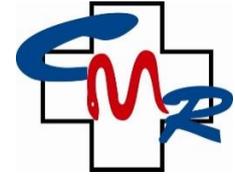




**People's Advocate**  
**No. 1949/12 February 2015**



**Romanian College of Physicians**  
**No. 1242/12 February 2015**

## **PROTOCOL**

**No. 3 from 12 February 2015**

**Regarding the collaboration aiming to fulfil the responsibilities provided by Art. 29<sup>5</sup> – 29<sup>6</sup> from the Law No. 35/1997 on the organisation and functioning of the People's Advocate institution, republished, as amended and supplemented, by Government Ordinance No. 48/2014, approved by Law No. 181/2014**

**Signed between**

**The People's Advocate institution**, with the headquarters located in the municipality of Bucharest, Eugeniu Carada Street, No. 3, sector 3, represented by the Ombudsman mr. **Victor Ciorbea**, as **Authority**.

**And**

**The Romanian College of Physicians**, with the headquarters in Timișoara Blvd, No. 15, sector 6, represented by its President, **Prof. Vasile Astărăstoae PhD.**, as **Partner**.

The Parties, under art. 29<sup>5</sup> and 29<sup>6</sup> from the Law No. 35/1997 on the organisation and functioning of the People's Advocate institution, republished, as amended and supplemented by the Government Ordinance No. 48/2014, approved by the Law No. 181/2014, have signed the present Protocol, hereinafter called **The Protocol**.

## **Article 1**

### **The object of the Protocol**

The object of the Protocol consists in regulating the collaboration, between the People's Advocate institution and its *Partner*, for the purpose of implementing the provisions of art. 29<sup>5</sup> and 29<sup>6</sup> from the Law No. 35/1997 on the organisation and functioning of the People's Advocate institution, republished, as amended and supplemented.

According to the legal provisions aforementioned, for the functioning of the Scope for the prevention of torture in places of detention, within People's Advocate institution, in the central and territorial structure shall be co-opted specialists as permanent employees, as well as external collaborators, from other specialties than the permanent employees, hired under service contracts. The external collaborators are selected by the Ombudsman, on the basis of the proposals received from the Romanian College of Physicians, under the terms of the present Protocol.

If there is a need for supplementing the number of permanently employed specialists for the same professional specialties, they may be hired from among the external collaborators.

During the fulfilment of their functions, the external collaborators shall be subject to the duties of the institution's personnel, regarding maintaining the confidentiality of their work and also to the other internal discipline rules of the institution.

In the fulfilment of the duties specific to the Scope for the prevention of torture in places of detention, the members of the visiting teams are independent. The professional independence shall be observed, under the legal requirements for exercising the profession.

For the fulfilment of the aforementioned legal provisions, the permanently employed specialists and the external collaborators selected by the *Authority* on the basis of the *Partner's* proposals shall be part of the teams visiting the places of detention, as defined by art 29<sup>2</sup>, para. 1-3 from the Law No. 35/1997 on the organisation and functioning of the People's Advocate institution, republished, as amended and supplemented.

The permanently employed specialists shall be hired, under Individual Employment Contract, by the *Authority*, with the support of the *Partner*, who shall participate in the organisation and conduct of the competition.

## **Article 2**

### **General Principles**

In the course of the collaboration between Parties, and for the purpose of applying the present Protocol, the following principles shall apply:

- 1) The relation between Parties is a collaboration relationship;
- 2) Each of the Parties keeps its decisional, functional and organisational independence;
- 3) Each of the Parties shall be held accountable exclusively for the realisation of its legal duties and these deriving from the present Protocol, the responsibility of the collaborators being personal;
- 4) The designated persons/the external collaborators shall carry out their activities in conditions of confidentiality, impartiality and independence in relation to the *Authority* and the *Partner*;
- 5) At the request of the *Authority*, the *Partner* shall formulate proposals for the nomination of external collaborators in its area of competence, and the *Authority* shall decide on their selection;
- 6) At the request of the *Authority*, the *Partner* shall provide the *Authority* with the necessary support in organising the competition for hiring the permanently employed specialists, under Individual Employment Contracts (participating in organising and conducting the competition). The *Authority* shall inform the *Partner* about the competition's results.
- 7) The *Partner* shall provide the *Authority* with the necessary support for the selection of the external collaborators under the specific service contract, by formulating proposals. The *Authority* shall inform the *Partner* about the results of the selection.

## **Article 3**

### **Collaboration**

- 1) For carrying out its duties provided by art. 29<sup>5</sup> and 29<sup>6</sup> of the Law No. 35/1997 on the organisation and functioning of the People's Advocate institution, republished, as amended and supplemented, the *Authority* shall request from the *Partner* the designation of external collaborators from its area of professional competence. In its request, the *Authority* shall specify the number of persons needed and their area of expertise, according to the central and territorial structure of the Scope for the prevention of torture in places of detention and the geographical area of competence.

- 2) The *Partner* shall designate the external collaborators by sending a record/list to the *Authority* at the beginning of each year. This list shall be updated as many times as necessary, at the request of either of the Parties signing the present Protocol.
- 3) On the basis of the proposals received from the *Partner*, the *Authority* shall select the external collaborators and inform the other Party of their names.
- 4) In exceptional situations (when the external collaborators cannot be contacted, they quit the collaboration or are unable to fulfil their duties for a prolonged period of time etc.), the *Authority* may send a written request to the *Partner* for the replacement of the external collaborators concerned, and the *Partner* shall solve the request within 30 days after the request is communicated to them. The provisions of art. 3, para. 1), final thesis of the present Protocol shall apply accordingly.
- 5) Within the deadline set by the *Authority* in its request, the *Partner* shall submit to the *Authority* proposals for the nomination of external collaborators from the geographical area where they are needed, and from the field of competence and expertise specified by the *Authority*, indicating their contact information and the means of communication as well as their job description.
- 6) For every external collaborator proposed, the *Partner* shall request beforehand from each of the concerned specialists, their agreement in principle for their involvement in the actions organised and coordinated by the *Authority*.
- 7) The *Partner* formulates its proposals after the communication of an Announcement for the selection of collaborators issued by the *Authority*, after the registration of the candidates' applications and their approval based on the criteria set by the *Authority*.
- 8) In order to avoid conflicts of interest and other situations of incompatibility, the external collaborators shall be proposed and selected from among the specialists that are not employees or public servants in one of the institutions making the object of the Scope for the prevention of torture in places of detention.

## **Article 4**

### **The external collaborators**

- 1) The external collaborators proposed by the *Partner* must be professionals having good professional and deontological reputation in the field of activity where they are needed and must not be currently suspended from work due to an ongoing disciplinary sanction.
- 2) Along with the proposal formulated to the *Authority*, the *Partner* shall also send a recommendation specifying the fields in which the external collaborator does not have conflicts of interest. The recommendation is issued based on a self-assessment form, filled in by the external collaborator, on his own responsibility, regarding the fulfilment of the conditions provided by art. 3, para. (8) of the present Protocol, with respect to the conflict of interest and incompatibilities.
- 3) The *Authority* shall inform the *Partner* about the selected external collaborators.
- 4) In their activity, the persons selected as external collaborators of the Scope for the prevention of torture in places of detention within the People's Advocate institution shall observe the clauses provided by the service contracts concluded with People's Advocate institution.
- 5) The selected persons are subject to disciplinary liability in case of failure to comply with the regulatory framework for the profession they belong to. The *Partner* shall be informed by the *Authority* about the inappropriate activity and misconduct of the external collaborators.
- 6) The disciplinary liability of the selected persons does not exclude criminal, contraventional or civil liability, under the relevant legal provisions.

## **Article 5**

### **The obligations of the *Authority***

- 1) The *Authority* shall organise, each semester, sessions of communication, information and professional training for the professionals designated by the *Partner* with a view to enabling them to fulfil their duties as provided by the law.
- 2) Annually, the *Authority* shall organise a meeting with the *Partner*, during which a general presentation of the activity carried out by the persons proposed by the *Partner* shall be done and references shall be made to the relevant recent practice of the National and European Courts of Law, on the prevention of torture and other cruel, inhuman or degrading treatments or punishments in places of detention, as the case may be.

- 3) The *Authority* may participate to meetings, at the *Partner's* invitation, with the aim of improving the quality standards in the fields of professional activity specific to the Scope for the prevention of torture in places of detention.
- 4) The *Authority* informs the *Partner* about the collaborators' actions that might be subject to disciplinary liability.
- 5) The *Authority* undertakes to promptly notify the *Partner* of the situations that require additional proposals for the replacement of some of the external collaborators.
- 6) The *Authority* undertakes to display the Announcement regarding the selection of external collaborators on the official website of the institution.

## **Article 6**

### **The obligations of the *Partner***

- 1) The *Partner* shall work with the *Authority* with a view to identifying and selecting the professionals according to the specified criteria.
- 2) The *Partner* shall take measures for maintaining the confidentiality and may impose additional conditions besides those set by the *Authority*, for forwarding the proposals of the external collaborators, according to the regulatory framework of the profession, the quality standards of the professional services and the good practice guides.
- 3) The *Partner* shall provide the *Authority* with the necessary support for hiring, under Individual Employment Contracts, the permanent employees having other specialties than the external collaborators.
- 4) The *Partner* undertakes to display the Announcement regarding the selection of external collaborators on the official website of the professional organisations.
- 5) The payment for the services shall be made under the service contracts concluded between the People's Advocate and, as the case may be, individual offices / associated offices / civil professional societies / Authorized Natural Persons, according to the specific professional rules and relevant legal regulations, and the reimbursement of expenses shall be made on the basis of the invoices issued and the tariff established by the contract.
- 6) The present Protocol shall be published in the Official Gazette of Romania, Part I.

The Protocol was concluded today \_\_\_\_\_, in Bucharest, in \_\_\_ original copies, one for each Party.

**People's Advocate Institution**  
People's Advocate,  
**Victor Ciorbea**

**Romanian College of Physicians**  
President,  
**Prof. Vasile Astărăstoae PhD.**

February 12, 2015