to formulate similar underlying objectives in slightly different ways. The composition of the teams and their way of working are almost identical. These common characteristics are presented in chapter 3 as a shared framework and background for the two projects. But there are also differences in the way they have gone about their tasks, what country-specific openings they have concentrated their efforts on, and the results which have been achieved. The two projects are therefore assessed separately, in chapters 4 and 5.

The TOR also asks about "how" objectives have been achieved and to "what extent" external and internal factors have contributed to or hampered the attainment of project objectives. Although the Review Team assessed these questions separately for the two projects, the answers were very similar. These questions are therefore answered jointly in chapter 6.

The TOR asks for an assessment of the "relevance" of NORLAG and NORLAM. In annex 3 and 4 the relevance of each activity for the two projects are analysed. However, the Review team has found that the observations regarding the two projects, overall, are rather similar for the two projects. Their relevance are therefore addressed jointly in chapter 7.

Although the Pool is part of Norwegian development co-operation, it is in many ways different from the "mainstream" of such assistance. In response to the TOR, this report in chapter 8 addresses how the two projects contribute towards the principles of Norwegian development co-operation.

The TOR has specific questions to be answered with regard to conclusions, lessons learned and recommendations, and it is clear that these should be answered with the *joint* perspective of the two projects. This is done in chapter 9.

The Review Team interviewed persons involved with the Pool in the Norwegian ministries of justice and foreign affairs, and former heads of mission for the two projects. Moreover, the Review Team spent one week each in Georgia and Moldova. On the ground, it interviewed all project personnel and a wide range of key persons in national co-operating institutions, as well as key international stakeholders. Annex 2 lists the persons interviewed by the Team.

The Review Team found that in order to assess the projects it was very important to understand the two country settings; both with regard to the legacy of the Soviet system and the developments since the independence. This constitutes the framework conditions within which the two projects had to work and is presented in the introductory parts of chapters 4 and 5.

The Review Team has been composed of Messrs Erik Whist (team leader) and Endre Vigeland (governance specialist), both of Scanteam AS – Analysts and Advisers. Mr Petter Bauck, Norad, has participated in the process as an observer. He participated in interviews in Norway and joined the Review Team on its visit to Moldova. The Review Team has benefitted very much from discussions with him; but he has not been involved in the writing of the report with its conclusions and recommendations, which are solely the responsibility of the Review Team.

3 Common Characteristics of NORLAG and NORLAM

Project Purpose – terminology

The project objectives are formulated in slightly different ways in different sources. This section aims to sort out the essential, overarching purpose.

As we have seen (section 2.1), from the outset in 2004 the raison d'être of the Norwegian Judicial Crises Response Pool (Styrkebrønnen) has been to assist countries in strengthening their *criminal-justice chain* with regard to efficiency and human-rights compliance. NORLAG and NORLAM must be considered instruments for *this* purpose. All interviewees on the Norwegian side have explicitly or implicitly concurred that this is the essential, or operational, purpose of NORLAG and NORLAM; and this purpose is what the project teams have geared their activities toward.

However, the Memoranda of Understanding (MOU) between Norway and the host countries do *not* articulate the purpose in terms of strengthening the "chain of justice" or "criminal-justice chain". Instead, they state overarching objectives of *"promoting good governance"* and *"strengthening the rule of law"*. Neither term is defined in the MOUs, however; nor are there any generally used definitions to fall back on. This makes it difficult for project personnel to use these formulations in the MOUs as operational, practical objectives. Accordingly, they have fallen back on the general objective of the Pool.

This difference between the purpose of the Pool and the objectives formulated in the TOR, in turn, invites a question whether there is any discrepancy between the Pool's objective and the project's objectives. The answer appears to be negative.

Governance is often understood as the entire system by which public power is exercised in a country: rules, processes and institutions. Elements include elections, constitution and laws, parliament, government and civil service, and courts – and in a wider sense also non-state actors like political parties, media and civil society. Governance is often considered *good* when characterized by participation, transparency and accountability – as in a functional "democratic" state. Clearly, it has never been the ambition of NORLAG and NORLAM to address this totality, only parts of it, namely "rule of law".

Rule of law is intimately associated with good governance. Some scholars see it as an ingredient in good governance, whereas others see it as a precondition for it. In both

perspectives, strengthening the "rule of law" by extension *also* facilitates "good governance". While there is no universally accepted definition of the term "rule of law" either, it includes the laws, processes and institutions that administer justice, including adjudication and punishment. It includes the whole criminal-justice chain. Thus we have a conceptual link: strengthening the criminal-justice chain strengthens the larger rule of law, which in turn promotes good governance.

This leads to the observation that by seeking to strengthen the "criminal justice chains" in the host countries, NORLAG and NORLAM are *also*, by implication, aiming for the objectives formulated in the *MOU* as "promoting good governance" and "strengthening the rule of law". In other words, there need be *no discrepancy* between the Pool's purpose and the MOUs. As earlier noted, this has been the understanding of all interviewees on the Norwegian side, and this is what the project teams have geared their activities toward. Accordingly, this is also what the Review team will assess against.

In addition to formulating *common* objectives of "promoting good governance" and "strengthening the rule of law", the MOUs prescribe other, *country-specific* objectives and outline certain activities that are also country-specific. These specificities will be presented separately in chapters 4.2 and 5.4 below, where the two projects are assessed.

Project teams

The MOUs presuppose *bilateral deployment* of Norwegian *experts in teams*. Given the wide mandates of the Pool and the two MOUs, the project teams have been given and maintained considerable *tactical freedom* to set more concrete objectives and priorities for *how* to improve the host countries' criminal-justice chains, which parts of the chain, which institutions to co-operate with, whether to advocate for legislative changes or build capacity, what sort of personnel (eg, judges, prosecutors, defence lawyers, police officers, prisons and probation officers) is needed on the project team, etc. This flexibility has been an *intended* characteristic of the projects from the design stage.

The project team members are not placed inside national counterpart institutions. Each team comprises up to six persons from across the chain of justice – police-lawyers, prosecutors, judges, and managers from the prisons and probation services. The team members are located together in a common headquarters. All have strong theoretical backgrounds and years of hands-on experience in their respective fields. NORLAG has been extended in duration several times over the years. The staff of both projects are recruited on short-term contracts, usually of six-month duration – although extensions are common. The average time of service is 12 months, but in both projects several team members have served for longer periods, some up to two years.

Table 3.1 gives the composition of the teams in the two projects. NORLAG has been in operation for about 4 ½ years and NORLAM for two years, which accounts for the difference in number of persons and person-months. NORLAG has an even distribution between prosecutors, judges and probation/prison people. In NORLAM, however, the share of person-month ratio for judges is much lower. Notably, it is only in NORLAM that a defence lawyer has been part of the team. As we shall see, this addition to the team has

apparently had a significant impact on the achievement of MORLAM. Whether it is replicable is another matter.

Table 3.1 Team composition

	NORLAG (from October 2004)		NORLAM (From March 2007)	
Team members:	Persons	Person/months	Persons	Person/months
- Prosecutor	7	110 (33,7 %)	2	48 (36,9 %)
- Judge	7	107 (32,8 %)	2	20 (15,4 %)
- Probation	3	59 (18,1 %)	1	33 (25,4 %)
- Prison	3	50 15,3 %)	2	12 (9,2 %)
- Defence	-	-	1	17 (13,1 %)
Total	20	326 (100 %)	8	119 (100 %)

Both projects have national staff of high quality, who have contributed significantly to the achievements.

Country contexts

Both host countries are *former Soviet republics* in transition toward a more "Western"-style criminal justice systems. They both have a small population, comparable to Norway's.

Georgia and Moldova emerged as independent nation-states in 1991 with the break-up of the Soviet Union, and have gone through phases of secessionist strife, disillusionment with weak democratic governance, soaring crime followed by crackdowns and harsh administration of justice, and a return to tough rule – while also professing a political desire to reform their justice systems toward compliance with internationally recognized standards.

Much of the countries' legal frameworks pertaining to the criminal-justice chain look good on paper. But old institutional cultures and practices by all accounts remain in place. Roughly speaking, it appears that prosecutors and police are the strongest links in the chain of justice, while courts and defence – in particular – are weak. There is a widespread perception among interviewees, nationals and internationals, of blatant political interference in individual court cases. The prisons systems are closed and organised in a military way, while probation (friomsorg) services are new and weak. Conditions in prisons are appalling by any standard.

Work modality of the two projects

Both countries have introduced many rule-of-law reforms, for a start on paper. Although the projects have supported further improvements in legislative frameworks, the main thrust has been to change *old mind-frames and practices* of national justice-system actors, which in any setting is an ambitious undertaking.

Both NORLAG and NORLAM have been good at cultivating high-level contacts and at generating demand for their services, often by *offering practical help* for the leaders of

counterpart institutions to live up to expectations from the international community and international obligations undertaken – and then supplying top-notch advisory and training services to meet concrete demands for their advice and co-operation. NORLAG and NORLAM have identified truly strategic subjects, where direct and indirect impacts are potentially high.

The modus operandi has essentially been to approach the host-country government, courts, prosecution service, probation system and penitentiary service at a high level, where policies and strategic decisions are made. The teams bring little or no funding to their counterparts. Rather, they attempt to offer theoretical and practical *solutions*. This top-down approach had been combined with training and awareness-raising of practitioners at the working level. Unlike other, larger international actors, these teams are not suspected of having any hidden agenda.

The projects have not only moved at the higher-echelon levels, but combined it with capacity building at the level of practitioners. A common characteristic of both projects seems to have been good skills, compared to other international actors, at designing and delivering *training* activities for judges, prosecutors, defence lawyers, as well as for prisons and probation staff. Through good networking, they have managed to secure the attendance of potential drivers of change. And – crucially – they have designed and delivered the training in a way which, by all accounts, have inspired and engaged the attendants significantly. Many of the sources interviewed by the Review Team seem to believe that the projects are succeeding in "planting seeds" among potential drivers of change in different branches of the criminal-justice chain. This training modality has been possible not only due to the technical and practical maturity of team members, but also by the fact that they are *resident* advisers who have made it a point to study *local* laws and acquire a good understanding of the inner workings and interplay of the various relevant counterparts in the host countries. Both projects have underpinned training activities by production of legal opinions, templates, compilation of legal texts, text books and curricula.

Both host countries have established magistrate schools, which qualify law graduates for office and provide them with compulsory follow-up training. NORLAG and NORLAM has partnered with these institutions to ensure that much of the training is delivered within the framework of national institutions..

The combination of high-level and working-level contacts in the host country, and active participation in international forums, has by all accounts given both projects what appears to be a surprising degree of "soft power". The Review team must conclude from observations made during field visits that both projects clearly enjoy great respect among national and international stakeholders. They are perceived to be among the most influential international efforts in the host countries

Activities

Classification of the two projects' activities is tricky. This is a reflection of the fact that all activities pertain to a complex system of *different institutions* that are independent from each

other by law, but *functionally inter-dependent*, so that *activities targeting one* particular institution or function will also have an *effect on all the other* institutions and functions.

It is therefore inherently impossible to classify project activities (whether by counterpart institution or by thematic area) in a strict, symmetric and exclusive way. Any activity could be listed under *alternative and multiple* headings. This classification problem has, in turn, been as much of a challenge in the projects' *reporting*, as it is in the present assessment.

4 ASSESSMENT OF NORLAG

4.1 NORLAG's History and Setting

4.1.1 Georgia's judicial-reform process

Since independence in 1991, the Georgian criminal-justice system has been in transformation from a Soviet toward a more "Western" system. This is a complex endeavour in any setting, and it appears, not the least in Georgia. It entails not only creating new laws, but also to retrain the actors in a different methodology and in new roles.

In the Soviet system, the main criminal-justice actors were roughly the same as in Western traditions. But their roles and the balance of power between them were very different. The prosecutor was in many ways superior to a judge: an indictment was practically an instruction to sentence from the prosecutor to the judge, and the prosecutor – not the judge – was responsible for overseeing the legality of the process. Even today, acquittals account for less than 1% of tried cases. The police was very strong, often using tough means to extract confessions, whereas defence attorneys had little status and only a negligible role to play. None of the actors were independent from political authorities. The criminal codes were elaborate, with detailed instructions leaving little discretion to the judges. Prison sentences dictated by law were often harsh, with little applicability of alternative reactions like community service (though ex-prisoners were virtually guaranteed a job upon release in a public enterprise).

Since 1991 Georgia has gone through the stages of early post-independence euphoria, followed by weak and increasingly corrupt governments, through a chaotic period with virtual gangster-rule, to the brink of becoming a failed state. After the so-called "Rose Revolution" in 2004 came the re-establishment of state authority, through a decidedly harsh zero-tolerance crackdown on crime and purges of state institutions.

It is a generally held view that political authority over formally independent justice-system institutions has been reasserted to a large extent, and that the police and prosecution have re-emerged as the powerhouses of the criminal-justice system. Judges are widely seen as subservient, lawyers are reportedly disrespected, punishments are draconian, and the prisons are awful and appallingly overcrowded. Compared to the size of its population, Georgia has a dramatic prison population with some 20,000 prisoners.

Since independence, Georgia's legal frameworks have changed considerably. In 2005 the country introduced a *"Strategy Plan for the Criminal Justice System in Georgia"*, according to

which the country, ia, introduced "common-law" (Anglo-Saxon) procedures on top of a largely "civil-law" (Continental) body of substance. The actors grapple with new rules and roles, and struggle to align old habits and mentalities to new realities.

Since 2004 and 2005 when the Georgian government reasserted its authority, there have been international concerns about the state of governance and rule of law in the country. Many national and international actors feel that the state has failed to revert onto a constructive path after the crackdowns. In particular, there are widespread concerns over persistent political interference in the judicial apparatus, inefficient and unfair processes, use of torture, extensive use of imprisonment and horrific conditions in the prisons system, although building of new prisons has improved the conditions in the prisons)

In late 2008 the Georgian government, prompted by conditionalities for EC budget support, established the so-called *"Criminal Justice reform Inter-Agency Coordination Council"* with a mandate to operationalise the 2005 Strategy Plan. This council is the main forum for criminal-justice reform in Georgia today.

4.1.2 Establishment of NORLAG

In March 2004 Norway approached Georgia to inquire whether the country would be interested in hosting personnel from the newly-established Response Pool. Following discussions between the two countries and consultations with key international stakeholders, Norway in July 2004 fielded a mission (Forprosjektet i Georgia) to conduct a feasibility study.

The feasibility mission submitted its findings in August 2004. The mission's report[2] proposed the deployment as an eleven-month pilot project of a mixed *team* of at least between three and seven persons with experience from justice-ministerial administration, prosecution, courts, prisons, and possibly, police. The team would be tasked with assisting Georgia in reforming its justice ministry and prosecution service, as well as training judges and stimulating improvements in the prisons system. Essentially, the team would adopt a chain-of-justice approach and initially focus on improving Georgia's pre-trial detention practices.

An MOU between Norway and Georgia was signed on 8 October 2004. It is further described in section 4.2.2. The first Norwegian team arrived in Georgia on 27 October 2004 and assumed the name of "Norwegian Mission of legal Advisers to Georgia (NORLAG)".

4.2 Effectiveness and impact of NORLAG

The TOR defines *effectiveness* and under this lists questions pertaining to *impact.* The Review Team has chosen first to address impacts with regard to judicial-reform process and then the effectiveness with regard to the purpose of the project.

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[2] "Rapport og anbefalinger fra: Forprosjekt i Georgia 18 - 30. juli 2004 Styrkebrønnen" (6 August 2004)

4.2.1 Impact on Georgia's judicial reform process

Annex 3 lists what the Review Team has understood to be the major activities of NORLAG and analysed their effectiveness with regard to achievements and impacts, relevance, coordination and sustainability. The table below lists the activities.

CATEGORY OF ACTIVITIES	SPECIFIC ACTIVITIES
Pre-trial detention activities – to improve legality of pre-trial detention proceedings and to reduce torture of suspects in detention facilities	1. Pre-trial Detention Project ("Varetektsprosjektet") 2. training of police-arrest personnel 3. Support to MoI "Department for Human Rights Protection and Monitoring"
Court-proceeding activities –for fairer trials and more efficient judicial services	4. Project "Continuous Main Hearings" 5. Website for Tbilisi City Court 6. Case flow management in the judiciary 7. "Mixed Seminars"
Defence-lawyer activities – for strengthening the defence in criminal proceedings	8. Capacity building of Legal Aid Service 9. Renovation of Legal Aid Service facilities
Punishment-related activities – to humanise the penal system and facilitate re-integration	10. Community-service Sentencing 11. Vocational training for prisoners 12. "Small Grants Project" 13. Training of prison guards
Policy-level advocacy – participation in strategic planning and international coordination	14. Participation in policy-forming forums 15. Advice on legislation

Section 2.2 discussed the methodological challenges of the Review Team and how it is difficult to identify impacts of the type of activities of the projects, and to attribute impacts to specific activities.

In the following we have made a selection of the main efforts and tried to distinguish between three types of impact: first, those impacts which appear to be directly attributable to NORLAG; second, those where NORLAG has contributed together with others, but where impacts are not clearly attributable to NORLAG; and third, there we see signs of potential impact but it is too early to make any real assessment of these and the extent to which NORLAG may be contributing.

IMPACT 1: Influencing Georgia's criminal-justice reform process

NORLAG devotes considerable time and effort to advocacy, and has found its way into high-level national policymaking forums.

Shortly after its arrival, NORLAG became an active participant in drafting of the government's *"Strategy Plan for the Criminal Justice System"* (2005). This plan sets out in broad strokes the overall course of the future justice system in Georgia, and it remains in effect to this day. By many accounts NORLAG played a constructive role in its preparation.

However, the scope and type of NORLAG's contributions, and impacts, are unclear to the Review Team.

More importantly with a view to the future, NORLAG is presently playing a major role on the *"Criminal Justice Reform Inter-Agency Coordination Council"*, a forum which is staking out the priorities and steps of Georgia's criminal-justice reforms for years ahead.

This council is mandated to *operationalise the 2005 Strategy Plan*. It brings together the main rule-of-law institutions in the country, under the auspices of the MOJ. The council was established in late 2008 to comply with EU conditionality for budget support. The biggest international stakeholders participate as observer-members. Alone among the "smaller" international actors, NORLAG is invited to participate in all the main sub-bodies of the council. It is too early to assess the impact of NORLAG's efforts on the Inter-Agency Coordination Council. But it is the Review Team's impression that NORLAG is widely perceived to be, at the least, one of the most influential international participants. Notably, NORLAG is a member of all four working groups under the council. These groups draft concrete policy proposals on legal aid, prisons, probation and juvenile justice – all subjects of considerable international concern. As a leading member of each group, NORLAG looks well-positioned to deliver premises in key areas of concern to the international community and concerned judicial actors in Georgia.

It seems the project may also have played an increasingly influential role *within the international* community. NORLAG has always been active in regular donor-coordination meetings under the auspices of the OSCE, as well as in more informal one-on-one meetings. The Review Team has heard many accounts to the effect that NORLAG is perceived to facilitate cohesion in the international approach toward criminal-justice reform in Georgia. Many interviewed international stakeholders praise and support NORLAG's initiatives to introduce continuous main hearings, community-service sentencing and more humane treatment of prisoners; and it seems that other international organisations are lending active advocacy support to NORLAG efforts. But the Review Team has not been able to gauge the extent of any such influence in more detail, and a degree of caution therefore seems warranted.

As a general observation NORLAG has, apparently, increasingly come to wield a degree of "soft power". Many interviewees have credibly, it appears beyond the point of just courteousness, praised NORLAG for stimulating *"more progressive thinking"* among actual and potential drivers of change in Georgia's criminal-justice system. Ministerial officials, judges, prosecutors and defence lawyers are said to engage increasingly in discourse around subjects like judicial independence, need for public trust, continuous main hearings as an efficiency and fairness improvement, presumption of innocence, equality of arms, respect for the human rights of suspects and prisoners, proportionality between crime and punishment, and community-service sentencing as an alternative to imprisonment. Such discourse would be highly relevant to Georgia's rule-of-law aspirations, and any tangible improvement in thinking and practices would be a great achievement.

But, again, it is difficult for the Review Team to pin down or assess the extent of any such impact. Although such statements are uniform and consistent, the criminal-justice system clearly has a long way to go before it complies with "Western" standards.

IMPACT 2: Introduction of community-service sentencing
NORLAG advocacy appears to have resulted in a governmental, prosecutorial and judicial *policy* to increase the use of community-service as an alternative to imprisonment. There are also unconfirmed reports that the media are beginning to raise this issue favourably.

The parliament has enacted a *law* (amendment to the Criminal Code) that widens considerably the applicability of community-service sentencing. Although this sentencing option already existed, it was very narrow in applicability. Interviewees say that before NORLAG, hardly anybody had heard about this type of penal reaction, and it was never used in practice. If so, this is a notable achievement.

The subject of community-service sentencing has been included in the *curriculum* of the High School of Justice, the educational facility that qualifies law graduates for appointment to the offices of judge and prosecutor and provides them with compulsory follow-up training. This is clearly attributable to NORLAG.

Potentially importantly, the *courts seem to be beginning to apply* community-service sentencing, albeit tentatively. Tbilisi City Court has used it in about 100 or 200 cases so far (information is inconsistent as to the number). This number is miniscule, relative to the total caseload, but it is generally held to be a conceptual breakthrough; and this perception seems credible. Furthermore, the introduction of community-service sentencing is expected by most interviewees to catch on, and in future to have the side effect of helping to reduce overcrowding and juvenile imprisonment. Both are serious human-rights concerns in Georgia.

Also in large part as a result of NORLAG advocacy, the government appears to be *committed to strengthening the Probation Service*. This is the entity tasked with implementing community-service sentences together with the municipalities. The institutional structures of the Probation Department are today embryonic. Judges are ostensibly reluctant to pronounce community-service sentences in lieu of a credible implementation apparatus. The mid-and-longer-term effects of NORLAG's effort are therefore not assured. But if the government follows up with a strengthening of the Probation Department, then an increased use of community service and a corresponding reduction in imprisonment seem likely.

The main NORLAG activity that has led to these achievements is the effort "Community-service Sentencing". It consists of advocacy and pilot projects with the judiciary and prosecution service the circuit of Tbilisi City Court. The subject has also been mainstreamed into various training seminars delivered by NORLAG, including the "Mixed Seminars".

IMPACT 3: Introduction of continuous main hearings – early stages
The judiciary has adopted the *policy* to introduce "continuous main hearings" in criminal trials. This new policy is actually according the main rule under the existing law; but the practice is nevertheless for judges to readily grant delays – so that trials are usually broken

down into a long string of smaller hearings; it has apparently become a bad habit. The present practice delays judicial-service delivery, protracts detention periods, inflates costs and obscures evidence. It carries serious fair-trial concerns and may contribute to undermining public confidence in the justice system.

The effort to implement trials in a continuous way has been instigated and made an issue by NORLAG. It has now been adopted by the Supreme Court and the Superior Council of the Judiciary (the judiciary's administrative and disciplinary organ), apparently sincerely and forcefully so.

It has, however, encountered difficulties at the level of the first-instance courts. There is still a long way to go before trials are conducted in this way. Apart from securing backing from the higher echelons of the judiciary, it is unclear whether NORLAG has actually secured much commitment at the practitioner's level in the country's numerous first-instance courts. The top-level policy needs to be combined with training of the working-level magistrates.

One of the main NORLAG activities has been "Project Continuous Main hearings" since 2006. This was a highly work-intensive effort. NORLAG first advocated for the idea with the leaders of Georgia's judiciary and the MOJ. Then it secured an agreement to pilot such hearings in two courts – Tbilisi, which accounts for around one-third of the country's criminal cases, and in the much smaller Mtskheta City Court just outside the capital. Both courts had vast backlogs of cases when the efforts started. The pilot projects were highly effective in removing these backlogs. This war an eye-opener to many of the involved. Unfortunately, however, the judges in Tbilisi subsequently reverted to their old practices of dividing trials into a string of small hearings when the backlogs were dealt with.

Only in *Mtskheta City Court* did the effort have a lasting impact on the judges' routines; here, continuous main hearings are practiced to this day. There seems to be some potential for a much wider impact, though, as a result of backing by the Supreme Court for the concept and through the example of Mtskheta City Court. Anyway, all national and international sources say they regard the push for introducing continuous main hearings as highly important and that it should continue. The Review Team can only concur in their assessment of its strategic importance; but the proof of major impacts so far seems to remain fragile for the time being.

IMPACT 4: Improvements in treatment of prisoners; thinking on reintegration – early stages
It seems NORLAG advocacy has resulted in a draft *law* that will give prisoners a right to meaningful activities. This is a big principal step from the traditional practice of cramming prisoners into tough holding facilities under strict regime with no activities on offer. Although there is a long way to its implementation in practice, the draft law is an achievement in itself and some prisons have begun planning or experimenting with such activities.

NORLAG has launched pilot projects in several prisons to establish *work programmes and support vocational training*. Some have survived, e.g., a beauty salon and other training programmes in the women's jail in Tbilisi. These ongoing successes are being used as examples in the training at the Penitentiary and Probation Training Centre, which trains

corrections staff. Other efforts have failed or been aborted for lack of follow-up on the side of the government, eg, a shoe factory in the men's prison in Kutaisi.

Another achievement of NORLAG is that a notoriously closed and in transparent prisons system is showing some promising signs of slowly opening up. Under its so-called "Small Grants Project", NORLAG has paved the way for and financed a string of small vocational-training programmes in prisons throughout the country. In this effort, NORLAG acts as a door-opener and donor. Penal Reform International (PRI), an international NGO, acts as NORLAG's implementing partner. PRI invites local NGOs to propose meaningful activities in jails, makes funding available and supervises activities. This effort has succeeded in involving some 16 local NGOs in activities in several prisons throughout the country. The phenomenon of *NGO access to prisons* is a novelty in Georgia. By most accounts it represents a significant first step to introduce more humane, reintegration-oriented, prisoner treatment; and to more constructive prisoner-management practices. Some interviewees also point out that it could in the longer run lead to more transparency and accountability in the prisons system. There are unconfirmed anecdotes of positively *shifting attitudes* among some prisons staff toward inmates. NORLAG's efforts to introduce manuals, templates and regulations are all effective measures to strengthen the accountability of institutions and their personnel.

Although the impacts are limited as per today, the potential of the achievement appears to be significant.

IMPACT 5: Less torture in police-arrest facilities – early stages, attribution problemetic

There are indicators that torture of suspects has reportedly been reduced somewhat after NORLAG arrived in Georgia. As one interviewee formulated it: "torture is no longer systematic, just usual". Most of the abuse takes place while a suspect is held and interrogated by the police, in police-arrest facilities (so-called "police isolators") in the period before the first court hearing.

Since 2005, NORLAG has devoted a lot of time and energy to combat torture. This is clearly relevant under the project's mandate. The "Pre-trial detention Project" in 2005 tried to improve detention proceedings (see below) and advocated for improvements in the human-rights situation in police-arrest facilities. Moreover, in 2006-2007 NORLAG trained some 200 police-arrest staff in international human-rights standards for treatment of detainees and in supervisory techniques for preventing abuse. In the same period, NORLAG trained all staff in a new MOI unit that oversees police-isolators and prosecutes culprits. The issue of torture has also been incorporated as a cross-cutting subject into various seminars and training activities for court actors and personnel in the penal system.

While there is coincidence in time between NORLAG's efforts and the alleged reduction in torture, attributing causality between the improvements and NORLAG's efforts is difficult. NORLAG is not the only, nor necessarily the most prominent, international actor engaged in the issue: Georgia has for years been under massive pressure from virtually every international presence to clean up its practices. The international pressure has undoubtedly contributed to the improvements; and NORLAG has certainly added a voice to that advocacy. NORLAG has therefore contributed to the overall effort, and so it plausibly shares

some of the credit. But the extent of NORLAG's contribution is impossible to assess, and the Review Team must leave it an open question.

IMPACT 6: Improved skills and morale in the Legal Aid service – early stages
The Legal Aid Service – an institution tasked with providing free counsel to the needy – was established under the MOJ in 2007. NORLAG has been supporting the institution since the beginning. This institution is potentially an important institutional spearhead for developing an assertive defence-lawyer corps. In a rule-of-law perspective, this would be a positive development in a tradition where lawyers have been largely disrespected and ignored.

By many accounts, the institution has become *increasingly skilled and assertive* since its establishment, and many interviewees give NORLAG credit for contributing positively in this regard. Today, the Legal Aid service is reportedly handling around one-fourth of the country's criminal caseload. By some accounts, the Legal Aid Service lawyers are also gradually beginning to earn some *respect* among judges and prosecutors. However, it remains a young and weak institution.

The Review Team is of the impression that NORLAG training may indeed have contributed significantly – although there is a long way to go – to the capacity, assertiveness and impact of the legal-aid lawyers. Certainly NORLAG has been conveying practical advice, legal advice, and by including them in the mixed seminars described below. The main impact of NORLAG on the institution is said to be a strengthening of morale. These are considered substantial achievements, given the context. But the extent of impact is not clear to the Review Team.

The main activity is "Capacity Building of the Legal Aid Service", an effort to train the attorneys in important legal disciplines, and in practical lawyers' work, and which has provided the service with offices and training facilities in Western Georgia. The lawyers themselves express particular gratitude for being included in the "Mixed Seminars", and feel that these have contributed to an increased respect and understanding of their importance in a "Western" justice system by the judges and prosecutors.

IMPACT 7: Improved legal knowledge, role understanding and constructive interplay among judges, prosecutors and defenders – early stages
Many persons interviewed claim there are promising, early signs of beginning improvements among some court actors regarding absorption of fundamental "Western" legal principles, role understanding and a constructive interplay between them. With a view to strengthening the rule of law, such a change of judicial mind frames would be highly relevant.

One ostensible initial improvement concerns *knowledge* of new Georgian laws and legal principles grounded on fundamentals like presumption of innocence, the right of a defendant to contradict evidence, and equality of arms between prosecution and defence. Laws and principles to these effects often existed, formally, in decades past; but they were reportedly not held in the same regard as in Western countries. Another reported development toward the positive concerns *role understanding* and proper professional behaviour. Reportedly, there is increased thinking around judicial independence, integrity,

conducting trials with solemnity and dignity, referring to the applicable law when making a decision, and similar basics. A third reported development concerns improving understanding of the proper *interplay* between the actors befitting an increasingly "westernised" legal framework (eg, allowing a defence attorney to speak, or understanding that a judge should not be intimidated by a prosecutor).

The Review Team has noted that NORLAG is widely praised by many interviewees, nationals and internationals, for playing a key role in *stimulating thinking* around these things in an effective way that promises impact. The project is said to be *"planting seeds"* of real significance among potential drivers of change. The Review Team has heard positive feedback from across the range of Georgian legal actors and international stakeholders on these efforts. The statements from the interviewees available to the Review Team appear to be sincerely meant and eagerly presented. Defence lawyers, in particular, have reported an increased sense of respect for their role in the system.

Notwithstanding such praise, the Review Team notes that the alleged improvements seem anecdotal and sketchy, difficult to document, still confined to a few persons, and clearly far from consolidated. But, judging by the consistency of these reports, and the seeming sincerity by which they have been presented, there is an overall impression of the Review Team is that important seeds may actually have been planted.

Many NORLAG activities are geared toward this "changing of mind frames" of court actors. It is integrated as a cross-cutting concern in practically all seminars and training sessions delivered by the project.

The perhaps single most important activity of NORLAG in this regard has been the "Mixed Seminars". These bring together actors from different parts of the criminal-justice chain. Such seminars represent a novelty in Georgia. The various court actors discuss legal subjects of common interest. The seminars are moreover said to stimulate dialogue and role-understanding across organisational divides, stimulating thinking around a constructive interplay between the various court actors. Interviewees hail these seminars as highly relevant and strategically important, with a view to developing a more "Western" rule-of-law philosophy among judges, prosecutors and defenders. The feedback on the mixed seminars is uniformly positive. However, apart form anecdotal evidence that many participants, especially defence lawyers who have traditionally been lowly regarded, feel that the seminars have contributed to an enhanced mutual understanding and professional respect, the country's justice-system actors clearly have a long way to go, and the Review Team has not been able to document a clear impact to date; but impact seems plausible.

IMPACT 8: Fairer pre-trial detention hearings – early stages, disappointing results

In 2005 NORLAG launched and completed a so-called "Pre-trial Detention Project" in an attempt to improve the practice of detaining suspects almost automatically and regardless of the law. As part of the effort, NORLAG designed a template (legality check-list) for pre-trial detention requests for prosecutors. Such a template is potentially a powerful practical instrument to ensure that persons are not detained without basis in law. Many prosecutors and detention judges were trained by NORLAG in using the template.

This template was formally adopted by the Prosecution Service. Accordingly, prosecutors should use it. And the High School of Justice has began using it in training of judges as part of its curriculum.

Alas, the effort shows little impact to date. Prosecutors and judges appear not to use the template much in practice (unlike in Moldova, where it has become a great success). Pre-trial detention processes are reportedly as poor as always, with judges granting prosecutors' requests for detention almost automatically and without anchoring the decision properly in law.

4.2.2 Effectiveness - NORLAG's purpose

In chapter 3 we have seen that the overarching purpose of the Norwegian Judicial Crises Response Pool is to assist host countries in strengthening the *criminal-justice chain* with regard to efficiency and human-rights compliance. This purpose also applies to NORLAG.

The MOU formulates NORLAG's purpose at two levels: a strategic level; and an operational, more legal-technical, level.

The strategic objective of NORLAG is formulated in the preamble of the MOU between the two countries as follows: *"promoting the development of good governance and strengthening the rule of law in Georgia"*. The concepts "Governance" and "Rule of Law" are discussed in chapter 3. As we have seen, these are higher-order effects of the Pool's operational objective of strengthening the criminal-justice chain.

At the operational level, the MOU proceeds to outline the following interventions for achieving the strategic objective: *"[inter alia] strengthening the administration and establishing institutional structures in the Ministry of Justice", competence building in the courts, with the aim of enhancing the awareness of international human rights and guidelines and strengthening the institutional structures in the General Prosecutors Office, including the enhancing of the awareness of international human rights and guidelines".*

It is clear from the wording of the MOU ("inter alia") that these efforts and institutions are neither absolutes nor exhaustive, but that they are *examples* of relevant efforts to strengthen the criminal-justice chain in Georgia. The formulations do not prevent NORLAG from engaging in other activities that may strengthen the criminal-justice chain; or from refraining to pursue some of the mentioned activities – as long as the project remains loyal to the overarching purpose. The project team has been given a high degree of *flexibility* with regard to identifying entry points, finding suitable partners, setting thematic priorities, engaging and disengaging as events unfold.

As we have seen above in chapter 4.2.1 and Annex 3, NORLAG has made a number of contributions to strengthen the criminal-justice chain in Georgia. The following sections shall examine to what extent NORLAM has engaged in the activities formulated in the MOU.

"Promoting the development of good governance"

As detailed in chapter 4.2.1 and Annex 3, NORLAG has made a number of contributions to strengthen the *criminal-justice chain* in Georgia. This is a main element in "rule of law", which again is a key element in, or precondition for, "good governance". Where NORLAG has succeeded in strengthening the criminal-justice chain, it has ultimately also contributed to promoting good governance. Assessing the *extent* of improvement in Georgian governance attributable to NORLAG is, however, not feasible: the concept is not defined in the MOU or by general usage.

"Strengthening the Rule of Law"

NORLAG's efforts are all focused on strengthening various links in the *criminal-justice chain*, which is one of the main elements in the rule of law. Where NORLAG has been successful in achieving impact on the criminal-justice chain, it has also contributed to strengthening the overall rule of law. Assessing the *extent* of improvement in Georgian rule of law is, however, not feasible: the concept is not defined in the MOU or by general usage. For impacts of NORLAG on the rule of law, reference is made to section 4.2.1.

"[inter alia] strengthening the administration and establishing institutional structures in the Ministry of Justice, competence building in the courts, with the aim of enhancing the awareness of international human rights and guidelines and strengthening the institutional structures in the General Prosecutors Office, including the enhancing of the awareness of international human rights and guidelines"

In the following we shall outline how NORLAG has engaged in the above activities as set out in the MOU. With regard to impacts of the efforts, reference is made to chapter 4.2.1 and Annex 3.

The Ministry of Justice has always been a main co-operating partner of NORLAG. But it has not been feasible for the project to strengthen the overall ministerial administration and its structures. The ministry is a large and complex entity with a string of departments; and Georgia has had an astonishing rate of personnel turnover at political senior civil-service levels that makes coherent ministerial reform extremely difficult.

Instead NORLAG has targeted four, specialised, semi-autonomous entities under the MOJ. Three of them – the Penitentiary Department (prisons service), Probation Department and Legal Aid Service – sorted under this ministry until late 2008, when all three were merged into a new Ministry for Prisons, Probation and Legal Aid. Strengthening the administration and structures in these entities has in a sense contributed to strengthening the Ministry of Justice until 2008, and later to the strengthening of the new ministry. The fourth MOJ entity supported by NORLAG, the High School of Justice, is described below under the section "Competence building in the courts, with the aim of enhancing the awareness of international human rights and guidelines".

With regard to the courts, NORLAG has put considerable efforts. These activities have not been confined to capacity building, but fall in four categories. One type of activity has been advocacy toward the Supreme Court for certain policy changes, ie, not strictly speaking capacity building as prescribed in the MOU. Another activity has been design and

implementation of pilot projects to test out a new methodology of conducting first-instance trials by continuous main hearings, involving not only city-court judges but local prosecutors and defence lawyers as well. A third set of efforts consists of seminars and training sessions for lower-instance judges to build competence in legal-technical and role-understanding skills. A fourth set of efforts has been to strengthen the High School of Justice, which is the educational facility that educates law graduates for the position of judge, and provides compulsory follow-up training for these officials. NORLAG has assisted this institution in establishing its legal and curricular framework and participated in various training activities pertaining to i.a. international human rights standards (ECHR) including torture, pre-trial detention and juvenile justice. NORLAG has also provided training on conduction of court proceedings and writing judgements in a way that complies with international requirements for fair trial.

These efforts have been supplemented by training activities for other court actors than judges, including prosecutors and defence lawyers, whose smooth interaction with the judges is imperative for a "Western"-style judiciary to function according to the design of a democratic institution based on rule of law and separation and inter-dependence of powers. All these efforts have sought to improve the efficiency of judicial service delivery in compliance with international human rights anchored in the European Convention on Human Rights (ECHR).

NORLAG initially made it a high priority to engage with the Office of the Prosecutor-General, which was then independent from the executive branch of the state. From its arrival and until late 2005 NORLAG's most pressing concern was to stimulate prosecutors to uphold legality of police investigations and, particularly, to combat the use of torture to extract convictions. Another objective was to stop the (persistent) practice of almost automatically requesting pre-trial detention, even without sound legal grounds. With regard to torture, some improvements have reportedly taken place, although these cannot be clearly attributed to NORLAG.

From late 2005 the co-operation with the prosecutor-general's office became increasingly difficult, and it almost ground to a halt. Apparently, this was partly caused by NORLAG releasing a report in 2005 that documented poor legal skills among many prosecutors. This report apparently insulted some senior staff at the office. Other international actors, too, experienced difficulties in engaging the prosecutor-general's office in a constructive way around this time. By all accounts, the Prosecution Service is more difficult to work with than other links in the criminal-justice chain. Some interviewees by explain this by pointing out that prosecutors traditionally have enjoyed a pre-eminent and powerful position in the justice system and that some of them may be resisting new, "Western" legal doctrines, whereby judges – not prosecutors – are in charge of supervising the legality of judicial processes, and whereby defence lawyers enjoy "equality of arms" with prosecutors. In late 2008, new legislation abolished the Prosecution Service as an independent institution from the executive branch of the state, and merged the prosecutorial function into the MOJ.

Of late NORLAG's co-operation with the Prosecution Service has improved, particularly at a local level. In Tbilisi City Court circuit NORLAG has been effective in including the local prosecutor in a pilot effort whereby some 200 community service sentences have been

passed. Although this number makes up only a tiny fraction of the total caseload, it is referred to as a significant breakthrough in the introduction of alternatives to prison sentences. In Mtskheta city court NORLAG has effectively included the local prosecutor in a pilot project that has resulted in the adoption of continuous main hearings in many cases. It remains to be seen whether the merger of the Prosecution Service under the MOJ will provide a window of opportunity for NORLAG to engage with the prosecutors.

4.3 Coordination; NORLAG and other international actors

By all accounts, NORLAG has displayed good coordination with other international actors, and the Review Team is not aware of any reason to doubt such perceptions. With regard to coordination of individual NORLAG activities, see Annex 3 for more detailed comments. In this section we shall only concentrate on some of the most important points.

NORLAG staff participates in regular meetings between international actors involved in their fields. They have identified and concentrated on themes and institutions where others have not been involved; and when somebody else has been involved, NORLAG has taken care to avoid overlaps. NORLAG has been careful to keep all relevant stakeholders informed of their plans and activities. But, on the whole, they have not engaged much in co-operation with other international actors in implementing activities: NORLAG activities have been complimentary rather than co-operational.

Initially the NORLAG team mapped actors and established contacts. Before long it participated in bi-monthly donor coordination meetings hosted by OSCE. In 2005, NORLAG came to co-operate closely with a project called EUJUST-Themis in providing the Georgian government with legal advice in drafting the so-called "Criminal Justice Reform Strategy Plan", an overarching strategy which remains in effect to this day. When the strategy was adopted in July 2005, the EUJUST-Themis project dissolved, whereas NORLAG continued. It had now earned a position in the donor community and won contacts and trust at high levels among Georgian counterparts.

Since December 2008 NORLAG has been playing a prominent role on the Criminal Justice Reform Inter-Agency Coordination Council, a mechanism to operationalise the country's broad-stroked "Strategy Plan" from 2005. This council operates under the auspices of the Ministry of Justice. It was established by the Georgian government in response to conditionalities for EU budget support. NORLAG is a member of all the council's four working groups – on free legal aid, prisons, probation and juvenile justice. This remains the most important coordination forum today.

Both national and international interviewees have confirmed that NORLAG is proactive in consulting with others and often to include others in different NORLAG activities. They also express that NORLAG enjoys prominence in such forums.

Several interviewees have expressed some concern about the US pre-dominance and perceived lack of coordination with other international actors. Notwithstanding this, NORLAG has established good coordination with two American projects of direct relevance

to NORLAG, viz. USAID Judicial Administration and Management Reform Project (JAMR) and the American Bar Association Rule of Law Initiative (ABA/ROLI). Both have expressed great respect of NORLAG's both with regard to their work as well as skilful coordination with others. In conclusion the Team finds that NORLAG's coordination has overall been very good.

4.4 Sustainability of NORLAG achievements

The TOR of the Review Team defines sustainability as *"the probability of continued long-term benefits after the projects have been completed"*. The question here is whether NORLAG is likely to leave a longer-term impact on the criminal-justice system in Georgia.

Some of NORLAG's achievements appear to be sustainable. With regard to individual NORLAG activities, see Annex 3 for further comments. In this section we shall only concentrate on some of the most important points.

The perhaps clearest examples of sustainable achievements are two *changes in laws*: first, a law that widens the applicability of community-service sentencing as an alternative to imprisonment; and secondly, a draft law which will give prisoners a right to meaningful activities.

Policy-oriented advocacy appears to show promise in other important areas as well, although it is too early to assess sustainability. It appears that NORLAG has planted the idea of continuous main court-hearings with considerable efficiency among potential drivers of change across the justice-system institutions. The fact that the leadership of the judiciary is committed to introducing trial by continuous main hearing, and that Mtskheta City Court has introduced the practice show some promise of sustainability. However, the fact that Tbilisi City Court has failed to follow up on this initiative is a negative indicator of sustainability. Mixed seminars for judges, prosecutors and defence lawyers appear to have stimulated considerable thinking around roles and behaviours among the participants. The government, the courts and the prosecution have all made it a policy to increase the use of community-service sentencing in practice.

With regard to sustainability of achievements on the overarching policy level, NORLAG's activity since late 2008 and gravitas on the Inter-Agency Coordination Council and its four working groups, is by all accounts likely to *influence Georgia's criminal-justice policy*; in general, by participation in the council's work; and in particular, in the areas of prisons, probation, legal aid and juvenile justice by participation in the council's four working groups. Although a sustainable imprint on the *strategy* is likely, it remains to be seen whether this translates into sustainable results in practice – which is in turn a matter of attitudes and capacities of Georgian counterpart institutions.

5 ASSESSMENT OF NORLAM

5.1 NORLAM's History and Setting

5.1.1 Moldova's judicial-reform process

Since its independence in 1991 with the dissolution of the Soviet Union, Moldova has sought to align its economy and legal system "westwards", with the ultimate objective of EU membership. This aside, the starting point and the challenges have in many ways been similar to those of Georgia (ref. chapter 4.1.1 above). The main justice-system actors are grappling with new post-Soviet laws and roles.

Moldova has gone from post-independence euphoria in 1999 through an outburst of provincial secessionism and deployment of Russian peacekeeping forces, weak democratic governments and a sharp raise in crime. Although the country never experienced a rule-of-crime situation quite to the extent Georgia did, an increasing disillusionment with the weak state set in.

In 2001 the electorate returned the Communist Party to power. There followed purges in the ranks of the police and judicial apparatus and replacements by persons considered loyal to the regime, a heavy-handed crackdown on crime and a *de facto* consolidation of law-enforcement power in the hands of the police and prosecution service – with all links in the criminal-justice chain perceived to be solidly under the thumb of the executive. Regardless of paper laws, the real balance between judicial actors is reportedly more in the spirit of the old Soviet system than with a Western system: prosecutors and police are feared, judges are considered subservient to more powerful actors, as well as inefficient and incompetent, and defence lawyers are generally disrespected. Even today, acquittals account for less than 1% of tried cases. There has been an alarming use of torture in holding facilities. Detention is granted almost automatically and without proper anchorage in law. Trials lack order and solemnity and are broken down into a string of small hearings. Sentences have been draconian by Western standards. Conditions in jail remain harsh and the jails have periodically been severely overcrowded, and there has been little focus on re-integration. As a result of such shortcomings, Moldova has a poor human-rights record, with many judgements against the country in the Strasbourg-based European Court of Human Rights (ECtHR).

The main policy document for Moldova's judicial reform process is the "*European Union/Moldova Action Plan*" of 2007. This is a comprehensive plan that covers many sectors of society. Of specific relevance to NORLAM – with its mandate of promoting good governance and strengthening the rule of law, and with particular regard to the criminal-justice system – this paper outlines objectives toward bringing the Moldovan criminal-justice chain up to "*European standards*". These standards are referred to repeatedly, and they require, ia, independent and efficient judicial-services delivery in compliance with human rights, which in turn are anchored in the European Convention on Human Rights (ECHR).

5.1.2 Establishment of NORLAM

In December 2005 the Norwegian justice minister visited Moldova in connection with the opening of an Interpol office in the country. Subsequently, in the spring of 2006 Norway fielded a team of experts to assess the possibility of co-operation with Moldova. The team recommended that a project in Moldova should concentrate on stimulating the *implementation of newly introduced laws* by enhancing the relevant actors' *knowledge* of the new laws, *understanding* of their essential contents, and on increasing the *role understanding* in the new scheme of things among the various actors in the chain of justice.

Initially, when NORLAM was about to be established an alternative was considered to deploy the team under the structure of the OSCE mission, rather than setting up a separate bilateral operation. Different views on this modality, then as well as today, have been expressed. On the one hand it has been argued that making NORLAM part of OSCE would have given it more clout. The clearly prevailing opinion, however, is that such a deployment would not have been conducive. Firstly, it would have been difficult to deploy the Norwegian staff as a chain-of-justice unit, rather the personnel would have been integrated into an OSCE rule-of-law unit with personnel from different national legal background. Secondly, it would not have provided for the flexibility and responsiveness which is recognised as a reason for NORLAM's achievements, because of the seemingly inherent slowness of bigger, more bureaucratic international organisations – even if they may carry more punch and momentum, perhaps, in the long run. Thirdly, the group would have been identified with the political agenda of OSCE and not considered a neutral third party without an agenda. And the dialogue with government would have lost an additional voice as NORLAM would have been subsumed by OSCE.

On 3 May 2007 Norway and Moldova signed an MOU, which is further described in section 5.2.2.

The first NORLAM team arrived in March 2007 and assumed the name of "Norwegian Mission of Rule of Law Advisers to Moldova (NORLAM)". Shortly after, it drafted a so-called "non-paper" in which it anchored its operational mandate in the Action Plan and in certain strategic policy documents connected to it, and it sketched concrete plans for NORLAM's role and activities ahead. With the tacit approval of the MOJ/N, this "non-paper" has served as an operational guideline for NORLAM ever since. (A similar document was never made for NORLAG in Georgia).

5.2 Effectiveness and impact of NORLAM

5.2.1 Impact on Moldova's judicial reform process

In Annex 4 we have listed all major activities and analysed their effectiveness with regard to achievements and impacts, relevance, coordination and sustainability. The table below lists the activities.

CATEGORY OF ACTIVITIES	SPECIFIC ACTIVITIES
Alignment of Moldovan	1. Criminology Conference

punishment levels to European standards	("Kriminologikonferansen") 2. Revision of Penal Code (reduction of sentencing levels) 3. Pre-trial Detention Project ("Varetektsprosjektet")
Activities to make prosecutors exercise discretion on whether to prosecute or not	4. Project "Prosecutorial Discretion"
Activities to improve the courts – efficiency, fairness, public trust	5. "Being a judge in Moldova – Seminar for Judges" 6. Consecutive Main Hearings 7. "Mixed Seminars" – Improving the efficiency in the criminal-justice system 8. Mock trials/seminars in writing judgements
Activities targeting defence Lawyers – training in key procedural disciplines	9. Seminars for Defence Lawyers
Activities with the Prisons Service – humanising the prisons system and facilitating re-integration	10. Re-integration, sub-project "Sentencing Plan" 11. Training of Prisons staff 12. Visits to prisons (not a project, but an activity on the side)
Activities with Probation Department – enhancing awareness of the importance of the institution; strengthening the institution for implementation of community-service sentences	13. Roundtables, Probation 14. Probation, training in Management and leadership, Basics 15. Probation: Training of Trainers 16. Information material on community service 17. Seminar on release from prison 18. Probation: International co-operation

In section 2.2 we discussed the methodological challenges of the Review Team and how it is difficult to identify impacts of the type of activities undertaken by the projects and to attribute impacts to specific activities.

In the following we have made a selection of the main efforts and tried to distinguish between three types of impact: first, those impacts which appear to be directly attributable to NORLAM; second, those where NORLAM has contributed together with others, but where impacts are not clearly attributable to NORLAM; and third, there we see signs of potential impact but it is too early to make any real assessment of these and the extent to which NORLAM may be contributing.

IMPACT 1: Reduced sentencing levels

The maybe most visible impact of NORLAM on Moldova's criminal-justice reform process is a considerable lowering of the country's sentencing levels. Until 2008, Moldovan

punishments were excessively harsh by European standards. But NORLAM advocacy and legal advice instigated an article-by-article revision of the Penal Code by the government and the parliament. It reduced maximum sentences, reduced or removed minimum sentences, simplified culpability levels and harmonised aggravating circumstances. In the end, some 65% of NORLAM's proposals became law.

The overall result is a big reduction in punishment levels. This has brought Moldova's criminal-justice frameworks much closer to compliance with EU standards of proportionality between crime and punishment. By all accounts the reform has also saved the correctional system for many hundred of years' worth of jail time. As a side effect, it has also paved the way for greater use of community-service sentencing as an alternative to imprisonment.

Two NORLAM activities have clearly contributed to this impact. One is "Project Criminology Conference", a meticulously prepared event that finally took place in April 2008. Entitled "Moldova's Criminal Policy in Transition to European Standards", the conference gathered over 100 top-level participants from Moldova's government, parliament, the judiciary, prosecution service, defence lawyers, police, prisons system, academia and international actors. It was a major success *as* a conference. It seems moreover to have put criminology on the political agenda in Moldova. There are unconfirmed statements that the conference also resulted in media beginning to comment in a favourable manner the use of community service as an alternative to imprisonment.

This conference, in turn, triggered the Moldovan decision to revise the country's penal code and reduce the prisons sentencing to European levels. In support of this revision, NORLAM launched "Project Revision of Moldova's Penal Code". This was an intensive effort of legal advice to the MOJ department in charge of drafting and quality-assuring laws. As earlier described, the NORLAG efforts had a massive impact on the revised law.

IMPACT 2: Fairer pre-trial detention processes. Less use of detention

Another important impact attributable to NORLAM is a reported improvement in pre-trial detention practices. Until recently, prosecutors in Moldova had the habit of requesting the detention of suspects almost automatically (i.e. regardless of needs and legality), and judges would comply – often without demonstrable basis in law or fair process. These practices led to numerous convictions of Moldova in the ECtHR for violations of the right to a "fair" process, which, in turn, posed a concern with regard to European integration.

NORLAM advocacy secured a *commitment* by the relevant authorities to address the problem. The project then designed a practical pre-trial detention *template* (legal check-list) for prosecutors as working tool, and trained relevant personnel in its use. This template has since been made compulsory for all prosecutors, and some 40 prosecutors have been disciplined for failing to use it. At present, the NORLAM-designed template is reportedly being used by an increasing number of prosecutors all over the country (unlike in Georgia where a similar form is largely ignored in practice). However, the form is not always used, and not always correctly. Apparently, there is still a need for follow-up activities.

By implication, both prosecutors and judges are ostensibly checking the legality of detention requests and decisions to an increasing extent. Judges are reportedly formulating their grounds better, ia, in a way which shows their reasoning on alleged facts and applicable law. Many stakeholders believe that fewer persons are held in detention in violation of the law as a consequence; partly because prosecutors file fewer requests for detention of suspects than before, and partly because judges decline more requests. Many interviewed stakeholders expect fewer ECtHR judgements against Moldova on grounds of flawed pre-trial detention processes in the future.

The most important activity to secure this impact has been the "Pre-trial Detention Project", which has consisted of advocacy, supported by a string of other activities. For example, NORLAM has integrated training in proper pre-trial detention procedures under ECHR and Moldovan law, and/or in the use of the template, in various seminars for court actors – including "Project Being a Judge in Moldova – Seminars for Judges", "Project Training of Defence Lawyers", and "Project Mixed Seminars".

IMPACT 3: Introduction of "prosecutorial discretion"

Following a NORLAM initiative, Moldova has passed a law to give prosecutors discretion; i.e., the choice whether to *try, issue a fine or waiver the prosecution of* a case: even when the evidence of the case merits prosecution. The new law is clearly a major reform, one which has many potential impacts.

Three good impacts – achieved and potential – have been highlighted to the Review Team. First, the new discretional power has apparently improved the *efficiency* of the courts by removing backlogs of small cases. By some accounts, it has already "spared" the judiciary thousands of cases – the going estimate seems to be around 8,000 per year. Secondly, prosecutorial discretion may give perpetrators an incentive to inform on co-conspiritors in return for walking free – thus improving the effectiveness of *investigations*. Some speculate that this may also carry a potential impact of reducing torture. Third, prosecutorial discretion may offer deserving offenders a *second chance* rather than enter the penal system. In all these three examples, there is a trade-off between individual victims' trust in the system – which may be hurt by seeing a perpetrator walk free in the face of clear evidence – and other relevant considerations. Impacts are therefore mixed.

As a general observation, the interviewees felt this new law is good for Moldova and expect it will boost the judicial-services efficiency, and thereby public trust, in the system. However, some interviewees also voiced concern that the reform carries risks; that, depending on circumstances, bent prosecutors could misuse their new discretion to legally abort pursuits for illicit reasons, such as pressure or personal gain, and instead settle cases case that merit jail by "softer" reactions like a fine or a waiver. If so, this NORLAM achievement could paradoxically have a negative impact on the rule of law and good governance in future.

The main activity in this area has been "Project Prosecutorial Discretion". The activities have revolved around lobbying with various justice-system decision-makers, including provision of comparative legal opinions and advice.

IMPACT 4: Improved treatment of prisoners – early stages

NORLAM appears to show promise of impact on the prisons system in Moldova; both with regard to efficiency and with regard to a more humane treatment of prisoners and focus on re-integration.

A clear NORLAM achievement is that Moldova has introduced mandatory "sentencing plans" for all convicted persons in all prisons. This is an instrument to make individual prisoners' time more useful, it provides a positive prisoner-management tool, and it is held to facilitate re-integration. The traditional practice has simply been to lock people up without offering any meaningful activities. NORLAM is training prisons staff in using the sentencing plans, which appear to be used to an increasing degree. This carries the potential of contributing to more humane and constructive treatment of prisoners, more in line with European standards. The main activity to this end has been "Project Resocialisation – Sub-project Sentencing Plan", which has consisted of advocacy, design of the plan, training in its use and monitoring its implementation in practice.

Another, but less manifest, reported achievement appears to be a somewhat increasing awareness in the MOJ that prisons staff should be given some professional education – not only in security-related subjects, but also in treatment of prisoners in accordance with EU standards. The claim seems plausible, but the Review Team has not been able to confirm any impact here in the course of its visit to Moldova. A key activity in this regard has allegedly been "Project Training of prison staff", which gathered all prison managers in Moldova and many administrative staff for seminars on subjects including leadership and conflict management. The effort also included seminars for some rank-and-file prisons officers.

IMPACT 5: Improved legal knowledge, role understanding and constructive interplay among judges, prosecutors and defenders

There are by many accounts promising signs of beginning improvements among court actors regarding absorption of fundamental "Western" legal principles, role understanding and a constructive interplay between them. With a view to European integration, a change of judicial mind frames in this regard is highly relevant.

One ostensible, beginning improvement concerns *knowledge* of new Moldovan laws and legal principles grounded on fundamentals like presumption of innocence, the right of a defendant to contradict evidence, and equality of arms between prosecution and defence. Laws and principles to these effects often existed, formally, in decades past; but they were reportedly not held in the same regard as in Western countries. Another reported development toward the positive concerns *role understanding* and proper professional behaviour. Reportedly, there is increased thinking around judicial independence, integrity, conducting trials with solemnity and dignity, referring to the applicable law when making a decision, and similar basics. A third reported development concerns improving understanding of the proper *interplay* between the actors befitting an increasingly "westernised" legal framework (eg, allowing a defence attorney to speak or understanding that a judge should not be intimidated by a prosecutor).

NORLAM is widely praised by interviewees for playing a key role, certainly of prominence, among international efforts, in *stimulating thinking* around these things, in an effective way

that promises impact; and for *"planting seeds"* of real significance among potential drivers of change. The Review Team has heard positive feedback from across the range of Moldovan legal actors and international stakeholders on these efforts. The statements from the interviewees to the Review Team appear to be sincere on their side. Defence lawyers, in particular, have reported an increased sense of respect for their role in the system. Notwithstanding such praise, the improvements are anecdotal and sketchy, difficult to document, still confined to a few persons, and clearly far from consolidated. But the overall impression is that important seeds have actually been planted.

Many NORLAG activities are geared toward this "changing of mindframes" of court actors. It is integrated as a cross-cutting concern in practically all seminars and training sessions delivered by the project. Examples include "Project Being a Judge in Moldova – Seminars for Judges", "Project Training of Defence Lawyers", and "Project Mixed Seminars".

IMPACT 6: Community service as an alternative to prison –early stages

As a result of NORLAM advocacy and advice, Moldova's parliament has introduced legislation that has widened the previous scope for using community service considerably. That is considered a promising start with regard to bringing Moldova's penal system into alignment with European practices. Moreover, the reduction in sentencing levels brought about by "Project Revision of Moldova's Penal Code" has also, as a side-effect, made community-service sentencing wider in applicability.

There are credible reports of NORLAM training activities raising awareness among key actors in the criminal-justice chain of community service as an alternative to jail - societal advantages, applicability, and knowledge of implementation arrangements involved. This has a potential impact in the form of more community-service sentencing and fewer jail sentences. One relevant activity in this respect is "Project Round tables – Probation". In addition, awareness-raising pertaining to community-service sentencing and its implementation is to some extent mainstreamed into various training activities delivered by NORLAM. In addition to raising awareness of this penal sanction among various relevant actors, NORLAM has provided the government with advice in the establishment of a new, central Probation Service in Moldova, and in the adoption of the Law on Probation of June 2008 and the subsequent practical arrangements for this law's implementation.

However, such sentencing is still rarely used in practice. It is allegedly partly a matter of familiarising court actors with its use and potential benefits. And it is partly a matter of boosting the capacity of the Probation Service to implement such sentences in practice. Lack of such capacity is sometimes stated as a reason why prosecutors and judges are reluctant to consider this form of punishment. Interviewees, nevertheless, say that community-service sentencing appears to be on the increase.

IMPACT 7: Introduction of consecutive main hearings – early stages

Following NORLAM advocacy the Moldovan government has declared it a policy to make courts conduct trials by "consecutive main hearings". The idea is to change the judges' present practice of granting numerous delays on procedural grounds, in effect splitting the trial up into a string of smaller hearings, dragging the process out over a long period. This has apparently become an entrenched habit. It is bad for judicial efficiency. And it is, for

many reasons, bad with regard to the *fairness* of the trial, which again is a concern with regard to European integration. The government now wants the courts to conduct trials in one round. This is likely to necessitate some changes in law and considerable changes in mind frames of court actors.

Moreover, the government seems determined to effectuate this policy. It is in the process of establishing a working group to review existing practices and laws, and make recommendations by the end of 2009 on necessary measures to make consecutive main hearings the main rule in practice. This bodes well for the future, but concrete achievements are still to materialise.

The main NORLAM activity in this regard is "Project Consecutive Main Hearings". This is a relatively recently launched advocacy and training effort. The project is also preparing to support the working group with legal advice.

IMPACT 8: Strengthening the Probation Service for implementation of community service – early stages

By some accounts, NORLAM has lifted the morale and some basic skills of Moldova's Probation Service, the entity in charge of implementing community-service sentencing. The institution is new and weak, and sorely under-capacitated. *Any* improvement here is therefore significant, relatively speaking, but so far there is little documentable impact.

A main NORLAM activity here has been "Project Management and leadership – basic training for Probation Service". This project comprised seminars for the managers of all Moldova's 42 Probation offices, with in all 80 participants. Managerial staff was apparently trained in some very basic leadership skills. These sessions are said to be a morale-booster as well as a stimulant for management. Seminars were clearly well-received on the side of the Moldovan counterparts, and demand for more similar seminars could indicate potential for impact. But so far there is not proved impact that the Review Team can see.

NORLAM's one notable achievement here is the establishment and training of a Pool of 15 trainers-of-trainers for probation officers. They are said to be skilled and highly motivated, and have allegedly began to train colleagues. This is the result of a work-intensive NORLAM effort entitled "Training of trainers – Probation Service". The impact potential is clearly there, but the effect remains to be seen.

5.2.2 Effectiveness - NORLAM's purpose

The strategic purpose is formulated in the preamble of the MOU as: *"promoting the development of good governance, strengthening the rule of law and promoting human rights."* The concepts "Governance" and "Rule of Law" are discussed in chapter 3. As we have seen, these are higher-order effects of the Norwegian Judicial Crises Response Pool's operational objective of strengthening the criminal-justice chain. As for the third objective of "promoting human rights", this is partly subsumed by the aforementioned objectives, and fully subsumed by the objectives articulated below.

In addition to promoting good governance and strengthening the rule of law, NORLAM according to the MOU, should contribute to *"promoting European integration"* and *"supporting the aims of the EU-Moldova Action Plan".* The central formulation here is the reference to the EU/Moldova Action Plan. This document acknowledges Moldova's aspirations to integrate into the EU. This entails aligning its justice system, including the criminal-justice chain, to EU standards, which incorporate the human-rights standards enshrined in the ECHR. In essence, the MOU's reference to "promoting the EU/Moldova Action Plan" actually *subsumes all the objectives* articulated so far.

The operational purpose of NORLAM is formulated in the MOU as *"[inter alia] competence building within the Ministry of Justice, the Ministry of Internal Affairs, the judicial system, the General Prosecutors' Office and the legal profession, with the aim of increasing the efficiency of the institutions guaranteeing human rights and the rule of law in the republic of Moldova in line with Moldova's European objectives and commitments".*

As in the case of NORLAG in Georgia (ref chapter 4.2.2 above), this formulation has been correctly interpreted by NORLAM as a guideline which is neither absolute nor exhaustive. These are merely exemplifications of activities that were considered relevant to the strengthening of the criminal-justice chain at the time of the signing of the MOU.

The substantive objective of NORLAM is identical to that of NORLAG, namely to help the host country *improve its criminal-justice chain, with regard to efficiency and human-rights compliance*. The difference between the two projects is that in Moldova the objective is anchored in the EU/Moldova Action Plan, whereas a similar document does not exist in Georgia. But in both countries, the project amounts to the same essential quest. Toward this end, the NORLAM project team has been given the same degree of *flexibility* as the earlier NORLAG to make tactical dispositions with regard to identifying entry points, finding suitable partners, setting thematic priorities, engaging and disengaging as events unfold.

"Promoting the development of good governance"

As detailed in chapter 5.2.1 and Annex 4, NORLAM has made a number of contributions to strengthen the *criminal-justice chain* in Moldova. This is a main element in "rule of law", which again is a key element in, or precondition for, "good governance". Where NORLAM has succeeded in strengthening the criminal-justice chain, it has ultimately also contributed to promoting good governance. Assessing the *extent* of improvement in Moldovan governance attributable to NORLAM is, however, not feasible. The concept is not defined in the MOU or by general usage.

"Strengthening the rule of law"

NORLAM's efforts all boil down to strengthening various links in the *criminal-justice chain*, which is one of the main elements in the rule of law. Where NORLAM has been successful in achieving impact on the criminal-justice chain, it has also contributed to strengthening the rule of law. Assessing the *extent* of improvement in Moldovan rule of law is, however, not feasible. The rule-of-law concept is not defined in the MOU or by general usage. For impacts, reference is made to chapter 5.2.1 and Annex 4.

"Promoting human rights"

According to the MOU preamble, promoting human rights is the third overarching objective of NORLAM. Most of what was reported in the section above on "Rule of law" equally applies to the MOU objective of "Promoting human rights". Of particular significance are efforts to improve detention practices, eliminate torture and uphold the right to a fair trial. As we have seen above, NORLAM has been effective to a varying degree in all these areas. For impacts, reference is made to chapter 4.2.1 and Annex 4.

"Promoting the European integration of the Republic of Moldova" and **"Supporting the aims of the EU-Moldova Action Plan"**

According to the MOU preamble, the fourth overarching objective of NORLAM is that of "promoting the European integration of the Republic of Moldova" and "Supporting the aims of the EU-Moldova Action Plan". With regard to the first of these formulations, NORLAM has put great efforts into harmonising Moldova's sentencing levels to EU standards, to introduce the use of community sentencing as an alternative to imprisonment, and to improve the treatment and reintegration of convicts. For impacts of these activities, reference is made to chapter 4.2.1 and Annex 4.

As explained in the second paragraph of this section 5.2.2, the "EU-Moldova Action Plan" obligates Moldova to promote good governance and strengthen the rule of law and human rights. As such, it encompasses every other objective of NORLAM. All impacts mentioned in chapter 4.2.1 and Annex 4 are directly relevant to the objectives of this plan.

"Strengthening bilateral co-operation"

As earlier mentioned, the MOU preamble says that NORLAM should contribute to strengthened bilateral co-operation. Norway has no embassy in Moldova. The main bilateral link between the two countries is NORLAM itself. This project has undoubtedly been perceived as a valuable bilateral undertaking by Moldovan counterparts (and the international community). Moreover, there is no doubt that the Project provides visibility for Norway in a country with otherwise very limited bilateral relations. To what extent this link has stimulated further bilateral links or co-operation – diplomatically or otherwise – is not known to the Review Team.

"[inter alia] competence building within the Ministry of Justice, the Ministry of Internal Affairs, the judicial system, the General Prosecutors' Office and the legal profession, with the aim of increasing the efficiency of the institutions guaranteeing human rights and the rule of law in the republic of Moldova in line with Moldova's European objectives and commitments"

In the following we shall outline NORLAM's engagement in the above activities mentioned in the MOU. A fuller list of activities and their impacts are captured in Annex 4 and in section 5.2.1.

The MOU explicitly suggests *competence building* with the aim of increasing the "efficiency of the institutions guaranteeing human rights and the rule of law in the Republic of Moldova in line with Moldova's European objectives and commitments". It particularly refers to five institutions or actors with crucial functions in the criminal-justice chain: the justice ministry, the interior ministry, the courts, the "legal profession" (here understood by the review team to refer to the independent profession of defence attorneys) and the prosecution. It articulates the dual objective – of improving efficiency and human-rights compliance – that lie at the core of the Norwegian judicial Crises Response Pool.

With regard to competence building in the Ministry of Justice, NORLAM has not attempted to strengthen the ministry's overall capacity. Rather, it has focused on prisons and probation services. With a view to the probation, NORLAM has engaged in training in management and leadership for all higher-level staff, and it has trained a core group of trainers-of-trainers of probation officers. With regard to the prison service, NORLAM has introduced the use of sentencing plan for individual prisoners and trained prison management and officers in the application of this. Moreover, NORLAM has trained all prison directors and senior staff in prison management.

NORLAM has not been in a position to enter meaningful co-operation with the Ministry of Internal Affairs. This ministry is responsible for the police, including police arrests where suspects are held until a court has made a decision on pre-trial detention, and where torture is taking place to extract confession. This ministry and the police are by all accounts described as "closed systems" where it is very difficult for outsiders like NORLAM to gain access[3]. In addition NORLAM has not been staffed with police officers. It should also be mentioned that the pre-MOU fact-finding mission suggested competence building of the police through the Police Academy, which never took place. Although competence building of the police was initially identified as highly relevant, NORLAM has not been able to undertake any activities of this nature.

NORLAM has, however, put a great deal of effort into capacity-building activities vis-à-vis the judiciary (courts) and defence attorneys.

NORLAM has to some extent engaged in competence building within the Office of the Prosecutor-General, but the main thrust toward that office has consisted of advocacy. One of the main priorities has been to stimulate the prosecution service to introduce a mandatory pre-trial detention template (legality check-list) for all prosecutors. Most of NORLAM's capacity-building efforts vis-à-vis the prosecution service has been directed at working-level, local prosecutors, for example training in the use of NORLAM's pre-trial detention template.

NORLAM has also ventured *outside the list of activities suggested in the MOU*. A notable example is "Project Revision of Moldova's Penal Code". This was not a capacity-building

[3] This was apparently one reason why proved impossible for NORLAM to follow-up on the original intention in the pre-MOU fact-finding mission to have implement a pilot project for bringing one police district up to European standards.

activity, which is what the MOU explicitly prescribes. Rather, the effort consisted of advocacy for legal changes, and provision of technical-legal advice. And the activity was ultimately directed at the Parliament of Moldova, an institution not mentioned in the MOU. It was nevertheless a highly relevant activity, perhaps particularly with regard to European integration.

5.3 Coordination: NORLAM and other international actors

By all accounts, NORLAM has displayed very good coordination with other international actors. The Review Team is not aware of any reason to doubt such perceptions.

NORLAM staff participates in regular meetings between international actors involved in their fields. They have identified and concentrated on themes and institutions where others have not been involved. In areas where somebody else has been involved, NORLAM has taken care to avoid overlaps. There have been no complaints and lots of praise in this regard. NORLAM has been careful to keep all relevant stakeholders informed of their plans and activities. On the whole, NORLAM has not engaged much in co-operation with other international actors in implementing activities: their activities have been complimentary rather than co-operational.

With regard to coordination of individual NORLAM activities, see Annex 4 for more detailed comments.

5.4 Sustainability of NORLAM achievements

The TOR of the Review Team define sustainability as *"the probability of continued long-term benefits after the projects have been completed"*. With regard to individual sustainability of the numerous NORLAM activities, see Annex 4 for further comments. In this section we shall only concentrate on some of the *most* important cases of sustainable achievements.

As an overall observation, many of NORLAM's achievements appear to be sustainable, or to carry a high potential for sustainability.

The clearest examples pertain to new laws. A prominent example is the revision of the *penal code*, with its lowered sentencing levels, which have in turn brought Moldova closer to EU standards with regard to punishment. Another is the law that grants *"discretion"* to prosecutors.

Another category of sustainable achievements relates to changes in institutional practices. An important example is the introduction of NORLAM's *pre-trial detention-request template* (legality check-list), which has not only been made compulsory for prosecutors, but is also being used by them – and by many first-instance judges all over the country. This template is likely to continue in use, not least because it is a useful tool to the judicial actors. Many expect Moldova to suffer fewer losses in the ECtHR in future as a consequence. Another sustainable achievement appears to be the introduction in the prisons system of compulsory

sentencing plans for prisoners. A third, and potentially very important achievement with regard to institutional practices, is the introduction of a government policy to introduce *continuous main hearings* in criminal trials. A commission of experts will assess the feasibility of implementing such hearings and propose the necessary legal changes to do it. Sustainability is not yet certain, but it is likely for many reasons: it will be useful to the judges, and desirable to the government as it may improve Moldova's judicial-efficiency and human-rights track-records and thereby its prospects of European integration.

A third group of sustainable activities relate to institutionalising essential forms of training of personnel in the criminal-justice chain. An important institution here is the *National Institute of Justice*, which graduates judges and provides compulsory follow-up courses. This institute has introduced many subjects on its curriculum as a consequence of NORLAM advocacy. Examples include training in pre-trial detention, basic principles like presumption of innocence and equality of arms, roles of various court actors, continuous main hearings and community-service sentencing. Moreover, the institute appears, to some extent, to be using methodology and training materials designed by NORLAM. One example is the use of mock trials.

A fourth group of achievements are clearly more fragile. The achievements in question revolve around adapting role understandings and attitudes in the various parts of the criminal-justice chain to new, "western" laws and practices. Examples include *"seeds planted"* among judges, prosecutors and defenders with regard to a constructive interplay, and among prisons managers and staff with regard to treatment of prisoners. Clearly, NORLAM's efforts – mostly in the form of cleverly designed and well-delivered seminars – have provoked some profound thinking. These seminars are greatly sought-after, which may indicate room for receptiveness and therefore sustainability. But changing mindframes is always a difficult and long-term process.

Some activities have been singular events. Examples include the Criminology Conference, legal advice to the government and parliament on pieces of legislation, prison visits, paying for Moldovan officials to visit Norway or conferences abroad, and production of information material on community service. The same pertains to single seminars for just a few attendees with a narrow focus. Such one-time activities have all been considered useful advocacy tools, indirectly paving the way for other sustainable achievements.

All in all, sustainability appears to be very good. For more details, including on non-sustainable single activities, we refer to Annex 4.

6 WORK MODALITY OF NORLAG AND NORLAM

The TOR asks *how* objectives have been achieved, to what extent *external and internal factors* in the projects have contributed to or hampered the attainment of project objectives and strengths and weaknesses of each of the two projects. The Review Team has analysed these questions independently for each of the projects, but found that the answers were very similar. This was of course to be expected as the MOUs are almost identical, the country conditions very similar, and the team composition and work modality almost the same.

Nevertheless, there are also interesting differences. In line with this we have chosen to answer these questions in the TOR jointly while emphasising differences between the two countries when that is the case.

The fundamental characteristic approach of the projects and their way of operating is a combination of being proactive, responsive and flexible. They have been particularly successful with regard to three factors. Firstly, they have identified strategic subjects, issues and themes of relevance and with great potential for impact. Secondly, they have successfully identified, approached and cultivated contacts with potential drivers for change and key actors in crucial institutions and different levels, including the top level, and used these as strategic entry points. Thirdly, they have been able to engage in a wide range of activities both with regard to training as well as direct involvement in reform processes within different institutions. Preparation of training material and books has been made with a view to respond to practical needs with potential for impacts and less to provide theoretical knowledge. In both countries the projects have been given much credit for their capacity to design and deliver excellent training that the participants have found relevant, thought-provoking and useful for their work.

There are also other observations made by interviewees in both countries which explain some of the success of the two projects. It is a shared opinion that the size of the two teams makes these non-bureaucratic and flexible, which also makes them easily responsive to initiatives and new needs as they come up. This makes the projects distinctive from larger multilateral institutions, which are perceived as much less effective. It is also expressed as positive that NORLAG and NORLAM have no political agenda contrary to what is often perceived to be the case of some bilateral and multilateral agencies. The teams are also complemented for being able to combine their Norwegian background with good knowledge of legal issues and legislation in the two countries. It is also stated that it is an advantage that the projects are not located within a given national institution, which would limit their freedom to co-operate widely without any institutional constraints. Finally, it is expressed that it is an advantage that none of the projects have resources for financial support.

There are several external factors that have contributed positively in both countries to their contribution to different types of impacts. When NORLAG arrived, there was already an ongoing government-driven reform process that has been sustained during the course of the project. The "Rose Revolution" in 2004 had brought in young and very motivated staff loyal to the reform process and eager to work with resource persons from the West. The reform process was supported by the EUJUST strategy work, which provided NORLAG with a foothold and inlets at the initial stage, which it could then build on further.

Although in both countries there were concerted efforts by most of the international community, there was also rivalling agendas of main international actors and legal philosophies. This opened space for the projects and made them attractive to different actors in the judicial sector. The approach was also seen in both countries as more conducive than the somewhat impetuous attitudes and aloof work methods of some the other actors.

In both countries various interviewees have also highlighted internal factors which have contributed positively. Several have highlighted the "whole of justice approach" and the subsequent team composition with personnel covering most of the aspects of the chain of justice and the teams' high professional competence. It has also been mentioned that the team members have good pedagogical approaches for seminars, lectures and advocacy. Finally there is no doubt that the size of the team, its composition and high degree of discretion have allowed the teams to be flexible and responsive as needs and opportunities emerged.

In spite of all their achievements, both projects have not been equally successful in all their efforts. Amongst external factors that have somewhat hampered the efforts one should mention the police state traditions and the strong role of the prosecution service. In Georgia a stronger cooperation with the prosecutor-general would have been desirable. . Actually, in both countries both judiciary and prosecution are in transition and grappling with new roles of in new system. With regard to NORLAG it should also be mentioned that within the general public there is a broad acceptance of harsh punishment, which is not conducive to NORLAG's efforts to support reforms of the criminal justice sector. Finally, there has not been any opening to engage in a dialogue with the Ministry of the Interior in charge of the police in any of the countries.

There are also some internal factors of projects themselves which may be seen as weaknesses. Within its team NORLAG has not had defence lawyers who would have strengthened its efforts to work on legal aid issues. In NORLAM, on the contrary, an important reason for some of its success has been the inclusion of a defence lawyer in the team. Furthermore, there have not been team members with a practical police-officer background (as opposed to police lawyers) who would have had the legitimacy to open up for a dialogue with the Ministry of the Interior. Present and previous team members of NORLAG have also mentioned other factors such as limited knowledge of justice reform work in countries in transition, limited project management skills (planning, management and reporting) and not sufficient backstopping from Norway on substance and management of this type of cooperation

7 RELEVANCE OF NORLAG AND NORLAM

The TOR define "relevance" as *"the extent to which the objectives of the projects are consistent with the host countries' requirements and needs and donor priorities."* They also ask, as a matter of relevance, whether *"research on this prior to the establishment of the team sufficient in order to compile the tasks for the secondment and to provide guidelines for recruitment of team members"*.

7.1 Consistency with countries' requirements and Norway's priorities

For the assessment of the relevance of NORLAG the TOR only refer to the objectives of the projects and whether they are consistent with the *host countries' requirements and needs and donor priorities.*

In our interviews with a considerable number of counterparts in different institutions at different levels in the chain of justice we have asked about the objectives and scope of the MOU. We have explicitly asked about the relevance of the objectives and the areas of cooperation which are indicated. In both countries national counterparts as well as other donors have confirmed the relevance of these.

When it comes to the relevance of the activities undertaken by NORLAG and NORLAM, annex 3 and 4 have a separate column where the relevance of each activity is assessed. All activities are found to be either relevant or highly relevant with regard to the objectives in the MOUs at the strategic level of promoting good governance and strengthening rule of law as well as at the operational level of improving the criminal-justice chain. At the same time interviewees have also concurred with our understanding of the MOU that the indications of areas, issues and themes for cooperation is indicative and open to new initiatives, provided that they fall within the scope of the criminal-justice chain, serves the purpose of improved efficiency and human-rights compliance and contributes to the countries' justice reform process.

However, there are relevant areas where the projects have not engaged. The clearest case in point is the first link in the criminal-justice chain, the police. None of the projects has found much of a foothold in this first level of the chain; nor has it been staffed for that purpose. Another case in point is the Prosecution Service in Georgia, where NORLAG has not been able to establish as strong a co-operation as the team has wanted.

With regard to Norwegian priorities, the objectives of the MOU are obviously in accordance with these. However, there are two Norwegian ministries involved in setting these priorities. Our reading of documents and interviews with these ministries has shown that their priorities are not quite the same and consequently their appreciation of the relevance of NORLAG activities may be somewhat different. The Ministry of Foreign Affairs puts much emphasis on overall objectives and cooperation with other donors and multilateral organisations, while the Ministry of Justice is more focused on the criminal-justice chain reform.

The Ministry of Justice approves NORLAG and NORLAM activities and ensures that they are relevant with regard to Norwegian priorities. The Ministry of Foreign Affairs is not involved at this level and is more concerned about the strategic and overall objectives, although the relevance of specific activities has not been questioned.

7.2 Adequacy of preparatory research

The TOR asks, as a matter of relevance, whether the research on host countries requirements and needs and donor priorities prior to the establishment of the team, were sufficient in order to compile the tasks for the secondment and to provide guidelines for recruitment of team members.

The preparatory work for both Georgia and Moldova consisted basically of the same – missions from the Ministry of Justice, consultations with the two embassies and feasibility missions which concluded in two reports.

For both the missions the task was primarily to identify areas and modalities for assistance. The task was not to assess whether such cooperation should be undertaken. This had already been addressed in consultations at a political and ministerial level between the countries. The work of the feasibility missions included wide consultations with government institutions and relevant donors. The reports are good mapping of the situation in the countries and their requirements and needs in the justice sector. They also identified well the appropriateness of addressing the full chain of justice and the legal professions that would be required in the Response Pool teams for the projects. Consequently, it may be concluded that this preparatory work was adequate to identify the type of tasks that would be undertaken and the guidelines for the recruitment of team members.

It is important to note that the feasibility mission to Moldova benefitted very much from the experiences from Georgia and also included one person who had been the mission leader of NORLAG.

In interviews with previous heads of mission and present staff in the two countries, they have all confirmed that the feasibility studies were adequate in order to understand challenges of the judicial sector and the areas of cooperation. It is also the opinion of the Review Team the it has proved particularly useful that the feasibility missions limited themselves to sketch only broad proposals for areas of co-operation, but to leave it up to the teams to decide the more exact focus and areas of cooperation as events unfolded.

Notwithstanding the above, there were some important shortcomings of the preparatory work:

Firstly, none of the reports really addressed the background for the Norwegian Response Pool and the Norwegian priorities with regard to its initiative vis-à-vis the two countries. The two reports only addressed justice sector issues and have nothing on the foreign policy or development cooperation reasons behind the two initiatives. Such policies and priorities were expressed in the different initial exchange of documents and minutes from meetings between the two Norwegian ministries involved. However, the rationale behind NORLAG was not captured and set out in any one authoritative document which would have served as a coherent guideline for the projects. Nevertheless, efforts are made to include this in the introduction courses for the Response Pool members.

Secondly, the Review Team understands that none of the mission reports were presented to host country authorities as a basis for identifying specific areas and modalities for cooperation.

Thirdly, in both countries the preparatory work did not address adequately the formal and practical issues that the two missions would face when they were to establish themselves in the countries. In both countries the heads of the missions arrived before the formalities with regard to their status had been agreed upon, in the case of Moldova, even before the MOU

had been signed. It is agreed that this was a major shortcoming of the preparatory work and caused serious problems for the two initial heads of mission.

Notwithstanding the above, some of the interviewees have expressed that the lack of a comprehensive Project Document has been a shortcoming in the design of the projects which to some extent has hampered the planning, execution and reporting of the projects. The Review Team shares this opinion.

Finally, it may be considered that in the case of Moldova the preparatory work also included the so-called "Non Paper" that the Head of Mission prepared shortly after the MOU hade been signed. This was a document that explained well the scope of NORLAM and summarized the initial dialogue with Moldovan authorities. This paper established a good ground for the further development of the cooperation. A similar document was not prepared for NORLAG.

8 NORLAG AND NORLAM - NORWEGIAN PRIORITIES AND DEVELOPMENT CO-OPERATION

The TOR asks the Review to "assess the results and usefulness of the projects in terms of their contribution towards the principles of Norwegian Development co-operation".

The term "Principles of Norwegian Development Co-operation" is quite open. In this Review we have decided to include the following aspects:

- Objectives for cooperation
- Bilateral co-operation with the recipient government - Principles for preparation, agreement, administration and reporting on bilateral cooperation
- Practice for use of Norwegian personnel
- Coordination in Norway
- Results and usefulness

Objectives for cooperation

In our review of relevant documents we only once found a reference to the objectives for Norwegian development cooperation and a statement of the Response Pool purpose in that regard. In an internal MFA memorandum of 21 December 2006 regarding the establishment of NORLAM it says:

> The establishment of the Response Pool is in line with the objectives for development assistance …. "the objective of the assistance is to strengthen democratic institutions, political and economic reforms, respect for human rights, combat corruption and to work for broad regional cooperation" (St.prpr.nr.1 (2005-2006)) .

Although the Review Team fully agrees that the Response Pool concurs with this objective, we find it remarkable that this is the only reference to any objectives or otherwise principles of Norwegian Development Cooperation. As a matter of fact, when asked about this

relationship, many tended to emphasize how the Response Pool is different from "mainstream Norwegian Development Cooperation

In the very recent White Paper nr 13 (2008-2009) there is no explicit reference to support to the judicial sector reforms. Nevertheless, it may be understood that NORLAG and NORLAM respond well to the intentions expressed in chapters "A well functioning state" (chapter 2.1), "Fragile states" (chapter 5.2) and "Human rights" (chapter 5.3) and the emphasis on Good Governance, although neither Georgia nor Moldova present quite the same characteristics as the countries mentioned in these chapters. It may also be mentioned that in the White Paper there is nowhere any reference to the Judicial Sector and Rule of Law, although this may be understood to be part of Good Governance.

In its Development Cooperation Norway is a strong advocate for donor coordination and alignment. These intentions are also expressed in the MOUs both for NORLAG and NORLAM, and both adhere well to these principles, although somewhat differently as the conditions for this are quite different in the two countries. NORLAG is a very proactive key-player in this regard, while NORLAM has opted for a different strategy. This is discussed in more detail in sections 4.3 and 5.3.

Bilateral co-operation with the recipient government - Principles for preparation, agreement, administration and reporting on bilateral cooperation

The most important document presenting the practical procedures for Norwegian bilateral development cooperation is the "Development Cooperation Manual", Ministry of Foreign Affairs – Norad, May 2005. Such principles are also presented in various other documents. The history of NORLAG and NORLAM as well as their way of operating concur with some of these and are quite different from others.

The Manual prescribes a Programme Cycle with three phases: i) Preparatory phase, ii) Follow-up phase and iii) Completion Phase. NORLAG and NORLAM were not designed and are not being implemented in this way. In particular it is worth to notice that NORLAG and NORLAM did not follow the same steps in the Preparatory Phase. Both NORLAG and NORLAM were much more supply driven and much less formal than what is usually the case with bilateral cooperation. This supply driven approach has also been a characteristic throughout the implementation phase. Both projects are seen as a resource being offered to various institutions in the two countries.

Another main difference with regard to the Preparatory Phase was the type of initial studies undertaken. In both projects initial fact finding missions were undertaken. But these were not of the same comprehensive nature as the feasibility studies and project design usually done for bilateral cooperation. They were not subject to any appraisal and did not serve as a basis for dialogue between the donor and the recipient country. The two projects do not have the usual project document with a Logical Framework structure with goal, purpose and outputs with indicators to measure results as well as budgets and work plans.

In most countries a development program or project will be located within a national institution with a clear programme or project agreement. This is not the case with NORLAG

and NORLAM. They both have a fully independent status and the legal basis for the cooperation is just a very general Memorandum of Understanding (MOU) and an additional agreement on the status of the Norwegian personnel of the missions. There is no responsible national counterpart for any of the projects.

Norwegian bilateral cooperation has a very strong focus on results and clear reporting requirements, which national cooperating partners have to comply with. NORLAG and NORLAM do not have any such cooperating partners who would report on results from the cooperation. All reporting is done exclusively by NORLAG and NORLAM on a quarterly basis. These reports do not follow any prescribed set-up and are of varying quality. They focus on activities and not on results. Lack of proper indicators makes it difficult to anticipate if output and outcomes might have the expected impact.

Norwegian bilateral cooperation has a strong resource base for different types of back-stopping through the Ministry of Foreign Affairs, Norad and embassies accredited to the recipient countries. Although the embassies in Baku and Bucharest have provided some support, their involvement in the projects is limited. Otherwise MFA and Norad have not been involved nor provided any of the support they otherwise do to Norwegian bilateral cooperation. As the responsible ministry MOJ has not requested this support, and the use of expertise on bilateral cooperation has not been part of the dialogue between MFA and MOJ.

Norwegian personnel and expertise

From its inception until some years ago Norwegian bilateral cooperation included considerable supply of Norwegian experts. This is no longer the case and in this regard NORLAG and NORLAM are very different as they are only supply of Norwegian expertise personnel of a relatively high number.

Coordination in Norway

It was originally the Ministry of Foreign Affairs (MFA) who took the initiative vis-à-vis the Ministry of Justice (MJ) to create the Response Pool. It is now the MJ who has the full responsibility of the projects with the financing from MFA. MJ has a one full time staff member in charge of the administrative back stopping of the projects. MJ undertakes regular visits to the projects, often headed by the Permanent Secretary. Reports from the projects are addressed to MJ who forwards this to MFA and the two embassies. MFA does not undertake regular project visits, but visits both from MFA and the embassies do take place. The two ministries meet on a regular basis.

In 2007 MFA requested MJ to see to it that NORLAG and NORLAM would each provide a project document of a more classical nature. They both now provide some write up of activities to be undertaken in the course of the coming year, but this does in no way correspond to the project documents which are otherwise required in Norwegian development cooperation.

In our review of documents as well as in interviews, the Team has come to understand that to-day the two ministries have somewhat different expectations and perceptions of the two

projects. MFA is mostly interested in the overall goals of the MOU while MJ is more focused on the practical efforts to support reforms within the chain of justice.

MFA has put emphasis on the coordination with international organizations in the two countries, particularly with regard to OSSE, while MJ does not see that such organizations have the same potential for results oriented practical support through Norwegian expertise personnel.

The Review Team discussed the idea that the Response Pool teams in the two countries could be located within an international organisation. National counterparts and representatives of donors in both countries unanimously expressed that such a modality would not have given the same achievements and impacts of NORLAG and NORLAM, and that this would have been much less effective.

Results and usefulness

In summary, it may be said that NORLAM and NORLAG are in line with the objectives of Norwegian development cooperation to support Good Governance. Otherwise, they are quite different from some of the principles of Norwegian bilateral cooperation. It is the opinion of the Review Team that some of the characteristics and the good results of NORLAG and NORLAM, which have been discussed in this report, are of relevance and may be replicated to Norwegian development cooperation elsewhere. However, if this should be the case, it would be necessary that such projects would have to be more in line with Norwegian principles regarding requirements for the preparatory phase (more solid initial feasibility studies and appraisal), formal project documents and more structured reporting requirements. Such projects would benefit from stronger support and backstopping from Norway. It is also clear that if the Ministry of Justice is to have the same involvement, it will be necessary to clarify better the set-up with regard to the division of roles and responsibilities between MJ and MFA, as well as the coordination between these two. It would also be necessary to ensure a better shared and mutual understanding of the objectives and nature of this type of development cooperation. Active use of the expertise available on bilateral development cooperation should be considered.

9 CONCLUSIONS AND RECOMMENDATIONS

This chapter summarises the findings of the Review Team with regard to NORLAG's and NORLAM's *contributions to justice-sector reform* in the host countries, their *coordination* with other international actors, and their *strengths and weaknesses* – according to the three main objectives of the TOR. With a view to possible continuation of the projects, the Review Team will also *propose improvements* in the way they are organised.

9.1 The extent to which the NORLAG and NORLAM have contributed to reform of the justice sector in their host countries

The overall findings are twofold. First, both NORLAG and NORLAM have made *important and considerable* contributions to criminal-justice reform processes in the host countries. Second, the tangible achievements and visible impacts are *greater in Moldova than in Georgia*. It should be added, however, that assessing the *extent* of the achievements is difficult and must be rather discretionary.

9.1.1 NORLAG's contributions to justice-sector reforms in Georgia

The main impacts revolve around three elements in the "chain of justice": (1) reform policy; (2) penal system; and (3) trials – fairness and efficiency. All areas are, of course, inter-connected.

The first main finding is that NORLAG is influencing Georgia's criminal-justice *reform process*. It does so at two levels; the overarching policy-making level and – more subtly – at the working level among practitioners. With regard to the former, NORLAG plays a major role on the "Criminal Justice Reform Inter-Agency Coordination Council" and in its four sub-committees. This forum stakes out the priorities and steps of Georgia's criminal-justice reforms for years ahead. It is broadly agreed that NORLAG is among the most influential participants. In particular, NORLAG is expected to contribute to the improvement of the country's policies on juvenile justice, prisons, probation and legal aid to the needy. Impacts to date are too early to assess, but they show promise by all accounts.

NORLAG's influence is moreover felt outside, or below, this overarching planning process, at the *practitioner's level* where reforms need to be implemented in practice. The project is very active in arranging seminars and training sessions for judges, prosecutors and defence lawyers – not only on legal-technical skills but also on roles and proper behaviours. These sessions are uniformly praised as thought-provoking and inspiring: and the unambiguous view of key national and international informants is that NORLAG is *"planting seeds"*, or stimulating *"more progressive thinking"*, among drivers of change rather effectively. Judging by interviews, there is a widespread belief that the efforts will have a wider impact on the behaviour of court actors in the longer run. Judging by the interviews, the Review Teams finds these analyses plausible. But the gains so far appear to be scattered and fragile, a critical mass has not yet been gained, and the present momentum will need to be sustained.

The second main finding is that NORLAG appears to have an impact on the way Georgia is *punishing* offenders. The achievements fall in two main categories. One is the introduction of community-service sentencing as an alternative to imprisonment. The other pertains to improvements inside the prisons.

On community-service sentencing, Parliament has enacted a law (amendment to the Criminal Code) that widens considerably its applicability. NORLAG advocacy has contributed to a governmental, prosecutorial and judicial policy to increase its use. The courts have actually, albeit to a modest degree, begun to pronounce community-service sentences. Community service has been included in the curriculum of the High School of Justice. Also in large part as a result of NORLAG advocacy, the government appears to be

committed to strengthening the Probation Service, the organ in charge of implementing such sentences.

Improvements in the prisons due to NORLAG are modest, but promising. A draft law will give prisoners a right to meaningful activities. At the implementing level, NORLAG has piloted vocational-training projects in several prisons. Some, notably in the Women's Colony in Tbilisi, seem to be well up-and-running, with potential for sustainability. The programme in the Women's Colony is apparently being promoted at the prisons system's staff-training facility as a successful example to be replicated. A string of other, smaller, NORLAG-sponsored training programmes give NGOs access to various other prisons. It appears these activities are familiarising prisons managers and staff with the idea of external milieus interacting with inmates and seeing what goes on inside their system. Credible reports moreover indicate a beginning shift in attitudes among some prison managers and staff with regard to more humane treatment of prisoners. Although there is clearly a long way to go before Georgia's prisoners are decently treated by European standards, it appears that NORLAG is having a catalytic effect.

If community-service sentencing becomes more frequently used, as it looks set to, then it also has the potential of alleviating some of the horrific overcrowding which has been a characteristic feature of Georgia's dismal prisons. The two NORLAG efforts therefore have a clear potential for synergic human-rights impacts.

The third main finding is that NORLAG is showing promise of a catalytic effect on the *efficiency and fairness of criminal trials* in Georgia. At the top level, the judiciary has formally made it a policy to introduce the practice of conducting trials by the method of "continuous main hearing" in all the lower courts. At the working level, NORLAG has successfully piloted this trial practice in two district courts. These pilot projects boosted the courts' efficiency; it removed their backlogs demonstrably. Although the bigger of the two courts, Tbilisi District Court, subsequently reverted to bad old habits – which is a major disappointment – the other court (Mtskheta City Court) continues to practice trials by continuous main hearing to this day. This is heralded by the leaders of the judiciary as an example to be replicated. All interviewed judges and other court actors, as well as international interviewees, praise NORLAG's push for continuous main hearings as an excellent initiative. With such a positive reception among practitioners, and with an apparently strong backing from the Supreme Court, there is clearly promise of the practice eventually gaining ground.

We have already reported that NORLAG appears to be "planting seeds" among the court actors – in the way judges, prosecutors and defenders interact in criminal processes. The defence lawyers of the public Legal Aid Service, in particular, seem to feel more capacitated, self-confident and respected by judges and prosecutors than before, largely thanks to NORLAG. Given the defence lawyers' pivotal role in ensuring due process, this is a promising achievement.

9.1.2 NORLAM's contributions to justice-sector reforms in Moldova

The main impacts revolve around elements in the "chain of justice": (1) reform policy, (2) the penal code; (3) prosecutorial discretion; (4) pre-trial detention, (5) penal system; and (6) trials – fairness and efficiency. All areas are, of course, inter-connected.

The *first* main finding is that NORLAM has had a profound impact on Moldova's criminal-justice *reform process*. Moldova has a planning instrument in place, namely the "EU/Moldova Action Plan", a broad-stroked strategy for European integration. Alignment to European standards of the criminal-justice system is a key element in this plan. The issue in Moldova is thus not to design a strategy, but to implement it. This is where NORLAM has played, and is playing, an important role.

The NORLAM-led Criminology Conference in April 2008 by all accounts triggered considerable changes in thinking at the top level – among the leading politicians, judges, prosecutors, academics and lawyers, as well as among the media and, ultimately, among segments of the population. It began a public discourse on crime, its roots and how to address it. It led to a realisation that Moldova's sentencing levels were excessively harsh with a view to EU standards and needed to be lowered considerably. It also led to an increasing acceptance of the idea of sentencing certain offenders to community service instead of to imprisonment.

Furthermore, NORLAM has successfully advocated for the government to adopt as a policy to make courts conduct trials by the method of consecutive main hearings. A working group is being established under the MOJ to study the feasibility of such a reform and to propose the necessary changes in laws and practices. It such a reform is successfully implemented, it will have the potential to improve both the efficiency and the fairness of trials.

The *second* finding is that NORLAM has led Moldova to legislate a drastic reduction in its *punishment levels*. Following the Criminology Conference, the government launched an article-by-article revision of the penal code. NORLAM provided considerable inputs in this process. Next, the parliament removed or reduced a string of minimum sentences, lowered maximum sentences considerably, and simplified culpability levels and aggravating circumstances. Some 65% of NORLAM's proposals became law. The result is a significant reduction in punishment levels across a wide range of offences. As a side effect, this reduction also opens the possibility of using community-service sentencing as an alternative to imprisonment.

A *third* finding is that NORLAM has led Moldova to enact legislation that gives prosecutors so-called *"prosecutorial discretion"* to decide whether to prosecute, or abstain from prosecuting, where the evidence is strong enough for prosecution. This legal novelty is reportedly saving the judicial system up to 8,000 cases per year, it can be used to give offenders a second chance, and it may boost efficiency of investigation by offering incentives for offenders to inform on co-perpetrators. A potential downside of possibilities for illicit leniency as a result of pressure or bribes should be monitored.

A *fourth* finding is that NORLAM is having a positive effect on *pre-trial detention practices* in Moldova. The prosecution has made mandatory a NORLAM-designed pre-trial detention request template (legality check list) which is now increasingly being used by prosecutors all

over the country. There is credible, anecdotal evidence that this has reduced the number of detention requests, and that the quality of detention proceedings is improving. There is still a need to consolidate the gains, but many interviewees expect that Moldova, as a result, will face fewer convictions in the ECtHR for illegal detention in the future.

A *fifth* finding is that NORLAM is having a positive influence on the *penal system* in Moldova. The achievements fall in two main categories. One is the introduction of community-service sentencing as an alternative to imprisonment. The other pertains to improvements inside the prisons.

As earlier reported, the revised sentencing levels in the penal code opens the way for more use of community-service sentencing than before. But furthermore, parliament has enacted additional legislation that expands the applicability of this form of punishment. Although community-service sentencing is still rare, this represents a significant contribution to aligning Moldova's punishment practices to EU standards. This sanction was virtually unknown before NORLAM. A key challenge with regard to using it more is that the Probation Department is new and weak, and this is reportedly also contributing to a reluctance of some judges to use this form of sanction. But it appears the government is interested in strengthening the institution. On this basis, there seems to be grounds for cautious optimism with regard to the legal reforms being implemented in the future.

With regard to conditions in the prisons, the Prisons Service has made mandatory the NORLAM-designed "sentencing plans" for all prisoners, and these plans are reportedly increasingly being used in practice.

The *sixth* finding pertains to NORLAM showing promise of a catalytic effect on the *efficiency and fairness of criminal trials* in Moldova. As earlier noted, the government has formally made it a policy to introduce the practice of conducting trials by the method of "consecutive main hearing" in all the lower courts.

NORLAM appears to be *"planting seeds"*, or stimulating "*more progressive thinking"*, among drivers of change rather effectively. The project is active in arranging seminars and training sessions for judges, prosecutors and defence lawyers – not only on legal-technical skills but also on roles and proper behaviours. These sessions are uniformly praised as thought-provoking and inspiring. The unambiguous conclusion from interviews is that there is a widespread belief, among nationals and internationals, that these efforts are likely to have a wider impact on the behaviour of court actors in the longer run. The Review Team finds these predictions plausible, although the gains appear to be scattered and fragile to date. It is too early to conclude that a critical mass been gained, and the present momentum will need to be sustained.

9.1.3 Differences in achievements between NORLAG and NORLAM

It may be concluded from the above that NORLAM may show more tangible results and impacts on the reform of the justice sector in Moldova than what NORLAG can show in Georgia.

This may seem remarkable as NORLAG has worked for more than twice the length of NORLAM and with the double of person/months inputs. Among possible explanations the Review Team wants to mention some factors, which are different in the two countries. First, at the design stage, NORLAM benefitted very much from NORLAG experiences and was therefore able to get started much faster. Secondly, NORLAM prepared the so-called "non-paper" which gave them a more solid basis for dialogue with counterparts, while NORLAG never had such a document. Thirdly, and maybe most importantly, the *motivation of the host country* and basis for the reform process is much more solid in Moldova with the country's objective for integration with Europe, for which the reform of the judiciary is a prerequisite.

9.1.4 The contribution of NORLAG and NORLAM towards the principles of Norwegian development cooperation

The projects contribute to the objective to *"strengthen democratic institutions, political and economic reforms, respect for human rights, combat corruption and to work for broad regional cooperation".* They also respond well to the intentions expressed in the very recent White Paper nr 13 (2008-2009) in chapters "A well functioning state" (chapter 2.1), "Fragile states" (chapter 5.2) and "Human rights" (chapter 5.3) and the emphasis on Good Governance, although neither Georgia nor Moldova present quite the same characteristics as the countries mentioned in these chapters.

However, both projects present characteristics which are not fully in line with other principles of Norwegian development cooperation. The projects were not designed with a view to prepare a comprehensive project proposal to be submitted for a formal appraisal and which would then constitute the basis for a decision on cooperation and project agreement with a logical framework ("Log Frame") of goal, purpose outputs, indicators and assumptions, as well as an implementation plan with responsibilities for Norway and the recipient institutions(s) and a budget. They do not have the same requirements and procedures for backstopping, management and reporting.

The projects have adhered well to the Norwegian principles on alignment and donor coordination.

9.1.5 Coordination with other international donors in the field

Both projects have coordinated well with other international donors since their inception. Project staff participate in regular meetings between international actors involved in their fields. The projects have identified and concentrate on themes and institutions where others have not been involved. They have been careful to keep all relevant stakeholders informed of their plans and activities. But, on the whole, they have not engaged much in co-operation with other international actors in implementing activities. Project activities have been complimentary rather than co-operational.

But there are also differences. NORLAG has been more proactive and has played an increasingly influential role within the donor community. NORLAM, on the contrary, has

opted for more of a low profile. This may be explained by the fact that in Moldova many donors are perceived as having a political agenda and that it is conducive for NORLAM not to be too directly associated with these and to be seen as more independent and with less of a political agenda.

9.1.6 Strengths and weaknesses of NORLAG and NORLAM with a view to achievements and successes as well as principal failings

As a general observation, and in comparison with many other countries, it should be emphasised that the framework and different conditions in both Georgia and Moldova are favourable to the type of cooperation provided by NORLAG and NORLAM.

Then there are some important characteristics of NORLAM and NORLAG, which may explain why they have been so successful with their achievements. First, there is the size of the teams, which allows for a flexible, non-bureaucratic and responsive way of working. Then there is the composition of the teams, which consists of most key professions of the criminal-justice chain. The strengths of both projects are similar: they motivate national counterparts at a high level, which is important in top-down cultures, to align their criminal-justice systems to international standards. They provide the sort of expert advice that can really only be given by experienced practitioners on *how* to translate such requirements into practice. Next, they select strategic thematic areas for training of practitioners, and they deliver training of such quality that it actually leaves an impression on those who participate, who, in many instances, are potential drivers of change in their respective links in the criminal-justice chain. They find openings to influence legislation and processes on revision laws and regulations.

The Review Team cannot say that we have identified principal failings, but there are weaknesses and room for improvements. It is recognized that the resources for backstopping are limited. It is a shared opinion that the projects suffer from the lack of a coherent project document which would explain their background and objectives as well as their work modality. Finally, the reporting is inadequate. Reports focus on activities and do not include reporting on achievements and possible impacts.

9.2 Recommendations

9.2.1 Continuation and discontinuation of NORLAG and NORLAM

The main recommendation of the review team – provided that the main objective of the projects is to actually make a difference in the two host countries – is that both projects should continue for the time being.

In Georgia, it is recommendable that NORLAG remains in place until at least the end of 2010. This recommendation is based on an impression that NORLAG should remain for at least one year after the parliament adopts a new policy for implementation of the objectives set out in the country's so-called "Strategy Plan" for justice reform, an effort ongoing at the

moment through the *Inter-Agency Working Group* in which NORLAG is an influential player. The parliament is expected to adopt the new policy by the end of 2009. An additional argument is that the OSCE mandate for Georgia has not been prolonged and that NORLAG's presence then becomes even more important.

In Moldova NORLAM should continue well into the term of the new government formed as a result of elections April 2009. It is difficult to recommend a timeframe in lack of any particular strategic process or benchmark; but the project is on such a good track that all interviewees – internationals and nationals alike – hope that the project will remain for at least another two-to-three years.

Against this background, it seems recommendable that both projects be extended until the end of 2010, and that a subsequent assessment is undertaken at that time to provide advice on whether to continue into 2011 or beyond.

9.2.2 Possible adjustments and improvements

The Review Team does not see the need for any major change, but some adjustments may be in place.

The two ministries should review how support from Norway may be strengthened, both on practical management as well as more substantive aspects related to reforms of the justice sector.

The two ministries should review and update their objectives and expectations for the two projects, which would be the basis for the suggested planning for the continuation of the projects.

The two projects should undertake a planning exercise. This should put in place a comprehensive project document that sets the background and establishes a LogFrame with goal, purpose as well as indicators to measure performance and impacts in order to improve project reports. Both documents should facilitate a continuation of the operational flexibility that has served the projects so well to date.

On the more practical side it is recommended that efforts should be made to ensure continued recruitment of top qualified staff, and how longer contract periods may be feasible. Systematic feed-back from leaving staff to the Response Pool as well as to newly recruited staff is important. Overlap of leaving and in-coming staff should be ensured as well as good hand-over notes.

The two ministries should consider the potential for benefitting more from existing competence and resources in institutions which are otherwise working with Norwegian development cooperation.

Finally, it is the opinion of the Review Team that the experiences from the two projects should be of relevance to other areas of Norwegian development co-operation, both with regard to their modality as well as for Good Governance as a theme, which is one of the

priorities of Norwegian development co-operation. It is recommended that efforts are made to ensure better exchange of experiences between the projects and other relevant Norwegian development co-operation activities.

Annex 1: Terms of Reference

Terms of Reference for Review of Norlag and Norlam

I. Background

The Norwegian Judicial Crisis Response Pool was established in 2004 in co-operation between the Ministry of Justice and the Police and the Ministry of Foreign Affairs. The rationale for the establishment of the pool was to strengthen Norway's contribution to international crisis management operations, based on the belief that rule of law is a prerequisite for development of stable democracies.

After four years of Norwegian development assistance through the Crisis Response Pool, there is a need for a review to assess the results. The following two projects will be reviewed:

a) The Norwegian Mission of Rule of Law Advisers to Georgia (Norlag) was established in Tbilisi in October 2004. This is a bilateral co-operation project between Georgia and Norway. The overall objective of the co-operation is promoting good governance and strengthening the rule of law in Georgia. According to the Memorandum of Understanding between Georgia and Norway, signed on 8 October 2004, Norwegian personnel will assist Georgian authorities inter alia in the following areas: i) Strenghtening the administration and establishing institutional structures in the Ministry of Justice, ii) competence building in the courts, with the aim of enhancing the awareness of international human rights and guidelines and iii) strengthening the institutional structures in the General Prosecutor's Office, including enhancing the awareness of international human rights and guidelines. In addition the cooperation has been broadened by the Plan of Action signed by the two Ministers of Justice in Tbilisi on 11 April 2007. The Norwegian personnel will accordingly also i.e. assist in the field of free legal aid as well as broadening the cooperation with regards to probation and penitentiary institutions.

Norlag consists of two judges, two public prosecutors and two advisers from the Norwegian Correctional services. The main activities of Norlag cover judiciary reform, including the training of personnel throughout the criminal justice system, assistance in the build-up of the legal aid system, implementing community service, strengthening the probation service, improving prison conditions and providing vocational training and other activities for prisoners. Norlag has also focussed on the importance of continuous main hearings and on providing advice to the organisation Legal Aid.

The budget for Norlag was in 2004 NOK 1,4 mill, in 2005 NOK 8,5 mill, in 2006 NOK 9,2 mill, in 2007 NOK 9,1 mill. For 2008 the budget is NOK 9,8 mill (incl. administrative costs in the Norwegian Ministry of Justice and the Police).

b) The Norwegian Mission of Rule of Law Advisers to Moldova (Norlam) was established in March 2007. This is a bilateral co-operation project between Moldova and Norway. The overall objective of the co-operation is promoting good governance, strengthening the rule of law and promoting human rights in Moldova. Furthermore, the project should promote European integration of Moldova and support the aims of the EU-Moldova Action Plan, as

well as strengthening bilateral co-operation. According to the Memorandum of Understanding between Moldova and Norway, signed on 3 May 2007, Norwegian personnel will assist Moldovan authorities in inter alia the following areas: Competence building within the Ministry of Justice, the Ministry of Internal Affairs, the judicial system, the General Prosecutor's Office and the legal profession, with the aim of increasing the efficiency of the institutions guaranteeing human rights and the rule of law in Moldova in line with Moldova's European objectives and commitments.

Norlam consists of one judge, two public prosecutors/police lawyers, two advisers from the Norwegian Correctional Services and one defence lawyer. The main activities of Norlam cover judicial reform, including competence building within the Ministry of Justice, the Ministry of Internal Affairs, the General Prosecutor's Office and the legal profession, assisting in the transition of Moldova's criminal policy to European standards, assisting in the revision of the Criminal Code, reforming pre-trial detention, improving the rehabilitation of convicted persons, improving prison conditions, implementing community service and providing training of defence lawyers.

The budget for Norlam was in 2006 NOK 415 000 (needs assessment mission)and in 2007 NOK 5,5 mill. For 2008 the budget is NOK 9,5 mill (incl. administrative costs in the Norwegian Ministry of Justice and the Police).

II. Purpose and objectives

The main purpose of the review is to have an assessment of Norwegian development assistance through the projects Norlag and Norlam and to provide guidance as to whether this assistance should continue, and if so, how it should be organized in the future.

Objectives:

- Assess to what extent these bilateral projects contribute to reform of the justice sector in the host countries.
- Assess the extent of co-ordination of the projects with other international donor efforts in this field.
- Identify strengths and weaknesses with the two projects

III. Scope of work

The review should include the activities implemented since 2004 in Georgia and since 2007 in Moldova.

Results chain

The review should include the following elements:

- Effectiveness i.e. the extent to which the purpose has been achieved or is expected to be achieved. To what extent have the projects had an impact on the ongoing judicial reform process in the areas where the projects have operated, and in that sense contributed to the strengthening of the rule of law in the host countries? Which projects have had an impact

and which have not? How has the objectives been achieved? Have external or internal factors contributed to or hampered the attainment of objectives?

- Relevance i.e. the extent to which the objectives of the projects are consistent with the host countries' requirements and needs and donor's priorities. Was the research on this prior to the establishment of the team sufficient in order to compile the tasks for the secondment and to provide guidelines for recruitment of team-members?

- Co-ordination i.e. the extent of co-operation and co-ordination with other internal donor efforts within the justice sector

- Sustainability i.e. the probability of continued long-term benefits after the projects have been completed

The conclusions should indicate the major strengths and weaknesses of Norlag and Norlam, and assess the results and usefulness of the projects in terms of their contribution towards the principles of Norwegian development co-operation. The lessons learned should present the reviewers' impressions of the major achievements and successes together with the principal failings and reasons for the latter. The recommendations should suggest adjustments/improvements, as well as provide guidance as to the continuation or discontinuation of the Norwegian assistance through Norlag and Norlam.

IV. Implementation of the review

Organisation

Norad will conduct the review on behalf of the Ministry of Foreign Affairs.

Team

The review team should consist of at least three members, including a team leader. The team should should comprise expertise on judicial reform, development co-operation and aid effectiveness. One official from Norad should participate in the team as observer.

Data collection:

In Norway, the review should include document reviews and interviews with relevant officials in the Ministry of Justice and the Police and the Ministry of Foreign Affairs. The review should include field visits to Norlag in Tbilisi and Norlam in Chisinau. The team should

meet with and interview main co-operation partners in the host country, as well as with other international donors such as the European Commission, the Council of Europe and the OSCE.

The review should identify inputs, activities and how these have led to outputs. The review should also analyse the contributions of the projects to outcomes (intended or unintended).

Field work in Georgia and Moldova should take place during the first quarter of 2009 and a draft report should be presented within six weeks after the completion of the field visit. The

Ministry of Justice and the Police and the Ministry of Foreign Affairs could comment on the draft report within two weeks after its presentation, before the report is finalised.

The report should be based on the 1-3-25 norm: A report of no more than 25 pages, plus an executive summary of no more than 3 pages, plus a summary of recommendations of no more than 1 page. The report should be written in English. The report should be submitted to the Ministry of Justice and the Police and the Ministry of Foreign Affairs.

Annex 2: People met

Tora Kasin	Norad	Rådgiver
Jannicke Bain	Norad	Seniorrådgiver
Sissel Wilsgård	Justisdepartementet	Seniorrådgiver
Iver Huitfeldt	Tidl. Head of Misison NORLAM	Lagmann
Walter Wangberg	Tidl. Head of Misison NORLAG	Førstestatsadvokat
Eva Lyngjem	Tidl. Head of Misison NORLAG	Seniorrådgiver
Per Halskog	Tidl. Head of Misison NORLAG	Førstestatsadvokat
Jogeir Nogva	Tidl. Head of Misison NORLAM	Statsadvokat
Torunn Dramdal	Utenriksdepartementet	Seniorrådgiver
Anita Nergård	Utenriksdepartementet	Avdelingsdiderektør
Morten Ruud	Justisdepartementet	Departementsråd
Karin Bugge	Justisdepartementet	Ekspedisjonssjef
Vidar Stensland	NORLAG	Head of Mission Lagdommer
Bernt Krohg	NORLAG	Lagdommer
Anne Grøstad	NORLAG	Førstestatsadvokat
Jørn Maurud	NORLAG	Førstestatsadvokat
Johnny Skogstad	NORLAG	Fengselsinspektør
Marie Røise	NORLAG	Assisterende friomsrgsleder
Tatiana Pataraia,	NORLAG	National legal adviser
Moreta Bobokhidze,	NORLAG	Translator,
Kathrine Lortkipanidze,	NORLAG	Translator,
David Gabitsinashvili, driver.	NORLAG	Driver
Tamar Mamukelashvili	OSCE	National Rule of Law Officer
Shota Rukhadze	High School of Justice	Deputy Head of High School of Justice
Konstantin Kublashvili	Supreme Court	Chairman of the Supreme Court
Zaza Meishvili	Supreme Court	Deputy Chairman and Chairman of the Chamber of Criminal Cases
Paata Silagadze	Supreme Court	Judge of the Supreme Court, former head of Mtskheta City Court
Valeri Tsertsvadze	Appeal Court	Executive Secretary of High Council of Justice and Chair of Tbilisi Appeal Court
Shalva Kvinikhidze	Ministry of Justice	Head of Public International

		Legal Department
Tamar Tomashvili	Ministry of Justice	Deputy Head of Public International Legal Department
Geno Geladze	Institute of Democracy	Chairman
Nino Elizbarashvili	the Georgian Association Women in Business	President
Rusudan Tabatadze	Legal Aid Service	Head
Irakli Chkhartishvili	Probation	Acting Head of Probation
Irene Tsintsadze	Penitentiary Department	First Deputy Head
Giorgi Shavliashvili	The Prosecution Service of Georgia	Head of the Central Administration
Giorgi Chkheidze	Public Defender (Ombudsmann)	Deputy Public defender President Young Georgian Young Lawyers Association
Mediko Alania	Prison	Governor Women's Colony
Albert Szal	DPK Consulting (USAID)	Chief of Party
Kakha Tsirkarishvili	DPK Consulting (USAID)	Chief of Party
Rait Kuuse	Penal Reform International	Regional Director
Tsira Chanturia	Penal Reform International	Projects Coordinator
Nato Gugava	The Penitentiary and Probation Training Center	Head
Teona Kuchava	UNICEF	Juvenile Justice Consultant
Garry Ledbetter	American Bar Association, Rule of Law Initiative	Country Director
Dean Pineles	American Bar Association, Rule of Law Initiative	Legal Specialist
Julia Jacoby	European Union/European Commission	Good Governance and Rule of Law
Willy Giil	NORLAM	Head of Mission Friomsorgsleder
Bjørn Frammarsvik Larsen	NORLAM	Politiadvokat
Ellen Solbrække	NORLAM	Fengselsleder
Bjørn Gunnar Sælen	NORLAM	Tingrettsdommer
Britt Eren Meling	NORLAM	Politiadvokat
Inga Burencova	NORLAM	National Consultant/Office Manager
Nadejda Caprar	NORLAM	National consultant/Interpreter
Denis Arcusa	NORLAM	National Legal Consultant/Interpreter

Diana Balan	Ministry of Justice	Head of Department of Judicial Administration
Expert resident: Carsten Mahnke	European Commission Council of Europe	Resident Expert
Tatiana Filatova	Ministry of Justice	Head of Legal Department
Johan Mathisen	International Monetary Fund	Resident Representative
Mr. Eduard Harunjen	General Prosecutor's Office	Head of Department
Raisa Botezatu	Supreme court of Justice	President of Criminal Department
Vladimir Popa	Ministry of Justice	Head of Probation Service
Angela Otean	Ministry of Justice	Head of Human Resources Department of Penitentiary
Igor Cepraga	Ministry of Justice	Head of Resocialisation Departement
Igor Dolea	Institute for Penal Reform	Director
Victor Zaharia	Institute for Penal Reform	Deputy Director
Igor Ciobanu	Public Lawyers	Head
Veaceslav Turcan	Amnesty	Defense Attorney
Eugenia Fistican	National Institute of Justice	Executive Director
Ms Ljubovi Brinza	National Institute of Justice	Judge, Head of Training and research Department
Ekaterina Popa	National Institute of Justice	Head of Continuous Training Department
Lidia Marin	National Institute of Justice	Head of Public Relations and Information section
Anatolie Munteanu	Ombudsmann	Director
Rita Tamm	OSCE	Senior Rule of Law Adviser
Angela Dumitrasco	UNDP	Portfolio Manager
Øystein Hovdkinn	Ambassador	Norwegian Embassy, Bucharest
Jon Ramberg	Ambassador	Norwegian Embassy, Baku

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Annex 3: NORLAG Activities

NOTE 1: The grouping of activities in the table below is on account of the Review Team. It is not fully identical to groupings in NORLAG's progress reports, which have varied over the years. Liberties have been taken in classifying the activities, naming them, and clustering them in groups.
NOTE 2: The below table does not, for practical reasons, purport to capture *every* NORLAG activity, great and small, over the years. NORLAG has for example advocated informally, or by inviting potential drivers of change to study trips, or through participation in seminars hosted by others, or by making proposals – successfully or unsuccessfully – for a string of minor and major reforms that are not reflected in this table. It should be noted that the sum of such activities has been considerable over the years.

Activity Name or designation of effort	Description Purpose and activities of the effort	Effectiveness "extent to which the purpose has been achieved or is expected to be achieved"	Relevance consistency with Moldova's requirements and needs and donor priorities – i.e., promoting good governance and rule of law, and improvement of criminal-justice chain	Coordination co-operation and coordination with other international donor efforts	Sustainability "probability of continued long-term benefits after project has been completed"
Pre-trial detention activities – to improve legality of pre-trial detention proceedings and to reduce torture of suspects in detention facilities					
1. Pre-trial Detention Project ("Varetektsprosjektet") (High-priority effort)	Purpose: improve quality and fairness of detention proceedings in Georgia; reduce unlawful use of detention; improve treatment of detainees in holding facilities under the MOJ	Modest achievements: Detention template formally embraced by prosecution service and detention judges; and	Highly relevant: unfair and excessive detention, and torture of detainees, are a major concern with regard to fair hearings	Satisfactory coordination: international actors informed; no overlaps; no direct co-	Uncertain sustainability. Two achievements show sustainability

	Activities: Production and distribution in 2005 of a detention-request template (legality check-list) for the use of prosecutors and judges. Large number of prosecutors and judges, as well as key MOJ officials, trained in ECHR standards and in proper use of the template. Judges trained in writing adequate decisions. Moreover, in 2005 and 2006 NORLAG and the MOJ prepared and distributed a manual for staff in detention facilities under the MOJ with information on international standards for treatment of detainees.	awareness of its use and proper international standards for ordering the detention of suspects have reportedly been raised among trained persons. But the template seems to be used only randomly in practice; no significant improvement in detention processes or reduction in excessive use of detention. Scattered examples of improvements with regard to detention of juveniles. High School of Justice has included pre-trial detention hearings on its curriculum for judges and prosecutors. Some improvement reported with regard to abuse of detainees in holding facilities under the MOJ.	and human rights in Georgia.	operation.	promise: first, that the pre-trial detention template for judges and prosecutors *has* been produced, and should sooner or later become widely used and thereby facilitate a change in practices; and secondly, that this subject has been included in the curriculum of the High School of Justice which is tasked with providing compulsory training for judges and prosecutors.

2. training of police-arrest personnel	Purpose: improve treatment of detained suspects held in facilities under the MOI; reduce torture Activities: training in 2006-2007 of some 200 police-arrest personnel in international human-rights standards; and in supervision of police to prevent abuse of detainees. Training provided by NORLAG in co-operation with the MOI and the Police Academy in Tbilisi.	Modest achievements: Although many police-arrest personnel have been informed about standards for proper treatment of detained suspects, and awareness of international standards may have been raised. Although there is anecdotal evidence of some reduction in the reported occurrence of abuse, this is impossible to attribute to NORLG and torture is reputedly still widespread in holding facilities under the police.	Highly relevant: torture and abuse of detained suspects – particularly widespread in police-arrests – remains a serious human-rights concern in Georgia.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Uncertain sustainability
3. Support to MoI "Department for Human Rights Protection and Monitoring"	Purpose: Reduce torture in police-arrest Activity: some training and equipment support to a MOI unit established in 2005 with the mandate to monitor and prosecute	No documented effect attributable to NORLAG.	Highly relevant: torture and abuse of detained suspects – particularly widespread in police-arrests – remains a serious human-rights concern in Georgia.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Uncertain sustainability

	instances of torture in police-arrests. All staff provided with training in police-arrest management and oversight.				
Court-proceeding activities –for fairer trials and more efficient judicial services					
4. Project "Continuous Main Hearings" (High-priority effort)	Purpose: Improve promptness and fairness of trials Activities: Advocacy to secure high-level commitment of the judiciary to conduct trials in a continuous manner, when possible. Pilot projects in the Tbilisi and Mtskheta City Court circuits to implement such hearings in practice; later expansion of the pilot effort to another two court circuits; involvement of judges and prosecutors and defenders in a constructive interplay in these pilot efforts. Training of court actors in continuous main hearings to raise	Some achievements: Strong backing from the Supreme Court has clearly been secured as a result of successful advocacy. The High School of Justice has included continuous main hearings on its curriculum for judges and prosecutors; and training has increased awareness of the merits of continuous main hearings among a large number of court actors – judges, prosecutors and defenders. Pilot projects to introduce new practices in the courts	Highly relevant: The present habit of fragmenting trials pose serious human-rights concerns. It also causes delays and backlogs in the courts, slowing down judicial-service delivery, ultimately undermining public confidence in the rule-of-law institutions and the governance system.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability uncertain; strong support from the Supreme Court in the effort, inclusion of continuous main hearings on the curriculum of the High School of Justice, and Mtskheta City Court's example of using the practice after the pilot project - all these achievements are promising and may facilitate longer-term sustainability.

	awareness of potential benefits and practical implementation.	have been partly disappointing. On the good side, in Tbilisi and Mtskheta have efficiently reduced these courts' backlogs of cases – and thus shown usefulness of the concept to boost court efficiency. But then Tbilisi City Court's judges - who handle one-third of the country's caseload – reverted to old practices of breaking up trials into a long string of smaller hearings. Only the small Mtskheta City Court appears to maintain the practice of continuous main hearings at present. The pilot projects have involved a significant number of local judges and local prosecutors in co-operation;			There is clearly a widespread demand for more training by NORLAG on the subject from judges. But it appears old habits of the court actors will need considerable effort to change. Big disappointment that Tbilisi City Court reverted to old practices after their backlogs were removed. Implementation is hampered by certain pieces of procedural legislation and by weak court management.
5. Website for Tbilisi City	Purpose: increased information	Achievements: Tbilisi City	Relevant: making the	Satisfactory	Sustainability: the

Court	available to the public, and to court actors, regarding the activities of the country's largest court. Activity: financial support and some advice on the contents of a website of Tbilisi city Court.	Court website established and operational.	court's activities transparent and accessible could increase public confidence in the courts.	coordination: international actors informed; no overlaps; no direct co-operation.	websited appears to be maintained and updated.
6. Case flow management in the judiciary	Purpose: facilitate the introduction of a modern case flow-management system in Georgian courts. Activities: Introducing the Norwegian IT-based court-case flow management system LOVISA to the judiciary.	Achievements: Georgian judiciary is now considering the introduction of a case flow-management system similar to LOVISA.	Relevance: clear relevance; the judiciary needs better case flow management to improve both its service delivery and the integrity of individual cases.	Satisfactory coordination: international actors, including the USAID JAMR Project, informed; no overlaps; no direct co-operation.	Sustainability uncertain at this stage.
7. "Mixed Seminars" (High-priority effort)	Purpose: improve role understandings of, and interaction between, the various criminal-justice chain elements – who under the post-Soviet governance system are institutionally independent but functionally inter-dependent. Activities: seminars for mixed groups of judges, prosecutors, legal-aid defenders and	Achievements: Credible reports of an increased mutual understanding and respect amongst the various actors in the justice system; in particular, the courses are highly appreciated by defence lawyers, who are traditionally disrespected	High relevance: Soviet-era role understandings and practices remain a core problem in Georgia's attempts to introduce a functioning liberal justice system, based on respect for new laws and human rights.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Uncertain sustainability: Old attitudes and practices will need time and efforts to change; but the seminars have clearly been very positively received and are in great demand.

	corrections officers on subjects like juvenile justice, human-rights standards in practice, roles and responsibilities of different actors in the chain of justice.	by the other professions.			This suggests an interest among court actors in modernising the justice system and a willingness to extract lessons.
Defence-lawyer activities – for strengthening the defence in criminal proceedings					
8. Capacity building of Legal Aid Service (High-priority effort)	Purpose: Make a contribution to improve fairness of trials by enhancing the competence of defenders, focusing on those working for the public Legal Aid Service – a recently established, semi-autonomous unit under the government that provides free advice and representation to those who cannot afford or otherwise obtain defence. Activities: Advice on the role and functions of a Legal Aid Service the justice system from the inception of the service. Training of defence lawyers in	Some achievements: Virtually all legal-aid lawyers have received training in legal and practical skills of great importance. The training has clearly been appreciated. Interviewees claim the training has also raised skills levels that may contribute to fairer trials. The inclusion of these lawyers in mixed seminars where they get to interact with prosecutors and judges have reportedly increased the understanding of a	Highly relevant: Legal Aid Service has not only an important role to play in upholding the rights of suspects at present; it also has a strategic potential for leading the way to enhance the respect for defence in general, so as facilitate fairer detention hearings and trials in the longer run.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Uncertain sustainability: Legal Aid Service is a new and weak entity. Respect for defence lawyers is low. But Legal Aid Service is by now reported to handle some 25% of criminal cases.

	both legal-technical skills and in more practical skills of relevance to the profession. Inclusion of Legal Aid Service lawyers in mixed seminars for court actors to stimulate better co-operation and enhance mutual understanding and respect across role-borders.	defender's role among judges and prosecutors, and provided Legal Aid Service with a boost in morale.			
9. Renovation of Legal Aid Service facilities	Purpose: support the effort above, with a focus on Western Georgia. Activities: financing renovation of Legal Aid Service offices in the city of Kutaisi, and of its training centre for Western Georgia. An unforeseen subsequent activity was to lobby with the MOJ to let Legal Aid Service keep the facilities, when the service in late 2008 was moved out of MOJ and into the new Ministry of Penitentiary, Probation and Legal Aid (MOPPLA).	Achievements according to plans: Legal Aid Service offices in Kutaisi were renovated, and so was the training centre for Western Georgia. Moreover, Legal Aid Service has been allowed by MOJ to keep the facilities even after the service was moved from MOJ to the new MOPPLA ministry in late 2008.	Relevant for the same reason as the activity above.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Good sustainability; the facilities are in place and remain at the disposal of Legal Aid Service.
Punishment-related activities – to humanise the penal system and facilitate re-integration					

10. Community-service Sentencing (High-priority effort)	Purpose: to stimulate more use of community-service sentencing as an alternative to imprisonment. Activities: *Advocacy* toward the MOJ, the Supreme Court and Superior Council of Justice, Prosecution Service; advice to Parliament on legislation pertaining to community-service sentencing; advocacy toward the High School of justice to include training of judges and prosecutors in the application of community-service requests and sentences in the curriculum; training of court actors in the rules for, and application of, community service as an alternative form of punishment. Training of judges and judges' assistants in drafting of judgement. Implementation of *pilot projects* involving judges, prosecutors and defenders in Tbilisi (from late 2006), Mtskheta (from late 2007) and later two other city-court	Considerable achievements reported: Parliament has legislated to widen greatly the applicability of community service under the Criminal Code. The Supreme Court and Superior Council of Justice are committed to increasing the use of community-service sentencing in practice, and the first 100 such sentences have been passed by Tbilisi City Court as a result of the pilot project. The Prosecutor-General is introducing a new policy guideline by 2009 for prosecutors to request community-service punishment in more cases, and prosecutors in Tbilisi are tentatively beginning to request such	Highly relevant: Georgia has a tradition of meting out excessively long prison sentences by European standards, with little or no use of alternative sentencing. Facilities in prisons are appalling by any standard, and exacerbated by horrible over-crowding. Prisoners serve passively and isolated from the outside world, and are subjected to tough discipline and harsh internal hierarchies. Re-integration is reportedly poor. Wider use of alternative forms of punishment, such as community service, could alleviate all these problems – which carry serious human-rights concerns, come with a	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation.	Promising sustainability: by all accounts there is now a political and judicial commitment to widening the use of community service.

	circuits, to test out community-service requests and judgements in practice.	sentencing. The High School of Justice has included community-service sentencing on its curriculum Georgia's government is committed to strengthening the system for implementing community-service sentences through the Probation department and municipalities. Awareness of the benefits to the justice system and society at large of community-service sentencing is reportedly improved among judges, and among some prosecutors and defenders. Before NORLAG they hardly knew community-service sentencing existed.	high cost to society, and which are increasingly seen at the policy level as a rule-of-law and good-governance issue.		
11. Vocational training for	Purpose: improve attitudes among	Considerable	Relevant: harsh	Satisfactory	Sustainability

prisoners	prisons staff toward prisoners; facilitate re-integration of prisoners; introduce more humane prisoner-management tools and humanise conditions in jails; open a traditionally closed prisons system to outsiders, so as to stimulate more transparency and, ultimately, accountability. Activities: Lobbying at policy level for legislation to give all prisoners a right to vocational training; Vocational training piloted in the Tbilisi women's jail (Women's' Colony) in how to set up a small business, e.g., a beauty salon; and in practical professions like hairdressing, massage, cooking, sowing, weaving. Facilities renovated and equipped, local NGOs allowed into prisons to conduct training. The training is carried out by the local NGO "Women in Business". Vocational training piloted in other prisons, too. In Kutaisi Prison a factory was established	achievements: Parliament has legislated that all prisoners have a right to work or training. Modest training facilities established and operating in the women's jail in Tbilisi (Women's' Colony), and the first 190 female prisoners have been issued vocational certificates. Credible reports of awareness among staff in the Women's Colony being somewhat raised of training as a constructive prisoner-management tool. Experiences from the pilot project is disseminated through training at the Penitentiary and Probation Training Centre (PPTC). Shoe factory was established in Kutaisi	conditions, inactivity and obsolete prisoner-management practices in prisons remain a human-rights concern, and the system is traditionally closed. Re-integration has reportedly been dismal.	coordination: international actors informed; no overlaps; no direct co-operation.	uncertain, but promising. New law gives every prisoner the right to training, but there is little capacity in the prisons system to implement the law, and there appears to be traditional attitudes to overcome among many prisons staff. The idea of meaningful activities for prisoners is by some accounts being increasingly positively raised in the media and beginning to win some public acceptance.

	for traditional production of shoes, with the understanding that MOJ would establish an outlet mechanism to ensure sustainability.	Prison, but it was closed again because the government failed to sustain it.			Vocational training in Women's Colony seems to be well-established ann has potential for sustainability and, eventiually, replication.
12. "Small Grants Project"	Purpose: largely same as above. Activities: funding of local NGO activities seeking to improve outside access to jails since 2006, to improve conditions in prisons, and to re-integrate prisoners. Grants usually in the vicinity of $ 5,000 have financed, e.g., computer classes, enamel workshops, etc.	Achievements: considerable, but fragile. NORLAG has probably been a catalyst for some increase in transparency in the prisons system: 16 local NGOs allowed access to prisons and conducting training. This is allegedly stimulating more transparency and information on what is going on inside prisons. Some 300 training certificates issued to prisoners in different jails. Credible reports of slow, but perceptible changes in	Relevance: same as above.	Co-operation between NORLAG and the international NGO Penal Reform International (PRI): NORLAG provides funding, and PRI identifies suitable candidates for grants.	Sustainability: uncertain. Individual grants may or may not show to have a lasting effect in their areas. The principal sustainability potential seems to lie in establishing an acceptance in the prisons system of outside NGOs getting access to a traditionally closed system.

		attitudes from some prisons staff toward inmates. The idea of meaningful activities for prisoners is by some accounts being positively raised in the media and beginning to win some public acceptance. By credible accounts it was virtually unthinkable that NGOs would get access to prisons before this project.			
13. Training of prison guards	Purpose: Stimulate better treatment of prisoners, in accordance with international standards Activities: Production of training material for the Penitentiary and Probation Training Centre (PPTC): pre-trial detention manual (2006) and compilation of laws, decrees and	Achievements: Curriculum at PPTC has more emphasis on proper treatment of detainees and prisoners, as apposed to earlier, where the focus was almost exclusively on security. Pre-trial detention manual (2006) and compilation of	Relevance: same as above.	Satisfactory coordination: international actors informed; no overlaps; no direct co-operation	Sustainability uncertain: While there is credible reports of a beginning shift in attitudes and practices on the side of prison guards, there is clearly a long way to go.

	guidelines (2006); translation of Nordic textbook (2007). Production of a compilation of ECtHR decisions in prisons cases. One-month training and testing (2006-7) of all 479 prisons staff in Western Georgia in basic principles for treatment of prisoners under international standards. Training of all 157 staff in Escorting Unit in Tbilisi.	laws, decrees and guidelines (2006); made compulsory study material at PPTC for all prisons and probation officers. Nordic textbook translated and distributed in prisons, penitentiary offices, MOJ and among NGOs. Same for compilation of ECtHR decisions in prisons cases. Awareness among prisons staff has allegedly been raised of training as a constructive prisoner-management tool. Anecdotal evidence of beginning shift toward the better in prison staff's skills and attitudes toward prisoners.			An apparent appreciation of the training courses and a demand for more of it could indicate potential for sustainability.
Policy-level advocacy – participation in strategic planning and international coordination					
14. Participation in policy-	Purpose: policymaking for the	Achievements:	High relevance:	Exemplary	Sustainability

forming forums	criminal-justice system in the direction of more efficiency and human-rights compliance, and coordination of international actors to that effect. Activities: Participation in the formulation of the government's "Strategy Plan for the Criminal justice System in Georgia" (2005). Participation in the "Criminal Justice Reform Inter-Agency Coordination Council" (since 2008) – including in each of its fourth "working groups". Participation in bi-monthly donor roundtables under the auspices of OSCE. Active participation in various other coordination meetings involving different national and international actors.	"Strategy Plan for the Criminal Justice System in Georgia" (2005) in place with significant inputs from NORLAG. This is the country's overarching policy document in the area of criminal-justice reform. NORLAG is clearly considered one of the *most* influential international stakeholders on the Criminal Justice Reform Inter-Agency Coordination Council, which is a present process to operationalise the above-mentioned Strategy Plan. By all accounts, NORLAM has been a leading voice in the regular OSCE-driven donor roundtables over the years. By all accounts, NORLAG is perceived by nationals	Georgia admits to having difficulties in implementing new post-Soviet policies, laws and practices in the criminal-justice system, and is welcoming international efforts to support this process. By most accounts, NORLAG is hoped by national and international actors alike to fill a bigger role on the international side from April 2009, when OSCE leaves the country as a result of Russian refusal to extend its mandate there.	coordination	uncertain: it is ultimately up to the at any time ruling leaders of Georgia to demonstrate political will to implement paper reforms and plans.

		and internationals to exercise significant influence on Georgia's judicial reform process.			
15. Advice on legislation	Purpose: to strengthen the efficiency, human-rights compliance and public trust in the rule-of-law system. Activities: various forms of inputs into a string of lawmaking initiatives.	Achievements: We have earlier listed legal changes that have resulted from NORLAG efforts, such as - Parliament has revised the Criminal Code to greatly increase the applicability of community service. - Parliament has legislated that all prisoners have a right to work or training. Of other achievements, it is noted that: - NORLAG has significantly influenced new draft legislation on the Bar Association	Relevance:	Coordination:	Sustainability: adoption of a law may indicate sustainability; although its implementation is often another matter and the object of building capacity and changing attitudes and behaviours.

		- NORLAG is influencing a draft disciplinary code for judges.			

Annex 4: NORLAM Activities

NOTE 1: The grouping of activities in the table below is on account of the Review Team. It is not fully identical to groupings in NORLAM's progress reports, which have varied over the years. Liberties have been taken in classifying the activities, naming them, and clustering them in groups.
NOTE 2: The below table does not, for practical resons, purport to capture *every* NORLAM activity, great and small. NORLAM has for example advocated informally, or by inviting potential drivers of change to study trips, or through participation in seminars hosted by others, or by making direct and indirect proposals – successfully or unsuccessfully – for a string of minor and major reforms that are not reflected in this table. It should be noted that the sum of such activities has been considerable over the years.

Activity Name or designation of effort	Description Purpose and activities of the effort	Effectiveness "extent to which the purpose has been achieved or is expected to be achieved"	Relevance consistency with Moldova's requirements and needs and donor priorities – ie, promoting good governance and rule of law toward European standards, and improvement of the criminal-justice chain in particular	Coordination co-operation and coordination with other international donor efforts	Sustainability "probability of continued long-term benefits after project has been completed"
Alignment of Moldovan punishment levels to European standards					
1. Criminology Conference (High-priority effort)	Purpose: increase political awareness of the roots and means to deal with crime; bring Moldovan sentencing levels	Achievements: The conference was a tremendous success *as* a conference: top-level attendance, extensive press	Highly relevant: Moldova Has had a tradition of meting out	Coordination: international actors informed; no overlaps; no	Sustainability: This was a one-off event;

	down to European standards; humanising the penal system and facilitate better re-integration. Activities: a conference entitled "Moldova's Criminal Policy in Transition to European Standards" (April 2008) with over 100 top-level participants from government, parliament, the judiciary, prosecution service, defence lawyers, police, prisons system, academia and international actors.	coverage. Moreover, it succeeded in placing criminology and alignment to European standards on the political agenda. More importantly, this resulted, in turn, in a political Initiative to *revise the Penal Code* with a view to reducing the prescribed levels of punishment (see below). It also led to a political commitment to explore community-service sentencing as an alternative to imprisonment. A similar conference is planned for 2009 where the topic will be community-service sentencing as an alternative to imprisonment and how to strengthen the Probation Department.	excessively long prison sentences by European standards.	direct co-operation.	The most tangible result in terms of sustainability is the revision of the Penal Code described below.
2. Revision of Penal Code (reduction of sentencing levels) (High-priority effort)	Purpose: reduce sentencing levels to European levels. Activities: legal advice through 2008 in a major revision of the Penal Code instigated by the	Massive impact on Moldova's penal system: A dramatic reduction in Moldova's sentencing levels, entered into effect 24 May 2009. Some 65% of NORLAM's	High relevance: Moldova's sentencing levels were much harsher than European standards; major	Coordination: international actors informed; no overlaps; no direct co-operation.	Clear sustainability: lower sentencing now codified by law.

	Criminology Conference; NORLAM provided a massive body of legal opinions on practically every article in the Penal Code pertaining to sentencing. The effort culminated in participation in parliamentary hearings in December 2008.	proposals in the end became law: many minimum sentences were removed; maximum sentences were lowered; an old system of elaborate punish ability-levels was greatly simplified; and many provisions on aggravating circumstances were harmonised or removed altogether. In sum, the effect was a considerable lowering of punishment levels across the line of offences. The above-mentioned changes were given retroactive effect; so old judgements are to be reviewed and, to the extent necessary, cases are to be re-tried. This reduction in imprisonment levels have by all accounts already saved the prisons system many hundred years' worth of jail time. Moreover, an important side-effect is an opening for more use of community-service	concern with a view to European integration.		

		sentencing as an alternative to imprisonment. NORLAM's energetic participation in drafting changes to the Penal Code established it as a main resource pool for the under-resourced Legislation Department in the MOJ; which subsequently has turned to NORLAM for assistance in preparing other laws of relevance to the justice system.			
Pre-trial detention activities – to improve legality of the pre-trial detention process; and to reduce torture of detained suspects					
3. Pre-trial Detention Project ("Varetektsprosjektet") (High-priority effort)	Purpose: reduce unwarranted or illegal pre-trial detention; reduce torture in police- arrest facilities. Activities: 10 seminars on proper use of pre-trial detention, each seminar over 2 days (2008), altogether for some 100 prosecutors. To be expanded in 2009 and include instructional judges and defenders.	Considerable impacts attributable to NORLAM – particular impact on fairness of detention proceedings: The new pre-trial detention-request template has been adopted by the Prosecution Service (April 2008), made compulsory and is actually being used by prosecutors. The Prosecution Service is actually	High relevance: Moldova has suffered a string of judgements in the ECtHR for unfair detention processes, excessive use of detention and torture of detainees to extract convictions; serious human-rights	Coordination: international actors informed; no overlaps; no direct co-operation.	Good sustainability: The pre-trial detention template has been made compulsory for prosecutors, its use is being enforced, and the template is reportedly being

	Production of a template (legality check-list) for prosecutors, to be used when requesting court permission to hold suspects in detention. Advocacy for usage of the template, for better monitoring of detention facilities, and for prosecution of suspected torturers. -- Advice on new legislation to allow detention in cases where present rules do not permit it, but where it is nevertheless used – illegally – in cases there is a need to detain from the point of view of the public sense of justice (conf. Norway's criminal procedure code art. 172).	enforcing the use of the template: by December 2008 some 40 prosecutors had allegedly been reprimanded for not using it. This has by all accounts, in turn, resulted in a gradual but perceptible improvement in the quality of detention requests, and also in better decisions from the court – ie, *fairer process*. By extension, it has apparently also reduced *the use* of pre-trial detention, which used to be practically automatic. Interviewees expect fewer decisions in the ECtHR against Moldova in detention cases in the future. In an effort to prevent and punish torture in detention facilities, the Prosecution Service has established *special prosecutors* for pursuing cases of suspected torture of detainees – one prosecutor for each district. And new regulations for inspections in detention facilities have been introduced.	concern and issue with regard to European integration.		used in practice – not only by prosecutors but also increasingly by judges as a legality check-list. This suggests sustainability. The establishment of special prosecutors to pursue torturers in each district is considered a promising, concrete step to combat torture in detention facilities. So is the introduction of new regulation for inspection of detention facilities. Sustainability uncertain, but promising.

		NORLAM's seminars on pre-trial detention have been given official status: the National Institute of Justice credits the course to attendees as compulsory follow-up professional training. -- A draft detention rule similar to Norway's criminal procedure code art. 172 is presently tabled before the parliament for enactment into law. It will fill a legal hole and equip judges with proper legal grounds for detaining suspects of serious crimes until the trial where the public sense of justice demands it (eg, to detain a murder suspect until the trial, even if there is no danger of the suspect fleeing, manipulating evidence or killing again. At present, judges "cheat" by constructing a pretence that such dangers exist, in order to detain the suspect)			Sustainability is furthermore likely in light of the seminars receiving official status by the National institute of Justice.
Activities to make prosecutors exercise discretion on whether to prosecute or not					

4. Project "Prosecutorial Discretion" (	Purpose: make prosecution more purposeful and boost the efficiency of the criminal-justice system Activities: Advocacy in 2007 and 2008 for legislation to give prosecutors so-called discretion, ie, the authority in individual cases to decide whether to refrain from prosecuting a suspected crime, or to proceed with prosecution. NORLAM has, ia, made concrete legal proposals to the prosecutor-general, informed about Norwegian law on the subject, designed templates.	Considerable achievements: Prosecutors have been given discretional right by law, and are exercising this authority. Increasingly, offences considered one-timers or of modest culpability are not being prosecuted but result in a warning, and these perpetrators do not enter the penal system. Anecdotal evidence suggests the new rules have "spared" the criminal-justice system some 8,000 cases per year, mostly minor cases; as a side-effect, this has contributed to keeping the prison population and overcrowding down and given many first-time or minor offenders a "second chance", thus representing a humanising contribution to the justice system. -- *However*, the Review Team has also registered that some	Relevant: Moldova's relatively weak criminal-justice system has been over-burdened with small cases that contribute to backlogs, inefficient delivery and a lack of public trust in the rule-of-law system. Moreover, the country has a tradition of imposing a lot of long prison sentences. These factors have periodically led to serious overcrowding in prisons, and to a the country having a disproportionately large prison population with dim prospects of re-integration. Such factors have been an	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability is good. The activities have resulted in a law, which is being applied and apparently having the desired effect so far.

		interviewees have speculated that prosecutorial discretion may also carry *some counter-productive potential*; it could be used for dropping prosecutions for wrongful motives, e.g., due to political pressure or in exchange for illicit gain. History suggests that this is a concern of relevance to Moldova. Such a development could, in turn, have a negative impact on the rule of law and good governance. This is clearly speculative, and the Review Team cannot assess any probability of abuse; but it considers these speculations to be worth a note in the present report.	issue with a view to European integration. -- *If* prosecutorial discretion becomes abused for illicit purposes in future, this NORLAM activity might actually be seen to have had a *negative relevance* with regard to the rule of law, good governance and European integration.		
Activities to improve the courts – efficiency, fairness, public trust					
5. "Being a judge in Moldova – Seminar for Judges" (High-priority effort)	Purpose: Improve the quality and fairness of court proceedings and judgements – through strengthening judges skills in new laws and enhancing a corresponding role-	Some achievements: Seminars were popular; great demand for more. This indicates a potential for impact. A new series of seminars planned for	High relevance: Old-fashioned (Soviet-legacy) role-understandings and attitudes among judges with regard	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability uncertain, but promising: Whether similar courses will

	understanding. Activities: Advocacy to establish dialogue and discussions among judges on how to improve the workings of Moldova's courts, resulting in co-operation with the national institute of Justice on arranging two three-day seminars in 2008 for 35 judges. Themes included pre-trial detention, trial and judgement, and the respective roles of judges, prosecutors and defence in the process. Seminar discussions were anchored in strategic subjects like burden of proof, equality of arms, the right to contradict, and relevance evidence. Seminars used to introduce thinking around NORLAM initiatives like consecutive main hearings and use of community-service sentencing.	2009. The National Institute of Justice will formally acknowledge these seminars; they will count as compulsory follow-up professional training by the institute.	to the authority-balance between themselves, police, prosecutors and defence lawyers, as well as poor skills and habits on the side of judges in administering court hearings and writing judgements – these pose serious rule-of-law, human-rights and European-integration concerns.		continue after the project is uncertain; but the great interest in the courses, and the fact that the National Institute of justice will honour these courses as follow-up professional training, suggest a receptiveness that may lead to some form of post-NORLAM continuation.
6. Consecutive Main Hearings	Purpose: improve promptness and fairness of trials	Promising achievements: MOJ has made it a policy to	Highly relevant: The present habit of	Good Coordination:	Sustainability uncertain; but the commitment of

(High-priority effort)	Activities: Advocacy to establish a working group to study the feasibility of introducing a practice of conducting the main hearing in criminal trials continuously, ie, without breaking it up into a series of smaller hearings. Initiative vis-à-vis the MOJ Department for Administration of Justice – later also the Superior Council of Magistrates, Prosecutor-General and the Bar Association. Advocacy vis-à-vis judges, prosecutors and defence lawyers, eg, in seminars arranged by NORLAM, to air the idea and generate understanding of the importance of the subject.	introduce consecutive main hearings in the courts. MOJ is establishing a working group in early 2009, tasked with assessing the feasibility, including the legal landscape, and drafting a proposal for introducing such hearings. The plan is for a draft law to be presented by the end of June 2009. NORLAM is expected to play a crucial supportive role in the effort. EC and CoE will also be involved.	fragmenting trials pose serious human-rights concerns. It also causes delays and backlogs in the courts, slowing down judicial-service delivery, ultimately undermining public confidence in the rule-of-law institutions and the governance system.	International actors informed; no overlaps; it is envisaged that NORLAM will co-operate with EC and CoE in providing advice to the working group.	MOJ bodes well, and so does an apparent commitment by the main actors in the criminal-justice chain, as well as an interest in the subject reported by participating judges, prosecutors and defence lawyers in NORLAM seminars.
7. "Mixed Seminars" – Improving the efficiency in the criminal-justice system (High-priority effort)	Purpose: efficient administration of criminal justice Activities: "Mixed seminars", ie, seminars gathering judges, prosecutors and defence lawyer, around 40 from each professions,	Achievements: Eye-opener to participants, who include potential drivers of change: the mere idea of gathering judges and traditionally powerful	High relevance: The justice system adopted by Moldova is based on a constructive interplay between	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability: too early to assess meaningfully, but promising signs of potential sustainability. These seminars

	including many appeals-court judges, since autumn of 2008. Seminars lasting two days. Focus on how to provide more efficient service- delivery through constructive (due process) interplay of the different actors. Seminars anchored in strategically important subjects like presumption of innocence, the right to contradict, prosecutors duty to be objective, consecutive main hearings, and human rights in the daily work of the courts and in writing of judgements, community service-sentencing and correct use of personality assessment by Probation Service in this regard.	prosecutors together with (traditionally disrespected) defence lawyers has apparently been quite a novelty. Constructive discussions have by all accounts taken place. These seminars have moreover been used to pilot methodologies and subjects suitable for impact in seminars for the different court actors on subjects of relevance to all of them.	the different types of court actors – judges, prosecutors and defence lawyers – whereas Moldova has traditionally operated with a fairly rigorous barrier between these actors, and with a different culture of role understandings than in many “western” countries. For the new rule-of-law system to work as designed, e.g., with regard to efficiency and observance of human rights, it is essential that these professions understand their new roles and respect the roles of other actors in the system. This is not only a matter of efficient and fair		are popular, sought-after and have reportedly been surrounded with great interest. This could indicate an interest boding well for the future.

			administration of justice, but also of bringing the Moldovan judicial system into alignment with "European standards".		
8. Mock trials/seminars in writing judgements (High-priority effort)	Purpose: improve the quality of judgements Activities: two seminars in early 2009 for 20 judges from all of Moldova at various levels of experience and seniority; mock-trial practice, switching roles, to learn appreciation of the roles of other court actors; training in writing judgements – summarising relevant facts, contentions and formulating legal reasons for judgements. The seminars will continue.	Achievements: Very positive feedback; judges apparently found the training very thought-provoking and interesting. Great demand for more training. Training to be included in the curriculum of the National institute of justice. Completed seminars approved as formal post-graduate professional training.	High relevance: Many judges apparently lack a proper understanding of the roles of prosecutors, lawyers and judges under new laws; and judges traditionally write judgements of substandard quality, compared to European levels, that make it difficult to follow the reasoning of the court and determine whether due process has been followed. These amount to a human-rights	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability: Uncertain, but great interest in the seminars and the prospect of inclusion of such seminars in the curriculum of the national Institute for Justice suggest potential sustainability.

			concern and issue with regard to European integration.		
Activities targeting defence Lawyers – training in key procedural disciplines					
9. Seminars for Defence Lawyers (High-priority effort)	Purpose: improve quality of defence lawyers' with regard to key criminal-procedural disciplines under Moldovan law; and raise the assertiveness of the legal profession. Activities: Six two-day seminars for some 90 lawyers –members of the Bar Association and many belonging to an informal network of activist independent professionals; and one seminar for newly appointed public defenders belonging to the Legal Aid Service.	Achievements: Seminars received very positive feedback; great demand for more such training. Anecdotal, credible reports that these seminars have raised the confidence and self-respect among many of the participants.	High relevance: Defence lawyers have traditionally been disrespected by other legal actors and had little impact on court cases in Moldova. This is a grave concern with regard to human rights and European integration.	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability: Uncertain, but great interest in these seminars could entail potential. However, neither the Bar Association nor the Legal Aid service appear to have any institutional capacity to continue when NORLAM leaves. Nor does the professions have easy access to professional training sunder

					the auspices of the National Institute for Justice.
Activities with the Prisons Service – humanising the prisons system and facilitating re-integration					
10. Re-integration, sub-project "Sentencing Plan" ((High-priority effort)	Purpose: constructive planning and implementation of imprisonment, with a view to re-integration of the individual Activities: Advocacy from 2007 for the Prisons service for introduction of individual sentencing plans, ie, an individual activity plan for the duration of imprisonment. Pilot project in 2008 to introduce sentencing plans in two prisons, later expanded to another two. Training in 2008 of prisons administrators and staff in the purpose and use of sentencing plans.	Significant achievements: Sentencing plans made compulsory and introduced in all prisons in the country from January 2009, following the Norwegian template. The plans appear to be used in practice.	High relevance: Traditionally prisoners have been passive and having little or no access to meaningful activities, with poor prospects of re-integration. This falls short of European standards.	Coordination: International actors informed; no overlaps; no direct co-operation.	Sustainability: very promising; sentencing plans have been made obligatory and appear to be in use.

11. Training of Prisons staff	Purpose: improve prisons management, reduce conflict-levels in prisons and better treatment of detainees. Activities: Three seminars in 2008 and three seminars in 2009 for all prisons managers in Moldova and many administrative staff, subjects including leadership and conflict management. A new series of seminars for prisons wardens, 20-25 participants each time started in spring 2009. These seminars are meant to cover all the wardens (about 100 officers and sub-officers) Two seminars for teachers from the Prison Training Centre and two follow up seminars for the same participants (April 2008) on subjects like: motivation for learning, interactive training, etc.	Achievements: Beginning awareness in the Prisons Service of the need to educate prisons management and rank-and-file staff, who traditionally have no professional training. Prisons managers from across the country have reportedly formed some informal networks to discuss issues of common interest.	Relevance: The prisons system is traditionally closed and authoritarian, with conflicts among staff, between staff and prisoners, and among prisoners – leading to poor conditions which are a human-rights concern and falling below European standards.	Coordination: international actors informed; no overlaps; no direct co-operation. Cooperation with a German professor in legal psychology from Free International University from Moldova and a teacher from the Romanian Prison Training School.	Sustainability: uncertain.
12. Visits to prisons (not a project, but an activity on the side)	Purpose: monitoring, getting prison officials used to outsiders coming to inspect what is going on inside a traditionally closed	Achievements: NORLAM has been granted free access to Moldova's jails. This is	Relevance: Watchdog function. Traditionally there	Coordination: international actors informed;	Sustainability: After NORLAM there will be no

	and authoritarian system. Activities: Advocacy to allow access for NORLAM to prisons; systematic visits by NORLAM members to all 24 prisons around the country. On some occasions (2 prisons) the visit to prison transformed in a discussion meeting with the staff (25-30 persons gathered in one room) where the Norlam prison advisor told about Norwegian system and practice.	largely due to trust established through the activities above.	have been sub-standard conditions and considerable violence in Moldovan prisons; visits from outside monitoring are considered relevant by interviewees. The Review Team concurs.	no overlaps; no direct co-operation.	NORLAM visits. But the fact that this kind of project has gained access in the first place is perceived as a positive development.
Expressive writing as a psycho-therapy for inmates.	Activities: One-day training for all the prison psychologists, to introduce the method and discuss the practical issues about implementation. Discussion with a group of prison women about the method. Testing the psychological status before and after 25 days of writing. Books about expresive writing given to the Prison library.	Achievements: After at least 100 hundered prisoners will use writing, will be made and statistical evaluation of the degree of improvement of their emotional health.	Relevance: Should contribute to improving the mental health of the inmates (especialy those suffering from traumas).	Coordination: Cooperation with the Free International University from Moldova, German professor involved.	Sustainability uncertain: Some of the prisoners will probably continue using this method regardless if we take record of that or not. This method should contribute to the rehabilitation process.

Activities with Probation Department – enhancing awareness of the importance of the institution; strengthening the institution for implementation of community-service sentences					
13. Roundtables, Probation	Purpose: disseminate basic information on new law on probation to key actors and facilitate its correct implementation. Activity: 3 roundtable conferences in 2008 in three cities entitled "Probation – a necessary part of the criminal justice system" for some 90 representatives of the MOJ, Supreme Court, Superior Council of Magistrates, Office of the Prosecutor-General, the Bar Association, Ministry of Internal Affairs, judges, defence lawyers, prosecutors, police and probation officers.	Modest achievements: The seminars ostensibly made the law known to many relevant actors and may have contributed to increasing the Probation Department's independence from the prosecution.	Relevance: More use of community-service sentencing, in alignment to European practices, and reduced use of imprisonment depend on a functioning Probation service. The activity is relevant in a chain-of-justice perspective.	Coordination: International actors informed; no overlaps; no direct co-operation.	Sustainability: Uncertain.
14. Probation, training in Management and leadership, Basics	Purpose: introduce basic, modern leadership principles in newly-established Probation Department Activities: Three two-day seminars for the managers of	Achievements: Managerial staff trained in basic leadership skills. Apparently a morale-booster, as well as a stimulant for management. Seminars well received.	Relevance: The Probation Department is new and weak, and finding its role. It is an element in the	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability: Uncertain, but reports of informal monthly meetings among managerial staff

	Moldova's 42 Probation offices, in all 80 participants. Subjects included planning, staff meetings, motivation, etc.	Demand for more similar seminars. To be continued in 2009. Anecdotal evidence of probation managers forming an informal network to discuss issues of common concern, meeting monthly.	chain of justice. Strengthening it is relevant.		from all over the country could indicate potential for a sustainable effect.
15. Probation: Training of Trainers (High-priority effort)	Purpose: establish a core of trainers to become specialists in the key functions of the Probation Department, different training methodologies, communication and change management. Activities: Three three-day workshops in 208, to be continued in 2009, to train a pool of 15 trainers of probation officers. This activity has apparently required a great deal of preparatory effort.	Achievements: A pool of 15 trainers-of-trainers established, skilled and ostensibly highly motivated. Tasked with training other probation officers, have started doing so.	Relevance: Same as above.	Coordination: International actors informed; no overlaps; no direct co-operation.	Sustainability: promising, but limited and uncertain.
16. Information material on community service	Purpose: increased awareness of community-service sentencing among key stakeholders ant the public at large.	Achievements: Information material produced.	Relevance: The Probation Department is a new	Coordination: international actors informed;	Sustainability: This is a one-off effort; no

	Activity: production and distribution of 3,000 folders, brochures and other information material for distribution in Rumanian, Russian and English among criminal-justice actors, public offices and international partners.	Printing and distribution awaiting new logo for the Probation Department.	institution an largely unknown to the other actors of the criminal-justice chain and to the public, and partly for this reason it is little used and regarded; strengthening its position is partly dependent of generating awareness of its role and mandate, and so the activity is relevant.	no overlaps; no direct co-operation.	immediate sustainability ambition.
17. Seminar on release from prison ("Løslatelse fra fengsel")	Purpose: improve ex-prisoners prospects of employment and re-integration. Activity: One three-day seminar in 2008 for some 30 participans.	Achievements: unclear.	Relevance: Release and re-integration comprise the final link in the criminal-justice chain; efforts to strengthen this link are relevant.	Coordination: international actors informed; no overlaps; no direct co-operation.	Sustainability: None. This was a one-off effort. The work is in the activity area of, and is being continued by, a local NGO, the *Institutul reform Penale.*
14. Probation:	Purpose: contribute to co-	Achievements:	Relevance:	Coordination:	Sustainability:

International co-operation ("Internasjonalt samarbeid")	operation between the Moldovan Probation Department and its counterparts in other european countries. Activity: Participation by the head of the Probation department and one NORLAM member in a conference in Strasbourg arranged by the CoE and CEP.	Networking by the head of the Moldovan Probation Department; and preparatory work in connection with the planned international conference on probation scheduled to take place in Moldova in 2009. Moldova now a member of CEP.	Not irrelevant. Attendance in the conference is plausibly relevant to longer-term efforts of bringing the Moldovan probation department in line with European standards.	international actors informed; no overlaps; no direct co-operation.	None. This was a one-off event. Possibly some lasting effect from CEP membership and the planned-for conference on probation in moldova in 2009.