

EMERGENCY ORDINANCE no. 48 of June 26, 2014 amending and supplementing Law no. 35/1997 on the organisation and functioning of the Ombudsman and for amending and supplementing certain legal acts.

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▶ *(The document was approved at the date of January 9, 2015 by [Law 181/2014](#))*

Given that by law no. [109/2009](#), Romania ratified the [Optional protocol](#), adopted at New York at December 18, 2002, at [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), adopted at New York at December 10, 1984,

considering that, by ratifying the [Optional Protocol](#), Romania has undertaken to establish, at national level, the National torture prevention mechanism in places of detention in order to strengthen the protection of persons deprived of their liberty in places of detention, that the deadline for setting up this mechanism in Romania was 3 years from the date of ratification of the [Optional Protocol](#), and that the Romanian State has won two successive extensions for the deadline for implementation of the [Optional Protocol](#), so that, the deadline is today August 2014,

considering the fact that the memorandum reaffirming legislative solution comprising the taking over of the national torture prevention mechanism in places of detention by an independent authority which already exists, namely the Ombudsman was approved by the Government in 2013,

given that, pursuant to article 2 of Law no. [109/2009](#), for complying with the ratified [Optional Protocol](#), an internal regulatory framework to ensure the functioning of the National torture prevention mechanism in places of detention is required, under the terms of the [Optional Protocol](#),

seeing the extraordinary situation represented, on the one hand, by the necessity the fulfilment of the obligations undertaken by Romania in 2009 through the ratification of the [Optional Protocol](#) and, on the other hand, by the protection of fundamental rights and freedoms of persons in detention, measures likely to help the Romanian State to avoid any critics/recommendations contained in the reports of Mechanism for Cooperation and Verification for Romania (CMV), of United Nations Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);

given that extending the powers of the Advocate of the People Institution in matters of contentious constitutional, administrative litigation and appeal on points of law was not accompanied by measures concomitant additional staff, a situation which has led to a shortage of staff and thus loading staff specialist existing with new tasks;

taking into account that at the former functions are added those specific of National Mechanism to prevent torture in places of detention, the measures envisaged by the adoption of Government Emergency Ordinance amending and supplementing Law no. [35/1997](#) on the organization and functioning of the Ombudsman, republished, being designed to contribute to ensuring the effective functioning of the activity of the whole institution to achieve the general interests that it protects, given that the activity of prevention of torture will be carried out, from the date of entry into force of the emergency ordinance and until 1 January 2015, by the specialized staff, otherwise, the establishment of National Mechanism to prevent torture in places of detention, unaccompanied

by minimum additional personnel and reorganisation of the Advocate of the People, would lead to profound disruption of activity.

Taking into account that the extraordinary situation and urgency activity carrying the prevention of torture in detention impose a series of preparatory measures designed to ensure the establishment and functioning of the structures of the Advocate of the People Institution who carries out announced or unannounced visits at places of detention, by performing Mechanism specific activities of preventing tortures in places of detention by existing staff of the Advocate of the People, and also by selection of experts, external collaborators and representatives of non-governmental organizations whose presence in the visiting teams is absolutely necessary,

taking into account that the implementation of the national mechanism of preventing torture in places of detention requires the Romanian authorities to adopt measures in order to ensure the adoption of emergency amendments to modify the Law no. [35/1997](#) on the organization and functioning of the Institution of the Ombudsman, republished, in its entirety, in terms of completing tasks and how to exercise them: reconfiguring organizational structure, adequate supplementation of the budget institution and its staff both at central and at local level and the allocation of appropriate conduct of business premises,

observing that a structure which performs the duties on the constitutional review, administrative litigation and appeal on points of law functions de facto in the Ombudsman Institution. The constitution of Constitutional contentious activity, lodged appeal, administrative and judicial level, external relations and communication should be one measure to delineate the tasks of specialist staff within the Advocate of the People Institution and streamline its work, the more since the structure of the institution will be integrated into a new area of activity, with a specific role for the prevention of torture,

observing the jurisprudence of the Constitutional Court, according to which ordinances cannot affect the fundamental state - on any of the components that define the legal status of their organizational structure, functioning, powers, material and financial resources, number and status of personnel, salaries, category of legal acts which they adopt etc., but may be adopted if the regulations they contain, have positive consequences in areas involved. Regarding areas that can be covered by emergency ordinance, in its case, the Constitutional Court stated that "it can be deduced that the prohibition of adoption of ordinance is total and unconditional when stating that" cannot be adopted in the field of constitutional laws » and that "cannot establish measures of forcible transfer of public property". In the other areas covered by the text, as in this case, ordinances can not be adopted if "affect", if negative, but instead may be adopted if the regulations they contain, have positive consequences in areas involved " (Decision no. [55/2014](#), Decision no. [94/2011](#) and Decision no. [1.189/2008](#)). The amendments in this legal act is not affected the legal regime of the Advocate of the People Institution within the meaning of the jurisprudence developed by the Constitutional Court. Thus, in terms of organizational structure is intended, first, integrating national mechanism of preventing torture in places of detention as an area of activity within the Advocate of the People and, secondly, the efficient functioning of the institution as a whole. Consequently, all provisions of this legal act have positive effects, such as: Romania assumes its obligations on the international level; It contributes on the internal level at improvement of the work of the institutions which coordinate detention and those who constitute the detention according to

the Protocol, and respectively, in the protection of human rights, specific activity carried out national mechanism of preventing torture in places of detention, seeing the recommendations contained in the Report of the European Commission against Racism and Intolerance - ECRI, published on 3 June 2014, namely: increasing resources for the Advocate of the People, and taking appropriate steps to ensure that the funds allocated to the Advocate of the People sufficient to ensure an increase in staff, taking into account the need for citizens belonging to national minorities with a share of administrative-territorial units of more than 20% of the people make effective protection of rights and liberties through legal means available to the Advocate of the People by Law no. [35/1997](#) on the organization and functioning of the Institution of the Advocate of the People, republished, in consideration of article 10, paragraph 2 from [Framework convention for the Protection of National Minorities](#), concluded on February, 1, 1995, ratified by România through Law no. [33/1995](#), according to which "In areas traditionally or in substantial number habited by persons belonging to national minorities, if these persons so requests and where such a request corresponds to a real need, the Parties shall endeavour to ensure, to the extent possible, conditions allowing the use of minority language in relations between these persons and the administrative authorities " and in accordance with paragraph 64 of the explanatory report appended to [Framework convention for the Protection of National Minorities](#), according to which "This provision does not cover all relations between individuals belonging to national minorities and public authorities. Indeed, only the administrative authorities are concerned. However the latter term should be understood broadly to encompass, for instance, the Advocate of the People Institution. "Or, the purpose of the Advocate of the People Institution is to mediate between the administrative authorities and citizens, including those belonging to national minorities, given the need to eliminate the risk of non-compliance with the obligation assumed by Romania through the ratification of [The Optional Protocol](#), and the requirement to ensure the functionality of the Ombudsman, it is necessary to adopt these measures urgently, given the fact that these elements aimed at general public interest and constitutes an emergency and extraordinary regulation of which cannot be postponed, under 115 par. (4) of [The Romanian Constitution](#), republished, **The Romanian Government** adopts this emergency ordinance.

☐**Art. I**

Law no. [35/1997](#) on the organization and functioning of Advocate of the People, republished in the Official Gazette of Romania, Part I, no. 277 from April, 15, 2014, is amended and supplemented as follows:

☐**1.**In article 2, after paragraph (1) a new paragraph is inserted, paragraph (1¹), as follows:

"(1¹) The Ombudsman's office, within the Scope on the prevention of torture and other punishments or cruel, inhuman or degrading treatment in detention, hereinafter the Scope on preventing torture in places of detention, performs tasks specific to the National torture prevention mechanism in places of detention, within the meaning of the [Optional Protocol](#), adopted in New York on December 18, 2002, at [Convention against torture and other punishments or cruel, inhuman or degrading treatment](#), adopted in New York on December 10, 1984, ratified by Law no. [109/2009](#), hereinafter the [Optional Protocol](#)."

▣2. Article 4 is amended and it will have the following content:

"Art. 4

Public authorities are required to communicate or, where appropriate, to provide the Ombudsman, under the law, with the information, documents or papers they hold relating to petitions that were submitted to the Ombudsman, , as well as those relating to ex officio complaints and announced or unannounced visits which it performs for the fulfilment of its tasks specific to the National torture prevention mechanism in places of detention, granting it support for the exercise of its powers."

▣3. At article 9, after paragraph (4) a new paragraph is inserted, paragraph (5), as follows:

"(5) The period of the Ombudsman's function constitutes seniority in the magistracy and seniority in the legal field."

▣4. At article 10 paragraph (1), after letter d) a new letter is introduced, letter e), as follows:

"e) prevention of torture and other punishments or cruel, inhuman or degrading treatment in detention."

▣5. Article 13 paragraph (1), after letter a) three new letters are introduced, letters a¹)-a³), as follows:

"a¹) coordinates the activity to prevent torture in places of detention, carried out within the Scope on the prevention of torture in detention;

a²) approves the visiting reports drawn up under torture prevention work;

a³) approves the recommendations accompanying the visiting reports drawn up in cases in which, following the visits, irregularities are noticed;"

▣6. Article 14, paragraph (1) is modified and will have the following content:

"Art. 14

(1) The Ombudsman's Office exercises its duties ex officio or at the request of natural persons, companies regulated by Law no. [31/1990](#), republished with subsequent amendments and supplements, associations or other legal persons, and unannounced, through visits to places of detention, under the law."

▣7. Article 15, after paragraph (2) a new paragraph is introduced, paragraph (2¹), with the following content:

"(2¹) Citizens belonging to national minorities residing in administrative and territorial units where they account for over 20% of the people can submit petitions in their native language and shall receive an answer in Romanian and in the native language."

▣8. After article 17 a new article is introduced, article 17¹, with the following content:

"Art. 17¹

(1) The management of detention facilities referred to in art. 292 is required to allow, without restriction, persons deprived of liberty, based on a decision of the authorities, to address in any way the Ombudsman's Office regarding the violation of their rights and freedoms, with the exception of legal restraints.

(2) In order to fulfill the duties incumbent on the Ombudsman's Office, the administration of detention facilities referred to in article 29² is required to allow access to the Ombudsman, the deputy within the Scope on the prevention of torture in places of detention, as well as representatives of the Office, without restriction, in all places of detention monitored for visits, announced or unannounced, and ordered investigations to resolve petitions received.

(3) Petitions about torture, cruel, inhuman or degrading treatment in places of detention shall be settled according to the issues notified, within the Scope on

preventing torture in places of detention, in collaboration with other structures of the Ombudsman's Office.

(4) The provisions of this law are made available to detainees in Romanian or in the language they understand, immediately after reception in detention places."

▣**9.** Article 20, paragraph (1) is modified and will have the following content:

"Art. 20

(1) The Ombudsman and its deputies have access, under the law, to classified information held by public authorities, to the extent deemed necessary to solve the petitions that were addressed to them, and ex officio referrals and announced or unannounced visits they perform to fulfill the duties specific to the National mechanism to prevent torture in places of detention."

▣**10.** Article 21, after paragraph (2) a new paragraph is introduced, paragraph (3), with the following content:

"(3) The Ombudsman's recommendations within the Scope on preventing torture in places of detention issued in the event of irregularities are aimed at their removal, improved treatment and conditions of detention of people deprived of freedom, prevention of torture and inhuman or degrading treatment or punishment."

▣**11.** Article 29, after paragraph (1) a new paragraph is introduced, paragraph (1¹), with the following content:

"(1¹) The territorial offices of the Ombudsman which have their headquarters or conduct their audience activities in administrative and territorial units where citizens belonging to national minorities represent more than 20% of the total population shall also ensure the usage of the language of those national minorities, in writing and orally, in relations with petitioners."

▣**12.** Chapter IV – Ombudsman's duties, a new chapter is introduced, chapter IV¹ - Activity within the Scope on preventing torture in places of detention, consisting of articles 29¹-29¹⁹, with the following content:

"CHAPTER IV¹: Activity within the Scope on preventing torture in places of detention

SECTION 1: General Provisions

Art. 29¹

(1) The Ombudsman's Office is the only national structure designated to perform the duties provided for in the [Optional Protocol](#), adopted in New York on December 18, 2002, at [Convention against torture and other punishments or cruel, inhuman or degrading treatment](#), adopted in New York on December 10, 1984, ratified by Law no. [109/2009](#).

(2) Under this law, the Subcommittee on Prevention means Subcommittee on Prevention of Torture and Inhuman or Degrading Treatment or Punishment, set up by the [Optional Protocol](#).

Art. 29²

(1) For the purposes of this law, place of detention is any place where persons are

deprived of their liberty by a decision of an authority, at its request or with its express or tacit consent.

(2) Deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private place of detention which it cannot leave at will, by the decision of any judicial, administrative or other authority.

(3) Under this law, the following are considered places of detention and, where appropriate, places where the Ombudsman exercises its duties on the prevention of torture:

a) prisons, including hospital prisons;

- b) educational centres, detention centres;
- c) detention and preventive arrest centres;
- d)) residential services for minors who have committed crimes and are not criminally liable;
- e) psychiatric and safety hospitals, psychiatric hospitals;
- f) transit centres;
- g) accommodation centres for aliens taken into public custody subordinated and managed by the General Inspectorate for Immigration;
- h)) special reception and accommodation centres for asylum seekers subordinated to the General Inspectorate for Immigration, having the legal regime of transit area;
- i) centres which grant assistance services for drug users in closed regime;
- j) any other place that fulfils the requirements of para. (1) or part of the health system or the social assistance system.

SECTION 2: Duties within the Scope on preventing torture in places of detention
Art. 29³

The Scope on preventing torture in places of detention regularly monitors the treatment of persons in detention in order to strengthen their protection against torture and other cruel and inhuman or degrading treatment and to exercise indiscriminately their fundamental rights and freedoms by:

- a) visiting, announced or unannounced, the places of detention in order to verify the conditions of detention and treatment of persons deprived of liberty;
- b) formulating recommendations to the managements of visited places of detention following the visits;
- c) formulating proposals for amending and supplementing the relevant legislation or comments on the existing legislative initiatives in the field, under art. 27;
- d) drafting the project of the component part on preventing torture of the annual activity report of the Ombudsman;
- e) formulating proposals and comments on the development, modification and completion of public policies and strategies in the prevention of torture and inhuman or degrading treatment or punishment under the law;
- g) analysing, implementing, monitoring and evaluating, under the direction of the Ombudsman, international programs with technical and financial assistance for achieving the goal of the Scope on preventing torture in places of detention;
- h) coordinating the organization of awareness, education and training campaigns in order to prevent torture and punishment or cruel, inhuman or degrading treatment;
- i) performing any other duties established by the Ombudsman, within the law.

SECTION 3: The organization of the prevention of torture and cruel, inhuman and degrading treatment in places of detention
Art. 29⁴

(1) The Scope on preventing torture in places of detention is organized in the central and territorial structures.

(2) The central structure comprises the Bucharest zonal centre. The territorial structure consists of 3 zonal centres The central structure comprises the Bucharest zonal centre. The territorial structure consists of 3 zonal centres.

(3) The Ombudsman establishes by order the places where the zonal centres are located and the counties that fall under their jurisdiction, and the criteria for the selection of staff within the Scope on preventing torture in places of detention.

(4) The torture prevention activity shall be attended by representatives of NGOs working in the field of human rights protection, selected based on their work by the Ombudsman.

Art. 29⁵

(1) For carrying out activities within the Scope on preventing torture in places of detention at central level, external collaborators are also co-opted from other specialties than the permanent employees, under contracts for services. The external collaborators are selected by the Ombudsman, based on proposals received from the College of Physicians of Romania, the Romanian College of Psychologists, the Sociologists Society of Romania, the National College of Social Workers or other professional associations to which they belong.

(2) During the performance of duties, external collaborators shall follow the Office's staff obligations regarding the confidentiality of works and other rules of internal discipline of the Office.

(3) In carrying out specific activities on the prevention of torture in places of detention, visiting team members are independent.

(4) In addition to the Deputy Ombudsman within the Scope on preventing torture in places of detention, in the central structure of the Scope, including the Bucharest zonal Centre, operate a total of 11 employees, of which: 4 employees specialized operating staff with legal training, 3 specialists – physicians, psychologists, social workers, sociologists and other professionals necessary for carrying out specific work, and 4 employees in the financial, payroll, human resources and administrative department.

(January 9, 2015 Art. I, paragraph 12. completed by Art. 1, paragraph 1. from [Law 181/2014](#))

Art. 29⁶

(1) For carrying out activities within the Scope on preventing torture in places of detention at territorial structure level, external collaborators are also co-opted from other specialties than the permanent employees, under contracts for services. External collaborators at territorial level are selected by the Ombudsman, based on proposals received from the College of Physicians of Romania, the Romanian College of Psychologists, the Sociologists Society of Romania, the National College of Social Workers or other professional associations to which they belong.

(2) The provisions of art. 29⁵ parag. (3) shall apply accordingly also to external collaborators co-opted within territorial structures.

(3) Within the 3 zonal centers of the territorial structure of the Scope on preventing

torture in places of detention operate a total of 12 employees. Each zonal center comprises: an employee specialized operating staff with legal training, 2 specialists – physicians, psychologists, social workers, sociologists or other professions necessary for carrying out specific work, and an employee – administrative staff.

(January 9, 2015, Art. I, paragraph 12. completed by Art. 1, paragraph 2. from [Law 181/2014](#))

SECTION 4: Carrying out visits in places of detention

Art. 29⁷

(1) Visiting teams carry out announced or unannounced visits in places of detention, under this law.

(2) The visiting team shall be composed of at least one physician, depending on the specialization required, and a representative of the NGOs as stipulated in art. 294 para. (4).

(3) Visits are conducted ex officio, based on an annual visitation plan, proposed by the Deputy Ombudsman within the Scope on preventing torture in places of detention and approved by the Ombudsman, or unannounced or based on the referral of any person or acknowledgment by any mean of the existence of a situation of torture or cruel, inhuman or degrading treatment in a place of detention.

(4) When preparing the annual visitation plan, the following minimum criteria must be envisaged:

- a) existing types of places of detention;
- b) geographical distribution of the places of detention;
- c) referrals received on the existence of situations of torture or cruel, inhuman or degrading treatment;
- d) known vulnerability of certain types of places of detention;
- e) previous reports within the Scope on preventing torture in places of detention and other areas of activity of the Office.

Art. 29⁸

(1) The institutions visited are obliged to provide the representatives of the visiting team, under the law, before, during or after the visit, any documents or information that is available to them or they can acquire, requested by them in order to fulfil their legal duties.

(2) The management of detention places visited is required to provide assistance and to meet with the members of the visiting team in order to achieve the purpose of the visit.

Art. 29⁹

(1) To fulfil their legal duties, the members of the visiting team may also meet in private with any person deprived of liberty within the institution visited.

(2) At the request of the visiting team members, the visited institution is obliged to provide an appropriate meeting place.

(3) Meetings take place only with the consent of the person deprived of liberty or its legal representative and shall be confidential.

(4) The meeting may not be attended by representatives of the place of detention, except at the express request of the members of the visiting team, and only to ensure their protection. In this case, representatives of the place of detention shall provide only visual surveillance, observing the confidentiality of the meeting.

(5) The name and other personal data of the person being interviewed may not be disclosed without its prior written consent or that of its legal representative.

(6) For conducting interviews with people who do not understand or speak Romanian, an interpreter shall be provided, interpreting costs being borne from the funds allocated to the Scope on preventing torture in places of detention.

(7) Visiting team members may request meetings with any other person which they consider that can provide relevant information, with that person's consent.

Art. 29¹⁰

No person may be held liable for the information communicated to members of the visiting team.

Art. 29¹¹

(1) The findings of the visits shall be included in a visiting report that, in cases where irregularities are noticed, shall be accompanied by reasoned recommendations to improve the treatment and conditions of detainees and to prevent torture and inhuman or degrading treatment or punishment.

(2) The visiting report shall be drafted by the visiting team members not later than 30 days from the date of its completion and shall be approved by the Ombudsman.

Art. 29¹²

(1) The visited institution is required to submit, within 30 days, a reasoned response to the proposals and recommendations contained in the visiting report, indicating the view to the findings, the reasoned deadline for the measures to be taken to comply with their content or, if applicable, the reasons for which cannot comply.

(2) For valid reasons, the 30-day period provided in para. (1) may be extended by 30 days, with the approval of the Deputy Ombudsman within the Scope on preventing torture in places of detention.

(3) If the institution concerned does not comply, the Ombudsman or, where appropriate, the Deputy Ombudsman within the Scope on preventing torture in places of detention shall inform on this matter the higher authority or the local or central public administration authority that issued the operating permit, for private detention facilities, and may act according to this law and the Rules of organization and functioning of the Ombudsman's Office.

Art. 29¹³

The visiting report and the reasoned response referred to in art. 29¹², when it was sent, are public and shall be posted on the website of the institution targeted by it, of the superior authority or local or central public administration authority that issued the operating permit, and of the Ombudsman, except for the parts that concern personal data or classified information.

Art. 29¹⁴

(1) In cases where there is a breach of human rights through torture or cruel, inhuman or degrading treatment producing an imminent risk of harm to the life or health of a person, a preliminary report shall be prepared urgently.

(2) The deadline for preparation and adoption of the preliminary report is 3 days and may be extended for valid reasons by another 3 days.

(3) Targeted institutions are required to comply urgently with the proposals and recommendations or to formulate a response under art. 29¹² within 3 calendar days.

Art. 29¹⁵

The Ombudsman has the obligation to immediately notify the judiciary when, in exercising its duties, it becomes aware of indications on offenses committed under criminal law.

Art. 29¹⁶

(1) The Deputy Ombudsman within the Scope on preventing torture in places of detention drafts the annual report on the Scope's work, part of the annual report of the Ombudsman's Office, to be submitted for approval to the Ombudsman.

(2) The annual report comprises: analysis and conclusions of visits carried out during that year; proposals and recommendations formulated; measures taken by national authorities thereof; proposals to improve the legislative framework in the field of activity, and any other data or information relevant to the work of the Scope on preventing torture in places of detention.

(3) The Activity Report within the Scope on preventing torture in places of detention is part of the Annual Report that the Ombudsman presents at the joint session of the two Houses of Parliament.

SECTION 5: Liaising with the Subcommittee on the prevention of torture

Art. 29¹⁷

In performing its duties, the Ombudsman or, where appropriate, the Deputy Ombudsman for the prevention of torture liaises with the Subcommittee on the prevention of torture, sends it information and meets with its members.

Art. 29¹⁸

The specialized operating staff with legal training and specialists may receive training and technical assistance from the Subcommittee on the prevention of torture under the Optional Protocol.

Art. 29¹⁹

Current and capital expenditure funding for activities to prevent torture and cruel,

inhuman or degrading treatment shall be provided from the state budget and funding for it are part of the budget of the Ombudsman's Office."

▣**13.**After article 33 a new article is introduced, article 33¹, with the following content:

"Art. 33¹

In addition to the fields of activity, within the Ombudsman's Office the following shall be organized:

a)) The constitutional contentious service, appeal on points of law, administrative and legal contentious, analysis of legislation, external relations and communication, reporting directly to the Ombudsman, headed by a Chief of Service, who coordinates: the Office for constitutional contentious and appeal on points of law, Administrative and legal contentious office, and Normative acts analysis office, External relations and communication.

b) Financial, payroll and human resources office and administrative office. The Coordinating Director guides and answers for the Financial, payroll and human resources and the Administrative offices' activity."

▣**14.**Article 36, after paragraph (3) two new paragraphs are introduced, paragraphs (3¹) and (3²), with the following content:

"(3¹) The activity carried out by specialized operating staff with legal training within the Ombudsman's Office constitutes seniority in the specialty of studies graduated and in magistracy, as provided by art. 86 of Law no. [303/2004](#) on the statute of judges and prosecutors, republished, with subsequent amendments and supplements.

(3²) Management and operating staff with a specialty other than the legal one within the Ombudsman's Office benefits from seniority in the specialty of studies graduated."

▣**15.**Article 36, paragraph (4) is modified and will have the following content:

"(4) The Ombudsman and its Deputies who do not have their residence or personal home in the Municipality of Bucharest shall benefit, from the date of their appointment, from the reimbursement of accommodation and transport from their home town to their place of work in the Municipality of Bucharest, under the law."

▣**Art. II**

(1) Within 30 days of the effective date of this ordinance, the Ombudsman approve by order the new state functions and staff of the institution.

(2) Notwithstanding the provisions of art. 34 of Law no. [35/1997](#) on the organization and functioning of the Ombudsman, republished, specialized executive staff who work within the institution of Ombudsman or in its territorial offices may move by request, with the approval of the Ombudsman, in central structure of the Scope on preventing torture in detention places or in territorial structure of the Scope n preventing torture in places of detention.

(3) Following the approval of the new state functions, the Ombudsman adopts, by order, the methodology of promotion in functions, degrees or professional steps of the staff of the institution and promotes, by order, staff of the institution. Other vacancies shall be filled by competitive examinations organized under the law.

~~(4) The number of staff funded under the law is supplemented by 8 positions, of which: 1 Deputy Ombudsman, 4 employees for the Scope on prevention of torture in places of detention, 3 employees at Constitutional contentious service, appeal on points of law, Administrative and legal contentious office, Normative acts analysis office, External relations and communication.~~

(4) The number of staff funded under the law is supplemented by 39 positions, of which: 1 Deputy Ombudsman, 23 employees for the Scope on prevention of torture in places of detention, 13 employees at Constitutional contentious service appeal on points of law, administrative and legal contentious service, normative acts analysis office, external relations and communication and 2 specialized staff employees with legal studies. The number of posts at Ombudsman is 133, exclusively dignitaries and positions the Ombudsman's cabinet.

(January 9, 2015 Art. II, parag. (4) modified Art. 1, point 3. from [Law 181/2014](#))

(5) The necessary funds will be provided by January 1, 2015.

Art. III

(1) Bucharest takes in its area of competence the counties surrounded of Territorial Office Slobozia which was inoperative after the entry into force of this ordinance.

(2) By 1 January 2015, the date on which it becomes functional diagram complete personnel under this bill, work on prevention of torture is carried out by specialized personnel, existing in the institution Ombudsman, including at the level of territorial offices and specialists contributors.

Art. IV

1. Article 24 paragraph (3) from Government Emergency Ordinance No. [34/2009](#) regarding the budget adjustment for 2009 and regulations regarding some financial-fiscal measures, with subsequent amendments, is introduced after f) a new letter, letter g), regarding the budget adjustment for 2009 and regulations regarding some financial-fiscal measures, Published in Official Gazette of Romania, Part I, no. 249 from April, 14, 2009, approved by law no. [227/2009](#) with the following content:

"g) purchases made by the Ombudsman in order to achieve its duties following the establishment, in this institution, of the national mechanism of preventing torture in places of detention."

Art. V

1. Article III paragraph 2 of Government Emergency Ordinance No. [26/2012](#) on some measures to reduce public spending and strengthen financial discipline and amending and supplementing certain enactments, published in Official Gazette of Romania, Part I, no. 392 from June, 12, 2012, approved with amendments and completions by Law no. [16/2013](#), letter a) is modified and will have the following content:

"a) organized under the law, at the level of the President of Romania, President of the Senate, the president of the Chamber of Deputies, Prime Minister, Deputy Prime Minister, President of the Constitutional Court, president of the High Court of Cassation and Justice, President of the Superior Council of Magistracy, President of the Court of Auditors, of the Ombudsman, of ministers, delegates ministers, other heads of institutions and central and local authorities with the role of principal loan;"

Art. VI

Law no. **35/1997** on the organization and functioning of the Ombudsman, republished in Official Gazette of Romania Part I, no. 277 from April, 15, 2014, amended and supplemented by this emergency ordinance, will be Official Gazette of Romania Part I, after its approval by law, posing a new numbering.

PRIME MINISTER

VICTOR-VIOREL PONTA

COUNTERSIGN:

Minister of Justice,

Robert Marius Cazanciuc

p. Minister of foreign affairs,

George Ciamba,

State secretary

Deputy Prime Minister, minister of internal affairs,

Gabriel Oprea

Ministry of public finance,

Ioana-Maria Petrescu

p. Ministry delegate for budget,

Gheorghe Gherghina,

Secretary state

p. Ministry of Labour, Family, Social Protection and Elderly,

Teodor Codrin Scutaru,

State secretary

Minister of National Education,

Remus Pricopie

Health minister,

Nicolae Bănicioiu

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