

**THE PRESENT REPORT HAS BEEN SENT TO THE PRESIDENT OF THE
CHAMBER OF DEPUTIES AND TO THE PRESIDENT OF THE SENATE TO BE
DISCUSSED IN THE PARLIAMENT SESSION, ACCORDING TO ARTICLE 60 OF
THE CONSTITUTION OF ROMANIA**



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Minister Office

Address No. 631/ January 23, 2007

Dear Mr. President,

According to the provisions of the Article 60 of the Romanian Constitution and Article 5 of the Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, we present you in annex the *Report of activity for 2006*, with the request to be presented to the two Chambers of the Parliament.

I take this opportunity to assure you, dear Mr. President, of my high consideration.

Prof. Ioan MURARU, Ph.D.

People's Advocate

Bucharest, January 25, 2007

Mr. Bogdan OLTEANU,
President of the Deputies Chamber



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Mr. Nicolae VĂCĂROIU,
President of the Senate



**ROMANIA
PEOPLE'S ADVOCATE**



**REPORT
of activity for 2006**

**Bucharest
2007**

**Mr. President of the Chamber of Deputies,
Mr. President of the Senate,
Ladies and Gentlemen, deputies and senators,**

We submit for consideration and debate in the joint session of the Chamber of Deputies and the Senate, the Report of activity of the People's Advocate Institution for 2006. Therefore, we comply with the provisions of the Article 60 of the Romanian Constitution, as well as of the provisions of the Article 5 of the Law no. 35/1997 on the organization and functioning of the People's Advocate Institution.

*After an overview and retrospective, we can inform you that in 2006, the activity of the institution had a plus not only from the point of view of quantity but also of quality. Thus, in figures, we can notice that in 2006, comparing to 2005, a number of 11961 citizens were heard, with an **increase of 40,2%**; we recorded 6407 complaints, with an **increase of 17,2 %**; the phone calls service was used by 4729 citizens with an **increase of 36,2 %**. Besides that, we can add 10 inquiries, 2 recommendations, 1375 points of view communicated to the Constitutional Court (an **increase of 36,8 %**), 3 exceptions of unconstitutionality by which we notified the Constitutional Court.*

*This increase of activity had been achieved because the staff of the institution responded with more professional responsibility, increasing the receptivity towards the requests of the individuals. There were also achieved at the level of territorial offices some successful actions of advertisement and involvement in the reports with the public authorities. Thus, we mention the meeting on the topic **"Together Guided by the Law"**, in Cluj-Napoca (October 26, 2006) with large participation from the local authorities (the city Mayor, the prefect and sub-prefect, members of the Parliament, high officials, teaching staff of prestige from the high education).*

*A similar meeting took place in Craiova (October 3, 2006) on the topic **"The People's Advocate – Means of Citizens' Control on the Public Administration"**, with large participation.*

The present report particularizes and explains the issues submitted to the attention of the institution, on area of specialization as settled by the law. Complete information and valuations are given as regards: procedures and specific means of the institution; material and budgetary resources; cooperation with the similar international institutions and authorities etc.

Out of these presentations, appreciations concerning the constitutional and legal relations with the public authorities are revealed. We mention the special support given by the Parliament, the very good relations with the Constitutional Court, the promptness in the collaboration with the police and prison authorities.

The joint session of the two Chambers of the Parliament gives us the opportunity for presenting also few pertinent explanations concerning the activity of the People's Advocate Institution.

A) *The people interested in the activity of the institution often want to know: How many citizens' complaints did you solve? How many complaints were not in the competence of the People's Advocate? How many complaints were in the competence of the People's Advocate? How many complaints were solved to the citizen's benefit? Etc.*

These questions cannot be answered very easily, because the activity of the ombudsman is specific and different from the rest of the public authorities, its specific character resulting from the competence and, especially, from the procedures and consequences.

*That is why we believe that the appreciation of our activity is significantly expressed by the concept of **clarifying the problems**. Since the institution is open to the citizens, strictly and figuratively speaking, we receive any kind of discontentment. The staff of the institution receives any citizen, with any problem, giving an explanation, a solution to everyone. The citizens often are content to be attended, heard out, and advised, in a proper environment.*

No doubt, that some discontentment concerns problems exceeding the legal competence, such as complaints against the judicial authorities and their documents, requisition of properties etc. In such cases, the citizens are shown the legal ways to follow. If they insist, we withhold the complaints and send them to the competent authorities.

We always withhold into solving the requests in our competence and we solve them by legal procedures: discussions with the denounced authorities, inquiries, recommendations, etc.

*We have to remind that the main form of activity remain **the hearings**, which allows the direct contact institution-citizen and which, no doubt, is the first step towards mediation.*

*It is also important to underline that some complaints were stated out of the People's Advocate competence, because they exceed the constitutional and legal competence and not because the People's Advocate would not appreciate them as **justified**. It is a very important nuance.*

B) *Sometimes we can hear statements such as "We do not know what People's Advocate is", or "People's Advocate is an inexistent institution", etc. Some authors of such statements have **public positions**, and they are important exponents of the mass-media who present themselves also as **opinion founders**.*

We have to appreciate such persons who state publicly and openly that they do not know the Constitution, that they do not know the Law. We can still ask a natural question: Can someone be a public officer or an opinion founder without knowing the Constitution of their own country? Or without knowing the legal provisions? Or without knowing the realities in their country? Is this an European language?

C) *We witness somehow difficult to explain matter in the **financial and budgetary** politics. The Parliament adopts the state budget, which is annual. The budgetary institutions – at least the People's Advocate – are satisfied with the*

resources allotted and applaud the Parliament. However, when the budgetary execution hardly starts, also the Government or the Ministry of Public Finances, in the most subtle statements, embezzles the whole Parliament promise in successive steps.

a) **Cutting** of the resources allotted with almost 1/3 in 2005 (see Government Emergency Ordinance no. 66/2005 concerning the state budget correction in 2005), determined the elaboration of a budget for 2006, below the needs;

b) **Banning** of spending the remaining allotted, by suspending the contests for the vacancies legally established by the Law of Budget (art. 3 from Government Emergency Ordinance no. 1/2006 concerning some measures to strengthen the Romanian administrative capacity for the integration in the European Union);

c) **Banning** of purchasing furniture etc. (Government Emergency Ordinance no. 52/2006 concerning the correction of state budget for 2006).

And for the game to be complete, usually, in November or December the budgetary institution is harshly reprimanded and threatened for not having spent the fund allotted by Law (notification of the Ministry of Public Finances no. 150941/30.11.2006).

This is the reason why we suggest that the Law of the state budget should include some specification to forbid the Government and the Ministry of Public Finances to stop the financing of budgetary institutions by modifications of law specifications.

Under these circumstances, the report includes many other suggestions of perfecting the Law frame concerning the citizens' rights and their relations with the public authorities. That is the reason why we assure everybody interested that by reading the report they will be able to appreciate realistically the activity of the People's Advocate Institution.

Prof. Ioan MURARU, Ph.D.

People's Advocate

Bucharest, January 2007

THE LEGAL FRAMEWORK OF THE ORGANIZATION AND FUNCTIONING OF THE PEOPLE'S ADVOCATE INSTITUTION

The Romanian Constitution, adopted in 1991 and revised in 2003, marked the transformation of the Romanian society into a state governed by the rule of law, a democratic and social state, where human dignity, the individuals' rights and freedoms, the free development of human personality represent supreme values granted by the Constitution. In order to achieve these purposes, the Constitution gave a new configuration to the constitutional order, also creating new institutions, such as the People's Advocate. Since adopting its Organic Law in 1997, the People's Advocate is organized and functions, with the role of defending the rights and freedoms of the individuals in their relations with the authorities of the public administration, capitalizing the tradition and the experience of the classic west-European ombudsman.

Legal provisions, concerning the organization and function of the People's Advocate, can be found in:

- Romanian Constitution, art. 58-60, art. 65 paragraph 2), art. 146 let. a) and let. d);
- Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, modified, completed and republished in the Official Gazette of Romania Part I, no. 844 from 15 September 2004;
- Regulation on the organization and functioning of the People's Advocate Institution, modified, completed and republished in the Official Gazette of Romania, Part I, no. 619 from 8 July 2004;
- Law no. 554/2004 of the administrative contentious published in the Official Gazette of Romania, Part I, no. 1154 from 7 December 2004, art. 1 paragraph (3), art. 7 paragraph (5), art. 11 paragraph (3), art. 13 paragraph (2), art. 28 paragraph (2);
- Law no. 206/1998 for approval of branching the People's Advocate Institution to the International Ombudsman Institute and the European Ombudsman Institute, published in the Official Gazette of Romania, Part I no. 445 from 23 November 1998;
- Law no. 170/1999 for approval of branching the People's Advocate institution to the Ombudsmen Association of French-speaking countries (AOMF) published in the Official Gazette of Romania, Part I, no. 584 from 30 November 1999.

The People's Advocate is appointed in joint session of the Chamber of Deputies and the Senate, for a 5 years term, taking into account that by the role fulfilled it is an important warranty of the human rights. During its mandate, People's Advocate cannot fulfil any other public or private function, except for the didactic functions in higher education system.

People's Advocate has deputies specialized in areas of activity. Thus, it is insured an increased efficiency of the activity of the institution, according to the regulations from other countries where ombudsman is organized and functions.

People's Advocate exercises its duties *ex officio* or upon request of the persons deprived by their rights and freedoms, in the limits established by law. For the activity to be efficient, the Constitution forces the public authorities to offer People's Advocate the necessary support in exercising its duties.

People's Advocate responds only before the Parliament, having the obligation to submit reports. In these reports, People's Advocate can also make recommendations concerning the legislation or taking some measures to preserve citizens' rights and freedoms.

The constitutional provisions concerning the People's Advocate Institution have been particularized by legal provisions, which underline its juridical features.

People's Advocate is an autonomous public authority, independent from any other public authority; it is not a substitute for any other public authorities, it cannot be subjected to any obligatory or representative mandate, and its activity has public character; it has its own budget part of the state budget.

To achieve its constitutional and legal role, People's Advocate receives, examines and solutions, within the Law terms, the complaints addressed by any individual, regardless to citizenship, age, sex, political adherence or religious beliefs. The complaints submitted to the People's Advocate must be stated in written form and sent by post, including e-mail, on the phone, by fax, or in person, in hearings, which represents the main means of dialog with the citizens. In solving the problems presented, People's Advocate can make inquiries or can make recommendations.

Thus, People's Advocate has the right to make its own inquiries, ask the authorities of the public administration for any information or documents necessary during the inquiry receive in hearings and take declarations from the heads of the authorities of the public administration and any clerk who can give information necessary to solve the complaints. In exercising its duties, People's Advocate can also make recommendations, which cannot be subject to the Parliament control or to the court control. By its recommendations, People's Advocate informs the authorities of the public administration on the illegality of the administrative acts or deeds.

The competence of the People's Advocate in solving some complaints regarding the judicial authority is materialized in its legal possibility of addressing, according to case, the ministry of justice, Public Ministry or the president of the court, who are obliged to communicate the measures taken. It represents a legal way for the public authorities mentioned above to support the People's Advocate Institution in solving some complaints concerning the violation of the parties' right to a fair trial within a reasonable period of time, as provided by art. 6 from the European Convention on the defending of human rights and fundamental freedoms, utilized also by the provisions of the art. 21, paragraph (3) from the Romanian Constitution.

People's Advocate can also be involved, by its own procedures, in controlling the constitutionality of laws and ordinances, achieved in Romania by the Constitutional Court. Thus, People's Advocate can notify the Constitutional Court with objections of unconstitutionality of laws adopted by the Parliament, before their promulgation by the President of Romania; it can bring directly in front of to the Constitutional Court exceptions of unconstitutionality of the laws and ordinances in force; formulates upon request of the Constitutional Court, points of view on the exceptions of unconstitutionality of laws and ordinances regarding citizens' rights and freedoms.

The constitutional and legal regulations presented make available to the People's Advocate Institution specific means and procedures, in order to act efficiently in the protection of individuals' rights and freedoms.

TERRITORIAL OFFICES

Setting new territorial offices in Craiova, Iasi, Galati, Oradea and Pitesti

The People's Advocate Institution is organized and functions by its central headquarters in Bucharest and its territorial offices.

During 2006, we founded **5 new territorial offices**, of the People's Advocate Institution in Craiova, Iasi, Galati, Oradea and Pitesti, apart from the ones already existent in Bacau, Alba-Iulia, Constanta, Brasov, Suceava, Cluj-Napoca and Targu-Mures. We continued the approaches to open some other territorial offices of the institution, as specified in the annex to the Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, as republished, which is to develop its activity in the territorial area of jurisdictional competence of the Courts of Appeal.

As for the territorial offices, the experience gained so far allows drawing some conclusions concerning the organization and development of their activity, in the sense of perfecting the legislative frame, especially concerning the following matters:

- perspective for the territorial offices to have more staff, especially for the offices which have in their sphere of competence 4 districts;
- In the future decentralized system, the territorial offices should be subordinated from the functional point of view to the institution People's Advocate, and from the material point of view, to the local authorities;
- on taking into account some difficulties in finding headquarters for the territorial offices, it is necessary the modification of Law no. 35/1997 concerning the organization and functioning of the People's Advocate Institution, republished in the sense that, according to the possibilities, People's Advocate should be able to establish the headquarters of the territorial offices in other city within the territorial area of jurisdictional competence of the courts of appeal.

ORGANIZATIONAL STRUCTURE AND SCHEME OF PERSONNEL

The organizational structure of the People's Advocate Institution is specified in the Regulation of organization and functioning of the institution.

The organizational structure of the institution reflects the areas of specialization, as established by law:

- a) human rights, equality of chances between men and women, religious cults and national minorities;
- b) the rights of children, family, youth, pensioners, persons with disabilities;
- c) army, justice, police, penitentiaries;
- d) property, labour, social protection, taxes and duties.

The organizational structure approved corresponds to the stage of the institution development, which was in full process of affirmation by assuming new assignments or by developing the existent ones.

The institution is headed by the de People's Advocate, assisted by deputies specialized in the four areas of activity. The secretary general coordinates the economical and administrative activity of the institution.

In the frame of the institution functions the Consultative Council, formed by the People's Advocate, its deputies and counsellors, secretary general, as well as other persons appointed by the People's Advocate. The council meets once a month or every time it is considered necessary.

The Consultative Council is summoned by the People's Advocate.

The People's Advocate Institution developed its activity in 2006 with a scheme of personnel comprising a total number of 90 jobs, the same as in 1997 when it was founded.

Meanwhile, there were founded 12 of the 15 territorial offices specified by the organic law, which had covered temporarily in total 25 jobs out of the 90 jobs.

The institution specialized personnel, formed by experts and counsellors, is assimilated to the staff in the specialty structures of the Parliament.

In 2006, contests to occupy the vacancies in the institution had been organized; after which there were selected experts and counsellors, usually with juridical formation.

A problem was finding specialists locally at the territorial offices founded.

Nevertheless, at the end of 2006 there were vacant nine jobs among which three jobs as Deputies of the People's Advocate. The reason for this case were the applying of the specifications of the Government Emergency Ordinance no. 1/29 January 2006, by which were blocked some vacant jobs, some staff fluctuation, specific to all the institutions newly founded and the difficult process of appointing some deputies for the People's Advocate.

Settling by the Ministry of Public Finances of some limits for the expenses with the salaries, the elaboration of the budget for 2006, led to a deficit of funds in this field, which appeared in July 2006 and which was solved by supplementary funds in

November 2006. This case determined that for a period of about 4 months we could not occupy any vacant job.

In view of perfecting the professional formation of the specialty staff in the institution, we organized meetings with experts from the territorial offices.

At the same time, during 2006, the counsellors and experts in the institution attended different seminars and public debates concerning the problems of protecting physical persons' rights and freedoms.

Thus, in October 2006, we participated to the conference on the topic "Court Power and the Democratic Rule of Law State: exchange of experience Spain – Romania"; manifestation dedicated to the Day of Holocaust, which took place at the National Institute for Studying the Holocaust Elie Wiesel; the seminar with the topic "Fighting Against Discrimination" at the National Magistrate Institute.

Experts and counsellors in the institution were involved in the development of the Programme "Matra" which took place in partnership with the National Ombudsman of the Netherlands, referring to the strengthening of the organizational and institutional capacity of the People's Advocate.

The People's Advocate Institution also organized scientific seminars in collaboration with the Faculty of Law at the University Bucharest.

THE GENERAL VOLUME OF ACTIVITY

a) Activity carried out during the hearings

In 2006, at the central headquarters and the territorial offices of the People's Advocate institution were held **11961 hearings** in the frame of which it was invoked violations of individuals' rights (Annex no. 1).

b) Activity of solving the complaints

In 2006, at the central headquarters and the territorial offices of the People's Advocate institution were recorded **6407 complaints**, addressed by individuals, in the country and abroad (Annex no. 1, Annex no. 3, Annex no. 4).

c) Activity of receiving the phone calls

At the dispatcher of the People's Advocate, institution **2551 phone calls** have been received from the part of individuals, especially those living at far distance and the ones difficult to be transported. At the territorial offices of the People's Advocate institution were recorded **2178 phone calls**. In total, we recorded **4729 phone calls** (Annex no. 1).

d) Subject of the complaints submitted to the People's Advocate

The complaints submitted to the People's Advocate institution referred to the violation of some individuals' rights or freedoms, as well as abuses of the public authorities. Their analysis was done in relation with the infringed rights and freedoms, in the context of the areas of the activity of the People's Advocate institution (Annex no. 2).

e) Comparative analysis on the quantity of complaints on the area of activity

The total number of complaints regarding violations of some rights or freedoms was **6407**. A percentage of **31%** from the total number of complaints refers to the property, labour, social protection, taxes and duties. In the area concerning the rights of children, family, youth, pensioners, persons with disabilities, were recorded **21,7% complaints**. In the area concerning the army, justice, police and penitentiaries were recorded **14,2% complaints**, whereas in the area of human rights, equality of chances between men and women, religious cults and national minorities were recorded **8,6 % complaints**. The percentage of **24,7% complaints** was recorded at the territorial offices.

f) Activity of the People's Advocate institution in the field of control of the constitutionality of laws and ordinances.

During 2006, upon the request of the Constitutional Court, **1375 points of view** concerning the exceptions of unconstitutionality of laws and ordinances referring to the citizens' rights and freedoms have been formulated.

At the same time, People's Advocate submitted directly to the Constitutional Court **3 exceptions of unconstitutionality**: exception of unconstitutionality concerning the provisions of the art. 14, paragraph (1) let. b), and c), art. 18, art. 28, paragraph (1), art. 32, art. 33, art. 35 of Law no. 115/1996 for declaring and control of fortune of high officials, magistrates, some persons in leading and control positions, and public officers, modified and completed, **rejected** by the Constitutional Court by Decision no. 599/2006 and exceptions of non-constitutionality concerning some specifications from Law no. 3/2000 concerning the organization and holding of the referendum and the provisions of the Urgent Order of Government no. 43/2006 concerning the organization and functioning of the Court of Accounts, both **admitted** by the Constitutional Court by Decision no. 567/2006 and Decision no. 568/2006 respectively (Annex no. 1).

g) Activity developed for informing the citizens on the defence of the individuals' rights and freedoms and for the advertisement of the role of the People's Advocate institution

The People's Advocate institution is aware of the fact that the key aspect of its activity is informing the individuals about their rights and freedoms, including the right to complain to the People's Advocate.

During 2006, it was continued the activity of informing the citizens and advertising the institution People's Advocate, first, by intensifying the contacts with the mass media interested in reflecting the juridical topics and the problems in the field of human rights. It is proved by the following newspapers and magazines – „Diplomat Club”, „Actualitatea Romaneasca”, „Realitatea Romaneasca”, „Cronica Romana”, „Romania libera”, „Ziua”, „Averea”, „Dimineata”, „Flacara lui Adrian Paunescu”, „Monitorul de Galati”, „Curierul de Valcea”, which presented seriously and with competence, with criticism when it was considered appropriate, important aspects in the activity of the People's Advocate institution.

Each semester were presented by the press agencies and published of the official site of the institution People's Advocate, press releases.

For a better understanding of the role and duties of the People's Advocate institution, it was edited, by its own financial effort, a brochure comprising the Law no. 35/1997 on the organization and functioning of the Institution of People's Advocate, republished and the Regulation on organization and functioning of the People's Advocate institution, an informative bulletin by semester concerning the activity of the institution and the cases solved by the intervention of the People's Advocate, leaflet of presentation of the People's Advocate institution. Other informative materials were distributed for free to individuals, but also to the central and local public administration authorities (ministries, prefectures, district councils and town halls).

In our opinion, efficient modalities of advertising the People's Advocate institution are the radio and TV. The public radio station offered every Wednesday, but unfortunately only for the duration of the first four months in 2006, a space in the frame of the programme "Open Studio" (Radio Romanian News), where experts and counsellors of the institution transmitted answers to the listeners who addressed questions of the kind. The TV channels B1TV and Flux TV had as a guest, live, professor Ioan Muraru, People's Advocate, who communicated with both the TV presenters and the viewers, presenting the possibilities of intervention of the People's Advocate institution in solving the conflicts between the individuals and the authorities of the public administration.

In order to help children facing special problems, on the International Children's Day social aids were offered on behalf of the People's Advocate institution at the Centre of placement in regime of urgency of Constanta. Moreover, in November 2006, out of the fund allotted to the institution People's Advocate, social aids were offered at the Centre of placement for children 0-2 years old with disabilities and the Complex of communitarian services for babies with severe disabilities, in the frame of the General Directorate of Social Assistance and Children's Protection - Dolj.

Moreover, it is necessary to mention the collaboration of the People's Advocate institution with the Faculty of Political Sciences and Communication Sciences at the University of Oradea for the realization of the programme of students' practice (during 27 February - 10 March 2006), with the Faculty of Law at the University of Bucharest, for the realization of students' practice in the frame of the programme ELSA (during 10 - 14 April 2006, 22 - 26 May 2006 and 20 - 30 November 2006) and with the National Magistrate Institute for the realization of a traineeship of practice for 10 auditors of justice (during 13 - 17 March 2006).

PROCEDURES AND MEANS OF INTERVENTION SPECIFIC TO THE PEOPLE'S ADVOCATE INSTITUTION

The objective of the People's Advocate institution is insuring the efficiency of its interventions for solving the issues submitted to its attention. In this respect, it is essential to mention the procedures and means of intervention specific to the institution People's Advocate: mediation, addressing to the hierarchically superior authorities to the ones that violated the complainant's right, hearings, inquiries, stating recommendations, writing special reports.

Practice proved that the **hearings** represent the main mean of dialog with the citizens, used in most cases, but also the most rapid modality to identify clearly the complainants' problems, legislative gaps or aggressive regulations concerning the citizens' rights and freedoms. After the discussions, the persons present or not even a written complaint, in the case when it is proved that the problem must be examined by presenting some proofs and discussions with the representatives of the authorities of the public administration. The significant increase of the number of hearings, which

took place in 2006, namely 11961, with 6496 more than in 2005, we appreciate that it is relevant for this aspect.

For the People's Advocate institution, it is important that the citizens should be informed and familiarized about the rights and freedoms granted by law, and it should be created the necessary conditions to know and exercise them. A good knowledge of these rights and freedoms allows their optimum realization. From this point of view, during the hearings, the complainants are given explanations about the issues they invoke, specialty advices concerning the possible ways to follow to solve the problems and the competent institutions and authorities.

In 2006, were carried out **10 inquiries** (Annex no. 7). By means of the inquiries done, the authorities of the public administration were required the information or documents necessary to solve the complaints, hearings took place and declarations were undertaken from the chief-officials of the public administration authority who violated individuals' rights or freedoms. Thus, there were carried out:

- **1 inquiry** concerning the verification of the way the public administration authorities respect the right of children and youth's protection and the right to life and physical and psychological integrity at the Complex of Services for Children in Need - Priboieni, Arges;

- **4 inquiries** concerning the complying with of the right to petition and the right to a decent standard of life at: the National House of Pensions and Other Rights of Social Insurances and the House of Pensions of Bucharest;

- **2 inquiries** concerning the right of the person aggrieved by a public authority and the right to a decent standard of life, at the City Halls of Sectors 3 and 5 of Bucharest;

- **3 inquiries** concerning the complying with of the right to private property at the City Hall of Constanta.

In 2006 there were also issued **2 recommendations** (Annex no. 8). By these recommendations, People's Advocate informed the public administration authorities on the illegality of the administrative acts or deeds. There were thus issued:

- **1 recommendation** submitted to the House of Pensions of Bucharest concerning the violation of the right to a decent standard of life and the right of petition;

- **1 recommendation** submitted to the director of the General Directorate of Assistance and Children's Protection - Arges, concerning the violation of the constitutional right for children and youth's protection and physical and psychological integrity.

THE AREA OF HUMAN RIGHTS, EQUALITY OF CHANCES BETWEEN MEN AND WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES

The sphere of competence of the area of human rights, equality of chances between men and women, religious cults and national minorities refers to 23 articles of the Constitution of Romania, as follows: unity of people and equality among citizens (art. 4 and 16); right to identity (art. 6); foreign citizens and stateless (art. 18); right to life and physical and psychological integrity (art. 22); freedom of movement (art. 25); secrecy of correspondence (art. 28); freedom of conscience (art. 29); freedom of expression (art. 30); right to information (art. 31); right to education (art. 32); access to culture (art. 33); right to protection of health (art.34); right to a healthy environment (art. 35); right to vote (art. 36); right to be elected (art. 37); right to be elected to the European Parliament (art. 38); freedom of assembly (art. 39); right to association (art. 40); right to strike (art. 43); economic freedom (art. 45); right to petition (art. 51); right of the person aggrieved by a public authority (art. 52).

Except for the right concerning the access to culture (art. 33), freedom of assembly (art. 39) and right to strike (art. 43), the People's Advocate institution was informed by petitioners about all the other rights, as resulting also from Annex no. 2. The same annex underlines also the intensity (number of information) with which the citizens felt the degree of violation by the public authorities and institutions of each of the rights mentioned.

The fact that in 2006 the complaints concerning the violation of the rights to information and petition represent 34.71% from the total submitted to the People's Advocate institution (so more than one third), represents an acute alarm signal to the way in which the public authorities and institutions understand to respect or treat these constitutional rights of the citizens. Maintaining such a high level in the violation of these rights as in 2005 indicates an important gap at the level of the activity of those in charge of public services for the citizens.

If in 2005 could be invoked the mitigating circumstances of lack of experience or insufficient adaptation of the newly elected authorities or appointed in functions they occupy, after two years of mandate such an argument is dramatically weak. It is lack of responsibility or incapacity for the occupied function and its assignments, or a misunderstanding of the role and impact of these rights at the level of social or individual conscience of the citizens. That is why we think it is necessary a thorough analysis of the phenomenon (because it is a genuine social phenomenon), preferably inter-disciplinary, analysis after which to elaborate a series of modalities, procedures or instruments with unitary applicability, which allows the solving of such problems that only revolt the citizens, by increasing the material and time expenditures in order to receive what actually the Law offers them for free, as citizens and tax payers.

If we take into account the fact that 630 complaints representing almost 10% of the total number of complaints in which violations of rights by public authorities and institutions had been invoked refer to the right of the person aggrieved by a public authority, we can appreciate that there is a case (attitude) that should not offer us peace.

Even though not all the violations claimed proved to be real, most of them represented a real violation. The People's Advocate institution, within the limits of the prerogatives offered by its law of organization and functioning, repaired in a way the case doing the necessary legal approaches for the complainants to be reinstalled in their rights, but despite the specific demand of the institution to be informed on the measures taken to eliminate the infringements suffered by the citizen, the measures taken were not transmitted by institutions or authorities of the public administration. This fact underlines the existence of a silent approval of the authorities for their own employees, which does not lead by far to the feeling of a rapid improvement of the case.

Even though to a minor degree, also the violation of equality in rights does not offer an optimistic image. The fact that 78 petitioners felt that they are treated differently than their fellow citizens, that is abusively, with hostility or discrimination, by public authorities or institutions, it can only raise continuously serious question marks especially since the reports concerning the way the equality among citizens is respected in our country were not impressive, coming from both European or overseas institutions.

According to the forces available, not all the complaints coming for analysis were solved by the field of human rights, equality of chances between men and women, religious cults and national minorities, main part of them belonging to other fields. Out of the total complaints analyzed at the level of the People's Advocate institution in 2006, more than 8% of them, 555 requests respectively were for the field mentioned.

An analysis of the requests solved will be presented in the following, in the order of the rights considered violated.

A. Equality of rights (art. 16 from the Constitution)

During 2006 a number of **78 complaints** was recorded, having as subject a possible violation of equality in rights of the citizens, among which, 24 at the central headquarters of the institution and the rest of 54, at the territorial offices. Comparing to the previous year, it was recorded an increase in their number, in proportion of about 90% (from 41 to 78).

It is possible that our appreciations concerning the number of complaints where the People's Advocate institution was informed about cases of discrimination should be influenced by an increase of citizens' addressability to the National Council for Fight Against Discrimination, public authority in the field of discrimination, under the Parliament's control and warrant to comply with and apply the principle of non-discrimination, according to the domestic valid legislation and the international documents where Romania takes part. Moreover, we also take into account the fact that, according to the specifications of the art. 21, paragraph (3) from the Government Ordinance no. 137/2000 concerning the prevention and sanctioning of all the forms of discrimination, with the following modifications and completions, in analyzing the cases having as an object the discrimination, National Council for Fight against

Discrimination is obligatorily summoned in court. Among the requests submitted to the People's Advocate institution having as an object the violation of the specifications of art. 16 from the Romanian Constitution, we found more special the case of a convict in the Penitentiary Codlea, case presented below:

File no. 6700/2006. Marius (fictive name), informed the People's Advocate institution about the fact that, even though he had to accomplished only a punishment of 3 years and a half, he was transferred to a penitentiary of maximum safety.

The complainant appreciated the transfer as unjustified and prejudice-provoking in the sense that he could not take benefit anymore of courses for education and, at the same time, it limited his right to participate to the trials where he was summoned by the judicial courts in Brasov.

The underlined aspects were analyzed in the context of a supposed violation of equality in rights. The People's Advocate institution informed the National Administration of Penitentiaries.

As a result of the approach done by the People's Advocate institution at the National Administration of Penitentiaries, the request found a favourable solution, the petitioner being transferred back to the Penitentiary Codlea, restarted his education and he was included in the activities of individual counselling developed by the psychologist of the penitentiary. At the same time, he was granted the right to participate in the trials where he was summoned in court.

B. Right to life, to physical and mental integrity (art. 22 in the Constitution)

In 2006, a number of **16 complaints** were recorded, similar to the previous year, concerning the supposed violation of the right to life and to physical and mental integrity. Among them, 14 complaints were recorded at the central headquarters of the institution and 2, at the territorial offices.

In this sense, the institution was informed about the lack of professionalism of the police in developing the activity of criminal research and postponing its finalization.

At the same time, in 2006, the People's Advocate institution received a series of complaints from physical persons executing some punishments involving depriving of freedom, who requested in the limits of the competences conferred by the Law no. 35/1997, republished, that People's Advocate should get involved in solving some problems in the field of the execution of punishments in penitentiaries.

In order to solve these complaints, the People's Advocate institution informed on the competences established by the Law of organization and functioning and submitted to the National Administration of Penitentiaries, which communicated the measures taken.

C. Right to free movement (art. 25 from the Constitution)

During 2006, were recorded at the People's Advocate institution **12 complaints** concerning a possible violation of the right to free movement, among which 11

complaints at the central headquarters of the institution and 1, at the territorial offices, which also represents a decrease comparing to the level recorded in 2005 (from 16 to 12).

After the analysis of the complaints having as an object possible violations of the right to free movement, it resulted that the People's Advocate institution was repeatedly informed by persons in illegal state on the territory of other states, after the violation of the legal specifications regulating the regime of the country border or after the violation of the specifications of the agreements of readmission that Romania signed with different countries worldwide.

The People's Advocate institution was also informed about the difficulties faced by the citizens to obtain the approval of the travels abroad for the minors for whom only one parent takes care of bringing up and education, being also asked for specifications concerning the conditions of their travelling after Romania joined the European Union.

In all the cases, the complainants were indicated the legal way to follow, as well as the legal specifications regulating the regime of free circulation of Romanian citizens abroad.

After Romania joined the European Union, we estimate a major modification of the citizens' addressability concerning this right in the following year, respectively 2007.

D. Right to intimate, family and private life (art. 26 from the Constitution)

The violation of this right represented the object of **7 complaints** that were submitted to the People's Advocate institution, which represents an important decrease in the requests submitted to the institution comparing to 2005, of about 5 times (from 34 requests in 2005 to 7 requests in 2006). Among them, 5 complaints were recorded at the central headquarters of the institution and 2 at the territorial offices and referred to: lack of police reaction to the repeated reclamations of citizens about violation by third parties of the right to private life; search of criminal search organs, appreciated by petitioners as abusively developed; the unsatisfactory way of doing the preliminary research by the Law authorities in case of family members disappearance.

E. Right to information (art. 31 from the Constitution)

In 2006, the complaints having as an object the possible violation of the right to information took second position at the level of institution, according to the number of complaints, the number being **1226**, which represents a percentage of about 19% from the total of complaints received by the institution People's Advocate. Among them, 1089 complaints were recorded at the central headquarters and 137, at the territorial offices. The increase comparing to the previous year is with 522 complaints, 74% respectively (from 704 complaints in 2005, to 1226 in 2006). Even though from the quantity point of view this type of complaints were more numerous, usually not all the complainants addressed first or made proof to have submitted to the claimed

authorities. Due to this fact, the People's Advocate institution could not support them directly, completely, to solve the complaints, but indicated the legal procedures to follow.

The main aspects noticed in these complaints refer to the demanding of information concerning the specifications of Law no. 544/2001 concerning the free access to information of public interest; the answers, which the petitioners appreciated as inappropriate, received by the informed authorities; the request of information concerning the issue of necessary receipts to write and fill in the pension forms; information concerning the stage of research about some criminal complaints.

On examining these complaints, we can underline the fact that there are still some authorities and public institutions that do not respect their constitutional obligation of offering the petitioners the information requested or respond with great delay.

The People's Advocate institution reacted promptly, informing the city halls, prefectures, National Archives, other institutions and authorities of the public administration that did not respect the obligation to answer the petitioners' demands concerning the information of public interest or the problems of personal interest.

CASE REPORTS

File no. 2774/2006. Ion (fictive name) informed the People's Advocate institution about the fact that he submitted to the National House of Pensions and Other Rights of Social Insurances about the way of applying the Law no. 19/2000 concerning the public system of pensions and other rights of social insurances, but he received no answer.

The complaint was analysed in the context of possible violation of the right to information (art. 31 from the Romanian Constitution) and the right to petition (art. 51 from the Romanian Constitution).

The People's Advocate institution submitted to the National House of Pensions and other Rights of Social Insurances, requesting necessary legal measures to be taken and informing People's Advocate about it.

As a result of the approaches of the People's Advocate institution, his request was solved in the sense that he received from the National House of Pensions and Other Rights of Social Insurances, an answer to all the requests of the petitioner, answer transmitted in printed copy to him.

File no. 2163/2006. Zoltan (fictive name) informed the People's Advocate institution about the fact that he submitted to the General Directorate of Public Finances of Harghita, demanding the finalization of the fiscal control, but he received no reply.

The request was analysed in the context of possible violation of the right to information (art. 31 from the Romanian Constitution) and the right to petition (art. 51 from the Romanian Constitution).

The People's Advocate institution informed the General Directorate of Public Finances of Harghita, demanding necessary legal measures to be taken and informing People's Advocate about it.

As a result of the approaches of the institution People's Advocate, General Directorate of Public Finances of Harghita finalized the general fiscal inspection, informing the People's Advocate institution about having clarified from the fiscal point of view the problems signalled by the petitioner, transmitting him the conclusions of the report of fiscal inspection.

File no. 1158/2006. Tudor (fictive name) informed the People's Advocate institution about the fact that he submitted to the Ministry of Economy and Commerce in view of identifying the location of the archive of Mine Trust Banatul Anina, but he received no answer. The petitioner specified the fact that the information is necessary for him to obtain a certificate in view of recalculation of his pension.

The request was analysed in the context of possible violation of the right to information specified by art. 31 from the Romanian Constitution.

The People's Advocate institution presented to the Ministry of Economy and Commerce, as well as the Authorities of Value the State Active, demanding necessary legal measures to be taken to solve the petitioner's demand and informing People's Advocate about it.

As a result of the approaches of the People's Advocate institution, the request was solved favourable in the sense that the petitioner received the information requested.

File no. 4848/2006. Ioana (fictive name) informed the People's Advocate institution about the fact that she submitted to the Service of urbanism of the General City Hall of Bucharest, requesting information about the necessary documents to build a church, but she received no answer.

The request was analysed in the context of possible violation of the right to information (art. 31 from the Romanian Constitution) and the right to petition (art. 51 from the Romanian Constitution).

The People's Advocate institution demanded the General City Hall of Bucharest to take the necessary legal measures to solve the petitioner's request and the informing the People's Advocate institution about it.

As a result of the approaches of the People's Advocate institution at the General City Hall of Bucharest, the petitioner's request was solved, in the sense that she received the information requested.

F. Right to protection of health (art. 34 from the Constitution)

In 2006, the People's Advocate institution was informed with **27 complaints** (14 complaints at the central headquarters and 13 at the territorial offices), having as an object protection of health, which represents a decrease of requests submitted to the institution comparing to the previous year, of about 2 times (from 42 in 2005, to 27 requests in 2006). Many complaints were not in the competence of the institution,

others did not prove the statements concerning the supposed violations, but most of them referred to real problems of the citizens in their relations with the institutions dealing with public health. The complaints referred to some rights supposedly violated concerning people with disabilities; cases of bad practice where the harmed persons did not receive compensations; no payment for holiday leave by pension houses etc.

G. Right to a healthy environment (art. 35 from the Constitution)

In 2006, the People's Advocate institution was informed with **23 complaints** (11 complaints at the central headquarters and 12 at the territorial offices). Comparing to the previous year, the complaints submitted to the People's Advocate institution that sanctioned the violation of the right to a healthy environment decreased in 2006, at their turn, abruptly. This decrease of about 5 times (from 111 requests in 2005, to 23 petition in 2006) can be explained by the fact that the competent institutions in solving such cases, and we mention especially the National Guard of Environment, due to the means of direct intervention and sanctioning that the Law specifies, were more visible, so that the persons had the possibility to address directly to these institutions. The aspects presented in these complaints referred especially to the phonic pollution and respect of legal provisions concerning insuring a healthy environment and ecologically balanced. In these cases, the People's Advocate institution informed the public authorities that have, according to the Law, the duty to protect and ameliorate the environment, as it can be seen also in the case reports presented below.

CASE REPORTS

File no. 2089/2006. Dumitru (fictive name) informed the People's Advocate institution about the rejection of the Municipality of sector 3 of Bucharest to answer the complaints requiring the trimming of a tree in public territory which, by its height and degradation, put in danger the citizens' life and the security of the balconies.

The aspects presented were analysed in the context of possible violation of the right to a healthy environment, specified by art. 35, and the right to petition, specified by art. 51 in the Romanian Constitution.

On taking into account the facts presented by the complainant, and in order to clarify the case, according to art 59 paragraph (2) from the Romanian Constitution, combined with the articles 4 and 22 from the Law no. 35/1997 concerning the organization and functioning of the People's Advocate institution, re-published, we requested information at the Directorate of Community Administration at the Municipality of sector 3 of Bucharest. As a result of the approaches at this authority of the local public administration, were communicated both to the petitioner and the People's Advocate institution the measures taken by the specialty Directorate to remove the tree mentioned above, but also other trees in the same case.

File no. 9362/2006. Georgiana (fictive name) – a special case partially solved due to lack of legislative frame – informed the institution People's Advocate, through

the commission for research of abuse, fight against corruption and petition of Romanian Senate, related to the fact that her and her family health is seriously affected by an electromagnetic field with unknown origin, manifested at their residence, reason for which she demands support in identifying the source and, if possible, removing or diminishing the effects produced by it. The petitioner used this way to solve the problem, due to lack of material means to pay the service done by a specialized authority in the field (about 2500 lei).

The petitioner's request was analysed in the context of possible violation of the right to a healthy environment, specified by art. 35 from the Romanian Constitution, and the right to health protection, according to the specifications of art. 34 from the Fundamental Law.

The People's Advocate institution submitted to the Agency of Environment Protection Bucharest and the "Alexandru Darabont" National Institute of Research – Development for Work Protection Bucharest, under circumstances when the General Inspectorate for Communications and Information Technology – Territorial Directorate Bucharest, confirmed the existence, at the petitioner's residence, of some level of electromagnetic radiations exceeding the levels of reference, without indicating though, due to lack of technical means, the source of radiation.

Up to now we received an answer from the Agency of Environment Protection Bucharest, which declined the competence of the "Alexandru Darabont" National Institute of Research – Development for Work Protection, Bucharest, to whom the People's Advocate institution requested a point of view, informed that, even though the services done by the institute are paid (and the petitioner can not afford it), and will do it after all without payment, though according to priorities, reverification of measurement at the complainant's residence, after which it will present a point of view. After the discussions with the institute representatives, it resulted the information that the institute and the other civil institutions of profile do not have the specific equipment to establish the location of possible harmful electromagnetic sources and thus, the case cannot be finalized.

The People's Advocate institution noticed on this occasion the lack of adequate legislation for population protection against new sources of environment pollution, and the norms to oblige the specialized institutes to write periodically, for large urban locations, maps with pollution levels – with the levels of electromagnetic radiation in the case presented, and to inform the competent authorities, in case of identification of some new sources of pollution, demanding in this sense the help of the Parliament.

H. Right to petition (art. 51 from the Constitution)

In 2006, the People's Advocate institution was informed with **998 complaints** (701 complaints at the central headquarters and 297 at the territorial offices), concerning the violation of the right to petition. Taking into account the fact that the right to petition belongs to the category of rights of warranty, its violation is associated

in most cases with the violation of one or more fundamental rights, for instance the right to private property, the right to a decent standard of life, the right to information, the right of a person aggrieved by a public authority.

Thus, the individuals informed the People's Advocate institution about the fact that they addressed some public authority by requests, reclamations, demands, suggestions to solve some problems concerning the pensions, the property, taxes and fees, social assistance, receiving clarifications concerning the stage of solving the notifications presented by entitled persons, according to Law no. 10/2001, at the stage of solving the files concerning the compensations granted according to Law no. 9/1998, demanding some information of public interest, according to the specifications of Law no. 544/2001 or obtaining copies of the documents of marital status, according to Law no. 119/1996, but they faced difficulties from the part of public authorities informed.

Some authorities refused to record the complaints, others, in the case where the petition was recorded, did not transmit the petitioner the answer within the period specified by Law or they postponed the solving of the aspects signalled.

CASE REPORTS

File no. 5493/2006. Dancu (fictive name) informed the People's Advocate institution about the rejection of the City Hall of Medgidia to offer information of public interest, namely copies of the Forms of biddings and bids selections, as well as the contracts of design and the designs finished or in course of developing. Until the date when the petitioner submitted to the institution People's Advocate, the City Hall of Medgidia transmitted other documents than the ones requested.

The aspects presented were analysed in the context of a supposed violation of the right to petition.

The People's Advocate institution requested information from the City Hall of Medgidia.

As a result of the approach done by the People's Advocate institution, the petition was solved, in the sense that the City Hall of Medgidia responded to the petitioner and invited him to the headquarter of the institution in order to study the documents requested.

File no. 4626/2006. Malca (fictive name), with the residence in Israel, informed the People's Advocate institution about the difficulties faced in obtaining her birth certificate, stating that she repeatedly submitted to the Romanian Embassy in Tel-Aviv with requests, asking for the reverification of the recording of her birth in the register of births, deaths and marriages in Arad.

The aspects presented were analysed in the context of a supposed violation of the right to petition.

The People's Advocate institution requested the help of the National Inspectorate for Citizen's Evidence.

As a result of the approaches, the petitioner's birth certificate was transmitted to the institution People's Advocate. Afterwards, through the General Directorate of Counsellor Business in the Ministry of Foreign Affairs, the birth certificate was sent to the complainant.

File no. 3281/2006. Teodor (fictive name) informed the People's Advocate institution about the rejection of the Ministry of Foreign Affairs to respond to the petition requesting the issue of death certificate for his brother deceased in Italy. The petitioner proved numerous recurrences of the initial request.

The information presented was analysed in the context of a supposed violation of the right to petition

As a result of the approaches of the People's Advocate institution done at the Ministry of Foreign Affairs, the petitioner obtained the certificate requested, on 31 May 2006.

File no. 4318/2006. Coman (fictive name) informed the People's Advocate institution about the rejection of the Commission to admit the quality of a fighter in the anti-communism resistance to reply after sending to this commission the necessary supplementary documents to solve the request handed in 2002.

The aspects presented were analysed in the context of a supposed violation of the right to petition.

As a result of the request received, it was required information at the Commission to admit the quality of a fighter in the anti-communism resistance.

Following the approach undertaken, it was communicated to the institution People's Advocate, on 5 September 2006, the reply transmitted to the petitioner.

File no. 4839/2006. Vasile (fictive name) informed the People's Advocate institution about obtaining an receipt necessary to the recalculation of his pension.

Following the approach undertaken by the People's Advocate institution at U.M. 02405 (Military Unit) Pitesti, the request was solved, the complainant receiving the necessary receipt.

File no. 5318/2006. Claudiu (fictive name) informed the People's Advocate institution about the fact that he requested to the Autonomous Administration of Buzau, clarifications about the way of calculating the thermal energy, but he did not receive any answer.

Following the approach undertaken by the People's Advocate institution at the Autonomous Administration of Buzau, the complainant's request was solved, and he received the information requested.

File no. 867/2006. Adrian (fictive name) informed the People's Advocate institution about the postponing of issuing a certificate necessary for the recalculation of pension, by U.M. 02405 (Military Unit) Pitesti.

Following the approach undertaken by the People's Advocate institution at Military Unit 02405, the petitioner's request was solved, and he received the information requested.

File no. 979/2006. Elena (fictive name) informed the People's Advocate institution about the postponing of issuing by the National Archives of some copies of the documents necessary to rebuild the right of property.

Following the approach undertaken by the People's Advocate institution at the National Archives, the petitioner's request was solved, and she received the information requested.

I. The right of the person aggrieved by a public authority (art. 52 from the Constitution)

In 2006, the complaints submitted to the People's Advocate institution that sanctioned a possible violation of the person aggrieved by a public authority, was practically double comparing to the previous year, indicating as presented above a case that must not be tolerated anymore. The right of the person aggrieved by a public authority was invoked in a number of **630 complaints** (468 recorded at the central headquarters and 162, at the territorial offices), comparing to 269 de complaints recorded in 2005, the increase being of about 2.5 times.

As for the rights invoked by the individuals in their relations with the public authorities, the complaints refer to the violation of some rights and legitimate interests, by non-observing some legal provisions concerning the right of property, the right to a decent standard of life, granted authorizations of construction, closing down some non-authorised constructions, granted indemnities specified by Law no. 189/2000 concerning offering some rights to persons persecuted due to political reasons of dictatorship starting with 6 March 1945, as well as deported abroad or war prisoners, the acknowledgement as veteran of war, according to the Law no. 44/1994, re-published.

CASE REPORTS

File no. 7905/2006. Barbu (fictive name) informed the People's Advocate institution about the delay in solving a petition submitted to the Municipality of sector 6 of Bucharest, requesting the closing down of some non-authorised metallic constructions. The aspects presented were analysed in the context of the right of the person harmed by a public authority or the right to petition.

As a result of the approach undertaken by the institution People's Advocate, the Municipality of sector 6 of Bucharest communicated that starting with 7 November 2006 were closed down the temporary constructions.

File no. 2423/2006. Ilie (fictive name) informed the People's Advocate institution about the rejection of the Municipality of sector 3 of Bucharest to reply to the requests demanding the Service of Commercial Control and the Service Order in Constructions, to research the way were issued the authorisations of construction and functioning for the commercial society located at the ground floor of the building where he resides.

As a result of the approach undertaken by the institution People's Advocate, the Municipality of sector 3 of Bucharest communicated by the address no. 3228 from 10 April 2006 that the commercial society received a fine, and the roof was disassembled and the balcony is in course of authorisation.

File no. 1712/2006. George (fictive name) informed the People's Advocate institution about the fact that, even though he addressed twice to the District House of Pensions of Caras-Severin, demanding the observation of the rights specified by Law no. 189/2000 concerning granting rights to persons persecuted due to political reasons of dictatorship starting with 6 March 1945, as well as persons deported abroad or prisoners and acknowledged by Decision no. 402 from 15.08.2005, issued by the Commission of applying this law, he did not receive any reply.

Following the approach undertaken by the institution People's Advocate, the request was solved, in the sense that by address no. 2505 from 28 March 2006, District House of Pensions of Caras-Severin, replied to the petitioner.

File no. 1352/2006. Andon (fictive name) informed the People's Advocate institution about the refusal of U.M. (Military Unit) 02405 Pitesti to reply to the complaints demanding copies of the documents necessary for the acknowledgement of the quality of war veteran, according to the specifications of the Law no. 44/1994, making the proof of several approaches in this respect, without any result.

The aspects signalled were analysed in the context of an invoked violation of the right of the person aggrieved by a public authority.

Following the facts presented by the complainant, according to the art 59 paragraph (2) from the Romanian Constitution, combined with arts 4 and 22 from the Law no. 35/1997, were requested information from U.M. 02405 Pitesti.

Following the approach undertaken at U.M. 02405 Pitesti, we were told that on 13 April 2006, the response was transmitted to the petitioner, response including the data necessary for granting the rights specified by Law no. 44/1994.

File no. 2194/2006. Voica (fictive name) informed the People's Advocate institution about the delay of the Commission for applying Law no. 189/2000 from the House of Pensions of Bucharest to apply the Decision no. 858/2005 of the Court of Appeal Bucharest, by which was acknowledged the quality of person persecuted due to political reasons of dictatorship starting with 6 March 1945.

The request was analysed in the context of an invoked violation of the right of the person aggrieved by a public authority. It was requested information at the Commission for applying the Law no. 189/2000 in the House of Pensions of Bucharest.

As a result of the approach undertaken at this institution, we were communicated on 12 April 2006, the address by which we were informed about the solving of the petitioner's request and the observation of the rights specified by the Law.

File no. 3043/2006. Costea (fictive name) informed the People's Advocate institution about the refusal of the Prefecture Bucharest to respond to the complaints requesting the acknowledgement of his rights specified by the Law no. 290/2003

concerning granting indemnities or compensations to Romanian citizens for their goods as property, sequestered, kept or remained in Bassarabia, North Bucovina and Herta County, consequent to war and observation of the Treaty of Peace between Romania and the Allied and Associated Powers, signed in Paris on 10 February 1947. The petitioner proved many recurrences to the initial approach, all of them without any result.

The complaint was analysed in the context of an invoked violation of the right of the person harmed by a public authority and the right to petition. On taking into account the facts presented by the complainant; we requested information from the Prefecture of Bucharest.

As a result of the approach undertaken, on 22 May 2006, it was communicated to the People's Advocate institution the stage of solving the petitioner's request, as well as the supplementary approaches to be undertaken.

File no. 3614/2006. Dan (fictive name) informed the People's Advocate institution about the refusal of the National Authority for Consumer's Protection to respond to the complaints signalling a series of irregularities in developing the contract signed by him with SC Gas South, proving the approaches and the material damages evolving from the delayed solving of the case.

The information represented the object of an analysis in the context of an invoked violation of the right of the person harmed by a public authority and the right to petition.

On taking into account the facts presented by the petitioner, according to art. 59 paragraph (2) from the Romanian Constitution, combined with art. 4 and 22 from Law no. 35/1997, we requested information at the National Authority for Consumer's Protection. As a result of the approaches undertaken, we received the answer of the National Authority for Consumer's Protection informing us about the approaches undertaken by this authority and the answer received by the complainant.

THE AREA OF THE RIGHTS OF CHILDREN, FAMILY, YOUTH, PENSIONERS, PERSONS WITH DISABILITIES

In 2006, the People's Advocate institution was informed with a number of 1396 **complaints** concerning the field of rights of children, family, youth, pensioners, persons with disabilities, representing 21.7% from the total of complaints recorded. The percentage of complaints clarified as a result of the intervention of the institution People's Advocate, in the field of rights of children, family, youth, pensioners, persons with disabilities, was of 23.57%, and among them a percentage of 77.9% were solved favourably for the petitioners.

A. Children, youth and family

The People's Advocate institution granted also in 2006 a special attention to the protection of children's and youth's rights. Thus, its activity consisted in self-informing, inquiries, recommendations, clarifications of complaints received from petitioners, collaborations and meetings with Romanian and foreign juridical persons in view of promoting and protecting the children's rights, the advertisement of the children's rights.

According to the provisions of the art. 49 from the Romanian Constitution, re-published, children and youth enjoy a special regime of protection and assistance in realizing their rights. In detailing these constitutional provisions, it was adopted Act no. 272/2004 concerning the protection and promotion of children's rights, published in the Official Gazette of Romania, Part I, no.557 from 23 June 2004. Thus, Law no. 272/2004 includes some specifications concerning the children's rights to enjoy the respect of their personality and individuality, good health, education to allow their development, in conditions of non-discrimination, of their aptitudes and personality, to be protected against any form of violence, abuse, bad treatment or negligence, to be protected against any form of exploitation.

➤ In view of verifying the observance of the constitutional and legal specifications mentioned above, People's Advocate **started the ex officio procedure** about the case of children in the Complex of Services for the Children in Need – Priboieni, district of Arges, as a result of the aspects presented in the rider "Nightmare at the Children's Home", published in the newspaper "National Journal" on 5 April 2006. The rider included some information concerning the treatment of the children in the Complex with physical punishments or other humiliating treatments, sexual abuses, constrain to work involving potential risk for their health or development, starvation.

On taking into account the aspects presented in the media, according to the provisions of Law no. 35/1997, the representatives of the People's Advocate institution undertook **an inquiry** at the Complex of Services for the Children in Need - Priboieni, district of Arges, where were received in audience both the leader of the complex and other employees, and children. Some information was requested about the conditions of life and the relations between children and the complex staff as well as documents

(medical forms, school case of the children in the centre, individual forms of counselling, documents concerning the specialty staff and the auxiliary staff employed in the complex), it was carried out a verification of the facts in the complex (state of maintenance of spaces and conditions of hygiene and sanitary, existence of spaces appropriate for preparing food, serving food, rest and doing homework, existence of medical rooms, etc.).

According to the information offered by the employees of the complex and the aspects noticed by the representatives of the People's Advocate institution after the inquiry, the following conclusions were drawn:

- in the Complex of Services for the Children in Need – Priboieni, district of Arges, there is a stressed environment generated on one hand by the negative behaviour manifestations of some of the children assisted, due to separation from the family, and on the other hand by deficiencies of communication among employees, among employees and children, and among children;
- in the complex there are protected children of young age, adolescents and young people, which creates the risk of producing abuses of elder children on younger ones;
- children are not well enough guarded and counselled by the specialty staff and there is no programme of spending the children's free time and involving them in educative activities, according to age and individual characteristics;
- there are many cases of school abandoning, and the school case of the children in this complex is alarming;
- in the same building, there are both boys and girls, aged 6 to 23, using common toilets, case favouring the appearance of inappropriate relations among the children and the young people in the complex;
- there are more cases of children assisted who disappeared from the complex long time ago, and the representatives of the Complex of Services for the Children in Need – Priboieni, district of Arges, do not know where these children are and they did nothing of the necessary approaches to find and bring back the children in the complex;
- the representatives of the Complex of Services for the Children in Need – Priboieni, district of Arges, did not make available for the representatives of the People's Advocate institution documents to prove the fact that they informed the General Directorate of Social Assistance and Children's Protection Arges on the difficulties they face and the case in the complex, even though this thing was demanded;
- the Chief-official of the Complex of Services for the Children in Need – Priboieni, district of Arges, did not do an analysis of the causes of the scandal in media concerning the assisted children's case and did not manifested any preoccupation to conceive a plan to improve the existent case.

Taking into account the facts discovered and the conclusions drawn, People's Advocate appreciated that the General Directorate of Social Assistance and Children's Protection of Arges, coordinating the Complex of Services for the Children in Need –

Priboieni, district of Arges, did not take the legal measures necessary in view of complying with the legal valid regulations concerning the children's and youth's protection and their right to life and physical and psychological integrity. As a consequence, People's Advocate issued a **recommendation** submitted to the General Director of the General Directorate of Social Assistance and Children's Protection Arges demanding the public administration authority in discussion, to examine the case created concerning the violation of the right to special protection and the right to life and physical and psychological integrity in the case of the children from the Complex of Services for the Children in Need – Priboieni, district of Arges, as well as informing the People's Advocate on the measures taken.

The General Directorate of Social Assistance and Children's Protection Arges **assimilated** the recommendation of the People's Advocate and communicated the measures taken at the Complex of Services for the Children in Need Priboieni, district of Arges meant to insure a better development of the activity in this complex. Thus, it was taken the measure of reorganizing the institution and was elaborated a new scheme of staff; it was introduced a job of psychologist to insure the counselling of the children in the complex; the job is already occupied by a person with studies in the field; it was created a second job of social assistant to maintain and strengthen the relations child-family-community, job which will be taken by contest; it was appointed after an organized contest a new chief of the complex.

It was written some procedures concerning all the activities in the complex: the procedure of admitting and evaluating the children, procedures of giving leave to the children, concerning the children's absence without leave, the children's counselling in problems concerning them, the relation with the school, the children's daily activities. These procedures were processed with the staff in the institution and started being applied.

It was elaborated a new Regulation of organization and functioning and a new Regulation of interior order, processed with all the employees; the employees' job papers were updated, being mentioned each employee's tasks and their relations of collaboration inside and outside the complex.

The names of the institutionalized children, who disappeared from the Complex some time ago, were communicated to the District Police Inspectorate Arges, in order to find them.

In order to prevent the young children taking a negative model of socializing, for a number of 14 children aged 6-15, it was created a network of 9 professional maternal assistants.

During 2006, the staff in the institutions of social protection, including the Complex of Services for the Children in Need - Priboieni, district of Arges, will attend courses of professional formation with experts from France.

➤ Moreover, as a result of the rider titled "Lost among crazy people" published in the newspaper "The National Journal", where it was presented the case of the children in the Centre of recuperation and rehabilitation for school children with

disabilities Maicanesti, district of Vrancea, People's Advocate **started an ex officio investigation.**

Thus, in the rider mentioned above it was presented the case of some normal children, institutionalized, in the same centre of placement with children with disabilities, who were forced to attend the courses of a special school, as well as the miserable conditions where live the 86 boys aged 8 – 23 and their precarious hygiene. In the same rider it was also mentioned the fact that the staff taking care of the children, insufficient in number, was formed of four readers – teachers and 6 guards, the nurse being the employee of the special school.

In the context presented, it resulted a possible violation of the specifications of the art. 49 concerning the right to children's and youth's protection, of art. 32 concerning the right to education and of art. 34 concerning the right to health protection, specified in the Romanian Constitution.

As a result, we addressed the General Director of the General Directorate of Social Assistance and Children's Protection of Vrancea, according to the art. 59 paragraph (2) from the Romanian Constitution combined with the art. 2 paragraph (2), art. 4 and art. 22 from Law no.35/1997.

Following the approach of the People's Advocate institution, the General Directorate of Social Assistance and Children's Protection of Vrancea transmitted us a reply of not taking into consideration our requests to examine and take measures concerning the case of the normal children, institutionalized in the same centre of placement as the children with disabilities, obliged to attend the courses of a special school, but we were informed about the lack, for 2006, of the necessary funds to pay the equipment and the bedding for the children.

Consequently, we addressed the District Council of Vrancea, which took into consideration our requests and communicated us the fact that following the approaches of the People's Advocate institution, it was undertaken a psychological and psychiatric evaluation of the 86 beneficiaries of the services of the Centre of Recuperation and Rehabilitation of School Children with Deficiencies of Maicanesti, district of Vrancea. 13 young children were reintegrated in families, and with the others was maintained the measure of special protection in the Centre of Recuperation and Rehabilitation of School Children with Deficiencies Maicanesti, district of Vrancea.

Among the beneficiaries of the measure of special protection in the Centre of Recuperation and Rehabilitation of School Children with Deficiencies Maicanesti, district of Vrancea, there are also 8 young children aged 17-22 with IQ > 70, presenting exclusively an instructive educative deficit and who will finish the last year of study in the same institution of education, because the Law of education does not allow the transfer in mass school with individualized programme, the maximum age allowed for enrolling into a mass school being 9 years old.

At the same time, the District Council of Vrancea informed us of taking a decision to approve the transformation of the special schools in school centres of inclusive education and taking over, with all the logistics, of the structures of the

Centre of Recuperation and Rehabilitation of School Children with Deficiencies “Elena Doamna” Focsani, Centre of Recuperation and Rehabilitation of School Children with Deficiencies Maicanesti, district of Vrancea, and the Centre of Recuperation and Rehabilitation of School Children with Deficiencies Mihalteni in the frame of the General Directorate of Social Assistance and Children’s Protection Vrancea. Thus, it will be closed down the structures mentioned above, handed over the material goods involved (fixed means, objects of inventory) from the patrimony of the General Directorate of Social Assistance and Children’s Protection Vrancea and the transfer of the staff employed by these units of protection.

Thus, the General Directorate of Social Assistance and Children’s Protection Vrancea will have competences and assignments exclusively concerning the person of the beneficiary, resulting from the activity of employing as a person with disabilities, school and professional orientation, evaluation and re-evaluation of the measures of special protection.

➤ We cannot omit, when we refer to the protection of children’s rights, the collaborations we had in 2006 with different authorities involved in the protection of children’s rights, meetings with the representatives of some NGOs, participation to seminars and TV shows on the topic children’s rights, the riders we published in the national and international media and, last but not least, the actions by which the People’s Advocate granted social helps to the institutionalized children.

Under these circumstances, we mention the meeting we had with the representatives of the project initiators concerning the founding in the frame of the People’s Advocate institution of a department specialized only with the children’s problems titled “Department of Children’s Advocate”.

Numerous debates were focused in 2006 on the necessity of founding some specialized instances to judge the causes with minors and the difficulties faced in the practice of the court instances in applying the Law no. 272/2004 concerning the protection and promotion of children’s rights (seminars on the topic “Children’s Rights” from Iasi and Sovata).

Thus, even though there were founded specialized sections at Court of Appeal level, at the inferior instances (tribunals), there are no specialized panels of judges to judge the causes with minors. Moreover, during the debates it was underlined the necessity of information exchange between court instances, of the realization of a unitary judiciary practice and a partnership between institutions.

It was also mentioned the fact that currently, the Superior Council of Magistrates rejected the suggestions of founding specialized instances on reason of lack of financial resources for this purpose (nevertheless, it was founded in 2004, the Tribunal for minors and family of Brasov, currently the only court in the country specialized for causes with minors).

There were criticized some provisions of Law no. 272/2004 and was under debate the necessity of modifying this Law.

We cannot deny the fact that the system of protection of children's rights in Romania made progress, this fact being supported also by Mrs Emma Nicholson, Vice-president of the Commission of International Relations and member in the Sub-commission of Human Rights - European Parliament, and His Excellence, Mr Quinton Quayle, the Ambassador of Great Britain at Bucharest, but there are many other things to do. Under these circumstances, we appreciate it is necessary to continue analysing the possibility of modifying the legislation in the sense of supporting the family in view of bringing up children, as we stated also during the seminar organized in this respect at the headquarters of the People's Advocate institution and where participated the public authorities involved in the protection of children's rights. As a result, we can only notice the fact that the appearance of the Law no. 482/2006 concerning granting trousseaux for new-born, by which it is granted for each new-born a parcel containing clothes, sheets and care products, in value of 150 lei, it meant a small step in supporting the family in bringing up children.

➤ We must remind here also the actions developed by the People's Advocate, in collaboration with the representatives of the territorial offices on 1 June 2006 and on 23 October 2006, in Constanta, and Craiova respectively. On this occasion, People's Advocate granted social aids, namely goods of personal use (clothes, sports footwear), sweets and toys to the 35 children, boys and girls, aged 3-17 in the Centre of receipt in regime of emergency in Constanta, to the 15 children, boys and girls, with severe handicap, aged 0-2 in the Centre of placement no. 5 in Craiova and to the 17 children, boys and girls, with severe handicap, aged 2-12 in the Centre of placement no. 6 in Craiova.

CASE REPORTS

File no. 3093/2006. Nicolae (fictive name) informed us of requesting at the General Directorate of Social Assistance and Children's Protection Prahova, the evaluation of his child's case, placed by court decision in his mother's care, and that he is not content with the response received from the public institution mentioned above, because the problem mentioned was treated superficially and subjectively, without taking into account the child's high interest.

The aspects presented were analysed in the context of a supposed violation of the right concerning children's and youth's protection. The People's Advocate institution informed the General Directorate of Social Assistance and Children's Protection of Prahova County and requested the examination of the case created and dispose the necessary legal measures.

Following the approach undertaken by the People's Advocate institution, the request was solved, in the sense that the General Directorate of Social Assistance and Children's Protection Prahova did a new evaluation of the child's case, deciding also the permanent monitoring of the school case of the child, and presenting to the child's mother the problems found in bringing up and educating the minor.

File no. 6209/2006. Dan (fictive name) informed us about the fact that the National Authority for Children's Rights Protection, informed by him both directly and by means of the Romanian Office for Adoptions, did not answer to the request of taking the necessary measures for bringing back his niece in the country according to its legal competences.

The aspects presented were analysed in the context of a supposed violation of the constitutional provisions concerning the family, as well as the right concerning children's and youth's protection and the right to petition. The People's Advocate institution informed the National Authority for Children's Rights Protection.

Following the approach undertaken by the People's Advocate institution, the National Authority for Children's Rights Protection informed us that they initiated all the necessary approaches for the minor's repatriating in the moment when they received the official address concerning the minor. Moreover, the National Authority for Children's Rights Protection informed us that on 4 July 2006 they communicated to the General Directorate of Social Assistance and Children's Protection of Cluj county the child's case.

File no. 2087/2006. Eugen (fictive name) informed the People's Advocate institution about the fact that, starting with the school year 2005/2006, the Special School Centre Voluntari did not offer the school books and the daily money for food he is entitled to, according to Romanian Government Decision no. 1251/2005 concerning some measures of improving the activity of study, instruction, compensation, recuperation and special protection of children/pupils/youth in the frame of the system of special education and special integrated. Moreover, it informed us that the Special School Centre Voluntari did not reply to his request in February 2006, by which he demanded granting the rights previously mentioned.

The aspects presented were analysed in the context of a supposed violation of the right to education and the right concerning the children's and youth's protection. The People's Advocate institution informed the Special School Centre Voluntari, School Inspectorate of the district of Ilfov and the District Council of Ilfov.

Following the approach undertaken by the institution People's Advocate, the District Council of Ilfov, on adjusting the budget, allotted the necessary funds to grant material rights and daily allowance of food to the Special School Centre Voluntari, according to the Romanian Government Decision no. 1251/2005.

File no. 4898/2006. Diana (fictive name) informed the People's Advocate institution about the fact that her son aged 3, with the diagnosis at birth of imperfect osteogenesis type III, needing the medicament "Aredia" – "acidum pamidronicum", taken in by intravenous perfusion, does not receive anymore this medicament from free starting with March 2006. At the same time, the petitioner stated having addressed the House of Health Insurance in Bucharest, to solve this case, demanding on this occasion also the clarification of other problems, but she received no answer.

The aspects presented were analysed in the context of a supposed violation of the right concerning the children and youth's protection, the right concerning health

protection and the right to petition. Thus, the People's Advocate institution informed the House of Health Insurance in Bucharest. Since the public institution did not reply within the legal term of 30 days, we considered appropriate to address the National House of Health Insurance.

Following the approach undertaken by the institution People's Advocate, the petitioner's request was solved, in the sense that she received the answer that she can receive for free the medicament requested, according to the medical prescriptions.

In the sense the case presented, there were more demands.

File no. 4784/2006. Eugen (fictive name) informed the People's Advocate institution about the expulsion of young Z.E, from the Special School Centre Voluntari, without observing the specifications of the Regulation on organization and functioning of the units of pre-university education and the possible negative effects of the expulsion concerning the child's rights from the Service of Youth's Social and Professional Integration aged more than 18 in the frame of the General Directorate of Social Assistance and Children's Protection Sector 3 of Bucharest (D.G.A.S.P.C).

The aspects presented were analysed in the context of a supposed violation of the right to education and the right concerning the children and youth's protection. Thus, the People's Advocate institution informed the Special School Centre Voluntari and D.G.A.S.P.C. Sector 3 of Bucharest.

Following the approach undertaken by the institution People's Advocate, Special School Centre Voluntari communicated us the documents to prove that the child mentioned above was not expelled with the violation of the legal specifications in the field and that the child has the right to enrol to this unit of education in the academic year 2006-2007, and D.G.A.S.P.C. Sector 3 of Bucharest informed us that the child did not lose his right to benefit of the measures of social protection offered by Law no. 272/2004.

File no. 8270/2006. Dinu (fictive name) informed the People's Advocate institution concerning the fact that he addressed the Local House of Pensions, Sector 2 of Bucharest in September 2006, by registered letter, demanding clarifications about the interruption in October 2005, of the payment of the survivor's pension he used to receive after his mother's decease, even though at the time he was a pupil in the 12th grade, as well as the survivor's pension due after his father's decease. According to the petitioner's statements, until the moment of informing the institution People's Advocate, he had not received any answer from the Local House of Pensions, Sector 2 of Bucharest.

Following the approach undertaken by the People's Advocate institution at the Local House of Pensions Sector 2 Bucharest, in October 2006, it was issued the decision to grant the rights concerning the survivor's pension. Moreover, the payment of the rights was done by pay office, in October 2006, for the amount of 1864 lei, and starting with November 2006, the pension is of 342 lei.

File no. 4285/2006. Ioana (fictive name) informed the People's Advocate institution about the unjustified refusal of the City Hall of Otopeni, district of Ilfov, to

reply to the requests concerning the granting of the rights specified in the Government Emergency Ordinance no. 148/2005 concerning the family support in view of bringing up the children, modified.

There were done some approaches concerning the aspects presented by the petitioner.

As a result of the intervention of the institution People's Advocate, the institution of the public administration informed, solved the petitioner's request, in the sense of being granted the financial rights for bringing up the child, that she was entitled to.

File no. 14397/2005 (solved in February 2006). Claudia and Mirela (fictive names), students, informed the People's Advocate institution about the fact that the measure of special protection (placement), of which they benefited, was revoked illegally by the General Directorate of Social Assistance and Children's Protection Botosani. In order to clarify the aspects presented by the complainants, the People's Advocate institution addressed the General Directorate of Social Assistance and Children's Protection Botosani, the District Council of Botosani and the National Authority for Children's Rights Protection.

Following the approaches of the institution People's Advocate, there were solved the problems that the petitioners were facing, in the sense that they could benefit by the measure of special protection concerning the placement.

File no. 378/2006. Sorina (fictive name) informed the People's Advocate institution about the fact that she did not receive anymore the milk powder necessary for her daughter, according to Law no. 321/2001 concerning giving milk powder for free to children aged 0–12 months. At the same time, the petitioner communicated the fact that she submitted to the Municipality of Sector 6 of Bucharest, demanding explanations about the case created, but she received no answer.

The aspects presented were analysed in the context of a supposed violation of the right of children and youth's protection. The People's Advocate institution informed the General Directorate of Social Assistance and Children's Protection in the frame of the Municipality of Sector 6 of Bucharest.

Following the approach undertaken by the institution People's Advocate, the request was solved, in the sense that at the level of Municipality of Sector 6 of Bucharest was formed a Commission of administrative research, and following the report written by it, the response was sent, by registered letter, with receipt confirmation, at the address indicated by the petitioner.

B. Pensioners

The Constitution of Romania, by its art. 47, states that the state is obliged to take measures of economic development and social protection to insure the citizens a decent living standard. The citizens have the right to pension, paid maternity leave, medical assistance in the state sanitary units, unemployed allowance and other forms of public or private social insurances, specified by Law. The citizens have the right to other

measures of social protection as well, according to Law no. 19/2000 concerning the public system of pensions and other rights of social insurances with following modifications and completions, details for the public system of pensions, the constitutional specifications.

At the same time, the Law no. 276/2004 to supplement the art 169 from the Law no. 19/2000 introduced after paragraph (1) of the art. 169, paragraph (1¹) with the following content: recalculation, upon demand, by adding the seniority of subscription assimilated, as provided by art. 38 paragraph (1) letter b) (respectively, in the public system it is assimilated the seniority of subscription and the periods without subscription, called also assimilated periods, where the person insured attended the day courses of a high education institution, organized according to the Law, for the normal durations of those studies, on condition of graduating it) it done also in the case of the pensions established before 1 April 2001.

The Government Decision no. 1550/2004 concerning doing the operations of evaluation in view of recalculation of the pensions settled in the former system of social state insurances according to the legislation before 1 April 2001, according to the principles of Law no. 19/2000, decided that, starting with 1 October 2004, the pensions in the public system settled in the former system of social state insurances, according to the legislation before 1 April 2001 will be evaluated in view of recalculation according to the principles of the Law no. 19/2000.

In view of supporting the measures of reforming the system of pensions, specified in the governing programme, respectively making faster the process of recalculation of all the pensions in the public system from the former system of state social insurances, established according to the valid legislation before 1 April 2001, in payment, so that it should be respected the principle “equal conditions of pensioning, equal pensions, regardless to the year of pensioning”, as well as to ensure the legal frame necessary to re-calculate the pensions in the public system, calculated in the former system of state social insurances, the Romanian Government adopted the Emergency Ordinance no. 4/2005 by which the pensions in the public system calculated in the former system of state social insurances established according to the valid legislation before 1 April 2001, are recalculated by determining the annual average number of points and the amount of each pension, complying with the specifications of Law no. 19/2000 starting with the date of validity of the specifications of the order mentioned above, till 1 January 2006.

➤ After more than a year from the deadline established by the Law regarding ending the process of recalculation of the pensions in the public system, we still receive many complaints from the pensioners, concerning the recalculation of pensions. Thus, we were informed about:

- the pensioners' discontentment concerning the way some territorial houses of pensions did the calculation or recalculation of the pensions or concerning the fact that the pensions were not recalculated.

- impossibility of the pensioners to obtain certificates to prove the amount of salaries and bonuses with permanent character necessary for the recalculation of the pensions according to the provisions of the Government Emergency Ordinance no. 4/2005.
- rejection of the Houses of Pensions (especially Local Houses of Pensions of the sectors in Bucharest and the House of Pensions of Bucharest) to process the petitioners' requests.
- pensioners' discontentment regarding the number of points resulted after the recalculation of pensions.
- delay, especially of the Local Houses of Pensions of the sectors in Bucharest and the House of Pensions of Bucharest, after the deadlines established by the valid legislation, concerning the date when the pensions should have been recalculated, according to the date of pensioning of the entitled to the rights.
- delay in paying the new rights to pension established after the recalculation of the pensions.
- refusal of the houses of pensions to execute the definitive and irrevocable court decisions establishing rights to pension.
- mistakes and omissions done by the houses of pension at establishing the rights to pension.
- not taking into consideration by the houses of pensions of all the documents presented by petitioners in view of re-calculating the pensions.
- difficulties faced by the pensioners regarding the recalculation of the pensions after some seniorities of subscription after the date of pensioning due to age limit.
- problems appeared related to the transfer of the Pension files from one house of pensions to the other, upon pensioners' request, due to the change of residence.
- no indexation of the pensions by the houses of pensions according to the legal provisions.
- abusive behaviour of some employees of the houses of pensions in the relations with the pensioners.
- discontentment related to establishing the amount of the pension of the persons who developed their activity in special conditions of work.
- illegal suspension of pension payment.

According to the problems presented by the pensioners, People's Advocate approved **3 inquiries at the House of Pensions of Bucharest, one inquiry at the National House of Pensions and Other Rights of Social Insurances** and issued a **recommendation to the House of Pensions of Bucharest**, demanding taking the necessary measures to communicate within the legal deadline, the answers to the petitioners, emitting urgently the decisions of pensioning and the pension payment according to the decisions of pensioning emitted after the recalculation of the pensions.

We cannot deny the fact that the process of recalculating the pensions in the public system was a complex operation, but this fact cannot justify completely the

delays in proceeding to the re-calculation of the pensions, numerous mistakes that were done and are still done during this process, as well as the attitude of some employees of the houses of pensions in the relations with the pensioners.

Moreover, we notice that the number of complaints received from pensioners recorded a constant increase during the last years, reaching in 2006 more than **1000 complaints**. This fact makes us glad on one hand, since it shows that the pensioners trust in the People's Advocate and appeal to him in view of solving the problems they face, but on the other hand it makes us sad, since it shows the problems existing in the relations between the pensioners and the houses of pensions, as well as the deficiencies of this institutionalized system.

We also notice the fact that many of the public institutions understood the role and the place of the People's Advocate institution in the Romanian institutional landscape. Thus, we did not find any more cases where the houses of pensions did not process our demands within the legal deadline of answer, even though many times the answers were superficial, being necessary for us to send again addresses to the public institutions or address the hierarchically superior institutions.

A special case we find also this year in Bucharest, where the communication with the houses of pensions was slower especially in the first half of 2006. Thus, most part of the answers from public institutions came late and in most cases after appealing hierarchically superior institutions to the ones violating the pensioners' rights. Under these circumstances, we cannot but remind the receptivity proved by the National House of Pensions and Other Rights of Social Insurances.

As for the legislation of pensions in the public system, it suffered also this year numerous modifications leading to solving some problems, but many problems that the pensioners face remained unsolved. There were also created inequities between pensioners, and their standard of life is low.

➤ The main problems identified by the People's Advocate institution concerning the legislation of pensions in the public system of pensions referred to:

- the impossibility for the pensioners to obtain certificates certifying the amount of salaries and bonuses with permanent character necessary for the recalculation of the pensions according to the provisions of the Government Emergency Ordinance no. 4/2005 and, at the same time, the impossibility of their reconstitution.
- the amount of many pensions did not increase after the recalculation because the number of points determined according to the new legislation was smaller than the one determined previously. Thus, many pensioners did not benefit from the indexations of the pensions offered afterwards by the Government either.
- inequality of treatment between men and women regarding the way of calculating the pensions. Thus, the annual average number of points is determined by dividing the number of points resulted by adding the annual number of points gathered by the insured person during the period of subscription. But the complete seniority of subscription is different in men and

women (at the issue of Law no. 19/2000, the complete seniority of subscription for women was 25 years, and for men it was 30 years), fact which determines an amount of pensions bigger in women than in men in identical cases.

- limiting the maximum income that can be insured by a person at an amount equal to five average gross salaries in economy.
- for the persons whose rights to pension were opened before 1 July 1977, the date of entry in validity of Law no. 3/1977 concerning the pensions of social state insurances and social assistance, the complete seniority of subscription used to determine the annual average number of points for all the categories of pensions is 20 years for women and 25 years for men. For the persons whose rights to pension were opened in the interval 1 July 1977 - 31 March 2001, the complete seniority of subscription used to determine the annual average number of points is regulated by Law no. 3/1977, respectively 25 years for women and 30 years for men. For the persons who benefit from pensions established in conditions specified by normative documents with special character, appeared after 1990, the complete seniority of subscription used to determine the annual average number of points is the number of years of work necessary to open the right to pension specified by these normative documents. Consequently, for persons in identical cases, at establishing according to the provisions of Law no. 19/2000, respectively the recalculation according to the provisions of the Government Emergency Ordinance no. 4/2005, of the pensions, the complete seniority of subscription taken into account at determining the annual average number of points is different, since Law no. 3/1977 did not specify the possibility of reducing the seniority of subscription (number of years of work) for special conditions, as specified by the legislation after 1990, it being the same for all the persons, respectively 25 years for women and 30 years for men. Moreover, for those pensioned before Law no. 3/1977 became valid, the seniority of subscription used for re-calculation is unique, respectively 20 years for women and 25 years for men. Consequently, there are created inequities between pensioners in identical cases regarding the determination of the amount of pensions.

In the conditions where the number of pensioners has increased and their financial resources are insufficient, we appreciate that it could be taken into consideration a possible modification of Law no. 19/2000 by adopting a system to establish and re-calculate the pensions in relation with two elements: a fixed part, whose amount would ensure a decent standard of life, equal to the minimum gross salary in economy and that must be granted to all the pensioners, and a variable part, determined according to the number of points, calculated according to the seniority of subscription and the level of income obtained during the activity.

As for the other systems of pensions (army, justice), we were informed about discontentment related to the way in which it was calculated and awarded the pension for work for judges, military staff, the rejection of the House of Pensions of the

Ministry of Administration and Home Affairs to approve granting the military pension by passing from a pension awarded in the public system of pensions, non granting the pension due as a military staff's survivor.

The aspects mentioned by the People's Advocate institution concerning the protection of the pensioners' rights, represented the object of numerous riders of press by which we "pulled the alarm signal" about the case of the pensioners in the public system of pensions mainly, having in this sense a good collaboration with the presenter of the show "Life in the Morning" presented on the TV channel B1TV.

CASE REPORTS

File no. 855/2006. Ion (fictive name) informed the People's Advocate institution about the refusal of the District House of Pensions of Dolj county to approve its request of pensioning on reason of non-fulfilling the conditions of seniority and age for pensioning. The petitioner proved to have addressed many times to the District House of Pensions of Dolj county and the National House of Pensions and Other Rights of Social Insurances, and the answers received from the two public institutions were contradictory.

After the intervention of the institution People's Advocate, the District House of Pensions of Dolj county analyzed the pensioning file of the petitioner and noticed it was wrongly established that the latter was not fulfilling the conditions of seniority and age to open the rights for pension. Thus, initially the District House of Pensions did not take into account the fact that the petitioner developed his activity in group I of work and benefited according to the provisions of art. 167¹ in Act no. 19/2000, regarding reducing the standard age for pensioning.

File no. 7328/2006. Dana (fictive name) informed the People's Advocate institution about the fact that she repeatedly addressed, starting with 2005, both to the Local House of Pensions, Sector 2, Bucharest and the Ministry of Work, Social Solidarity and Family in view of transferring the File of pensioning from the Local House of Pensions, Sector 2 Bucharest, to the District House of Pensions in Galati due to change of the residence. The petitioner states that her approaches remained without any concrete result and did not receive any answer to the complaints submitted to the Local House of Pensions of Sector 2 Bucharest.

After the intervention of the People's Advocate institution, both in the Local House of Pensions in Sector 2 Bucharest, which did not process our requests, and at the hierarchically superior institution, respectively the House of Pensions of Bucharest, the File of pension of the petitioner was transferred to the District House of Pensions in Galati.

File no. 6090/2006. Maria (fictive name) requested the help of the institution People's Advocate, because the recalculation of her pension was done without taking into account all the existent documents in the File of pensioning. The petitioner stated that she addressed the Local House of Pensions of Sector 1 Bucharest to clarify her case, but without receiving any answer.

Related to the facts presented by the petitioner, we addressed the Local House of Pensions of Sector 1 Bucharest in view of clarifying the case. Because the Local House of Pensions of Sector 1 Bucharest did not process the requests of the People's Advocate institution within the legal term, we submitted to the House of Pensions of Bucharest.

After the approaches done by the institution People's Advocate, the Local House of Pensions of Sector 1 Bucharest informed us about issuing two decisions for the complainant: the decision to include in her total seniority of subscription, the years when she attended the faculty (1964-1969) and the period worked 1994-1997, respectively the decision to modify the recalculation of her pension according to the Government Emergency Ordinance no. 4/2005 concerning the recalculation of the pensions in the public system, from the former system of social state insurances, with the following modifications and completions, and the decisions mentioned above were sent to the petitioner's residence.

File no. 7372/2006. Ana (fictive name) informed the People's Advocate institution about the fact that she addressed the District House of Pensions in Gorj county with several requests demanding using the information in the certificates in the file of pensioning, issued according to the provisions of the Government Decision no. 1550/2004 concerning doing the operations of evaluation in view of recalculating the pensions in the public system, established in the former system of social state insurances according to the legislation before 1 April 2001, according to the principles of Law no. 19/2000 and the Government Emergency Ordinance no. 4/2005 concerning the re-calculation of the pensions in the public system, from the former system of social state insurances, but she received no answer to the requests presented.

After the approach of the institution People's Advocate, the District House of Pensions in Gorj county reanalysed the file of pension of the complainant. Thus, it was noticed the fact that the pension was recalculated without taking into account these certificates, resulting an annual average number of points smaller than that in payment and, consequently, the petitioner did no benefit from the increase of the amount of the pension, or the following indexations of the pension, granted by the Government. Consequently, it was ordered the revision of the decision of recalculating the pension, the petitioner benefiting of the retroactive payment of the rights to pension as well as the indexations granted by the Government as measures of social protection.

File no. 1526/2006. Maria (fictive name), pensioner of the public system of pensions, informed the People's Advocate institution about having addressed the Ministry of National Defence in view of obtaining a survivor's pension, but the Ministry of National Defence did not process her requests because she did not have the necessary fund to pay the survivor's pension.

After the approach of the People's Advocate institution, the Ministry of National Defence informed us about solving the complainant's request by granting the survivor's pension in the system of military pensions. At the same time, we were

informed that the survivor's pensions in the system of military pensions would be paid starting with the date of interrupting her own pension in the public system of pensions.

File no. 669/2006. Niculina (fictive name) informed the People's Advocate institution about the discontentment regarding non-receiving from the House of Pensions of Bucharest of the financial rights due as beneficiary of the provisions of Law no. 189/2000. On taking into account the facts presented, we submitted to the House of Pensions of Bucharest in view of clarifying the case.

After the approaches done by the People's Advocate institution, the House of Pensions of Bucharest informed us that it was issued the Decision of pension by the Local House of Pensions of Sector 5 Bucharest, within the territorial area where the petitioner resides, according to the specifications of Law no. 189/2000 concerning the approval of the Government Order no. 105/1999 to modify and complete the Decree-Law no. 118/1990 concerning granting some rights to the persons persecuted due to political reasons of dictatorship installed since 6 March 1945, as well as those deported abroad or made prisoners, re-published, with the following modifications.

File no. 2554/2006. Nicoleta (fictive name) informed the People's Advocate institution about demanding the District House of Pensions of Dambovită county to establish the survivor's pension after her husband's decease, but she received no answer within the legal term.

After the approach of the People's Advocate institution at the District House of Pensions of Dambovită, it was decided to verify the documents in the pension file of the petitioner. Thus, we were informed that the complainant did not fulfil the legal conditions to benefit from a survivor's pension since, according to the provisions of art. 67 in Law no. 19/2000, the survivor husband has the right to survivor's pension during the whole life, at the standard age for pensioning, if the duration of the marriage was at least 15 years. In case where the duration of the marriage is less than 15 years, but at least 10 years, the amount of survivor's pension due to surviving husband is diminished with 0.5% for each month, respectively 6.0% for each year of marriage less. Since, from the documents annexed to the petition submitted to the institution People's Advocate, it resulted the fact that by civil sentence pronounced by the Court in Targoviste was admitted to the petitioner the well faith at ending the first marriage with the same man, marriage declared cancelled, the petitioner kept till the date when the decision of the court was final, the case of a husband in a valid marriage. After cancelling the first marriage, the petitioner got re-married with the same man and after adding the periods when the petitioner was married, it resulted a period longer than 10 years. Consequently, we also submitted to the National House of Pensions and Other Rights of Social Insurances, which appreciated that the petitioner can benefit of pension after her husband's decease. Consequently, we returned to the District House of Pensions of Dambovită and demanded taking the legal measures required. The District House of Pensions of Dambovită proceeded, thus, to establishing the survivor's pension for the petitioner.

File no. 5041/2006 Ana (fictive name) informed the People's Advocate institution about the discontentment concerning the low amount of pension. The petitioner stated that she submitted to the Local House of Pensions of Sector 6 Bucharest, in view of transfer from the pension of disability to the pension for age limit, but she received no answer. Thus, we submitted to the Local House of Pensions of Sector 6 Bucharest in view of clarifying the case presented by the petitioner. Thus, this public authority did not process the requests of the People's Advocate institution within the legal term, we submitted to the House of Pensions in Bucharest.

After the approaches undertaken, the Local House of Pensions of Sector 6 Bucharest informed us about revising the decision to re-calculate the petitioner's pension according to the Government Decision no. 1550/2004 and the Government Emergency Ordinance no. 4/2005, and the amounts of money due starting with 1 September 2005, will be paid to the petitioner in October 2006.

File no. 5380/2006. Laurentiu (fictive name) informed the People's Advocate institution about the refusal of the Local House of Pensions of Sector 3 Bucharest to recalculate his pension according to the decision of the Court of Appeal in Bucharest.

After the approaches of the institution People's Advocate, the House of Pensions of Bucharest, the institution competent to solve the petitioner's requests communicated the fact that the complainant's requests were solved by issuing other decisions of pensioning according to the court decision.

File no. 868/2006. Mihai (fictive name), informed the People's Advocate institution about the refusal of the House of Pensions in Bucharest to execute a court decision, final and irrevocable, pronounced according to the Law no. 3/1977.

After the approach of the institution People's Advocate, the House of Pensions in Bucharest informed us about the refusal to execute the court decision is motivated by the fact that, if it were calculated the petitioner's pension according to the provisions of the court decisions, the amount of the pension re-calculated would diminish. Since the answer of the House of Pensions of Bucharest was contradictory to the norms of Act, we considered appropriate to address to the National House of Pensions and other Rights of Social Insurances. Thus, we were informed that it was transmitted to the House of Pensions of Bucharest an address requiring the execution of the court decision and granting retroactively, for 3 years, the rights to pension for the petitioner until the date when it was re-calculated according to the provisions of the Government Emergency Ordinance no. 4/2005.

File no. 2946/2006. Ioana (fictive name) informed the People's Advocate institution about the delay in solving the requests concerning undertaking the legal approaches the legal approaches to fulfil the provisions of the Law no. 567/2004 concerning the status of the auxiliary staff of specialty of court and the public prosecutor's office, by the Local House of Pensions of Sector 4 Bucharest. It was undertaken approaches related to the aspects presented by the petitioner.

As a result of the intervention of the institution People's Advocate, the institution solved the petitioner's request by issuing the decision to dispose the granting of the rights concerning the pension of work.

File no. 8339/2006. Ilie (fictive name) informed the People's Advocate institution about a possible violation of the right to a decent living standard. The petitioner stated that he demanded to the leadership of the Penitentiary with Regime of Maximum Safety from Bacau to be presented at the Commission of medical expertise and recover the capacity of work several times in view to expertise the capacity of work, but it was not presented. Thus, it was interrupted the payment of the pension by the District House of Pensions in Caras-Severin, since he did not present to the Commission of medical expertise and recovery of the capacity of work in 2003. In the context presented, the People's Advocate institution notified the staff of the Penitentiary with Regime of Maximum Safety of Bacau.

After the approach undertaken by the institution People's Advocate, the director of the Penitentiary with Regime of Maximum Safety of Bacau informed us that the petitioner presented at the Commission of expertise of the capacity of work and issued the decision concerning the capacity of work, on 10 October 2006.

C. Persons with disabilities

In the field of protections of the persons with disabilities, the People's Advocate institution was informed with complaints having as an object problems concerning the non-classification in a category of disabilities, non-granting the rights due for persons with disabilities, reevaluation of the degree of disability, and the classification of the person in a category of disability inferior to the previous one, the refusal of the authorities of local public administration to employ personal assistants for persons with severe disabilities who have the right to benefit from a social assistant, the delay in issuing the certificates of registration in a category of disabilities, delay after the deadline of realizing the accessibilities for the access of the persons with disabilities, the lack of funds for the payment of personal assistants.

According to art. 50 from the Romanian Constitution, the persons with disabilities enjoy special protection; the state is forced to ensure the realization of a national policy of equality of chances, so that the persons with disabilities should participate actively at the community life. As for the legislation in the field, we cannot but notice the fact that the Government Emergency Ordinance no. 102/1999 that regulated the special protection and employment of the persons with disabilities, was recently replaced by Law no. 448/2006 concerning the protection and promotion of the rights of the persons with disabilities, thus giving a new dimension to the protection of the rights of the persons with disabilities.

The People's Advocate institution showed a constant interest in the problems that the persons with disabilities face in Romania. In this respect, we can also mention the participation to different seminars having as purpose the promotion of the rights of the persons with disabilities, the meetings with the representatives of the NGOs

involved in the protection of the rights of the persons with disabilities, for example the National Seminar – Activists and Advocates of the Rights of the Persons with Disabilities, organized in the frame of a European project, the purpose of this project being the information of the persons with disabilities about their rights. The target-group of the action were activist and lawyers, themselves persons with disabilities. They have to consolidate their position, on one hand in order to inform the persons with disabilities about their rights and help them to act legally in front of the court and the administrative bodies, and on the other hand to monitor and report the real implementation of the legislation and the campaign for the future legislative initiative. Moreover, the project intended to make available for all the persons with disabilities the instruments necessary to exercise their rights, not only in front of the court but also during the negotiation with the employers or syndicates.

CASE REPORTS

File No. 6665/2006. Elvira (fictive name) has notified the People's Advocate institution as she has been unsatisfied by the answer she has received from the General Directorate of Social Assistance and Child's Protection from Mures, referring to the notification related to the fact that the Centre of Neuro-psychiatric recovery and reability from Mures district where her daughter is hospitalized, has monthly been retaining a rate of 80% from her survivor's pension. At the same time, in opposition with the point of view of the General Directorate of Social Assistance and Child's Protection from Mures regarding the legacy of the retaining, the District House of Pensions of Mures has suspended the retaining of the financial contribution of maintenance from the survivor's pension of the complainant's daughter, having been given the fact that there is no judgement on whose bases the retaining is to be performed but only the payment agreement. The petitioner was afraid that due to the suspension of the retaining of the financial contribution of maintenance of the survivor's pension of her daughter in the conditions of the existence of a payment agreement, she might have difficulties, reason she has claimed the emergent clarification of the case for.

The aspects that have been signalled hereby were analyzed in the context of a pretended trespassing against the right related to the protection of the handicapped persons. Therefore, the People's Advocate institution has appealed and disposed the General Directorate of Social Assistance and Child's Protection from Mures to solve the case.

As a result of the notification made by the People's Advocate Institution, the case by the petitioner was clarified.

File No. 4941/2006. Ion (fictive name), a disabled person has notified the People's Advocate Institution about the delay of solving his application, requiring the allocation of a building to live in from the locative State Funds conferred by the City Hall of Sector 5 from Bucharest. Measures have been made related to the aspects claimed by the petitioner.

As a result of the interference of the People's Advocate Institution, the notified public authority has invited the petitioner to submit an application form together with the approbatory papers, conformably to the provisions of the Locative Law no. 114/1996

File No. 984/2006. Laurentiu (fictive name) has notified the People's Advocate Institution about the fact that his mother who is a personal assistant is remunerated with the fall back pay on economy, 310 lei/ a month respectively, although, conformably to the art no.3 from the Methodological Norms from 2001 related to the employment conditions, the rights and obligations of the personal assistant of the handicapped persons approved by the Government Decision no. 427/2001 with further modifications and additions, for the activity performed on the basis of the individual employment contract, the personal assistant has the right to a monthly salary settled according to the legal orders related to the remuneration of the debutant social assistant with medium studies from the social assistance units from budgetary sector, others than the clinical ones. In addition, conformably to the Annex IV¹¹ of the Government Ordinance no. 3/2006, the basic pay of the debutant social assistant with medium studies is of 366 lei / a month.

The aspects specified by the petitioner were analyzed in the context of a possible infringement of the right of a decent living standard and of the right related to the protection of the handicapped persons. Therefore, the People's Advocate institution has notified the village hall from Pestisani, Gorj county.

As a result of the notification made by the People's Advocate institution, the application was solved in such a way so that the village hall from Pestisani in Gorj county took the necessary steps to remediate the case the complainant is in, and according to the mayor's order, the petitioner was offered the salary related to the post of social assistant in quantum of 385 lei/ a month, starting with 1st February 2006.

File no. 295/2006. Viorel (fictive name) informed the People's Advocate institution about the fact that he has requested to the Local Council from Sona village the approval of the sum of money necessary for the payment of the indemnity his son has the right to, as he has a high degree of handicap. As his request has not been solved and he has no answer from the Local Council from Sona in the legal terms, he has required support in solving the problem he is confronting with.

As a result of the notification made by the Territorial Office of Alba Iulia of the People's Advocate institution, the request of the complainant was included on the list of agenda of the ordinary assembly of the public administration authorities mentioned above and as a consequence of the request analysis, the local councils have decided and ordered the allocation of the allowance the petitioner has required, starting with January 2007.

File no. 29/2006 Ion (fictive name) has notified the Territorial Office of Constanta of the People's Advocate institution about the fact that he has submitted an request to the State Inspectorate for Handicapped Persons from Constanta, requiring the allowance of a monthly indemnity for handicapped person because, as a result of a

working accident he had in 1967, his legs were amputated. The petitioner has stated that he has added the medical expertise documents and other papers that certify the handicap degree, but he does not have any answer.

As a result of the notification made by the Territorial Office of Constanta of the People's Advocate institution, the State Inspectorate for Handicapped Persons, Constanta informed us that they conferred the petitioner diagnosed with a severe handicap, 30% of the value of monthly indemnity conformably to the Emergency Government Ordinance no. 102/1999

File no. 2746/2006. Ana (fictive name) has notified the People's Advocate Institution about the fact that she has addressed herself to the Village Hall from Volovat village, Suceava county, asking for the approval of the tax exemption of the land and the building she is possessing since the year 2006, conformably to the provisions of the art. 284 para. (4) of the Fiscal Code, but her application wasn't approved although she is blind and she has the first degree handicap certificate.

The aspects specified hereby, have been analyzed in the context of a pretended infringement of the right related to the protection of the disabled persons. Therefore, the People's Advocate institution has informed the Mayor of Volovat village.

As a result of the notification made by the People's Advocate institution, the complainant's request was solved and the complainant was tax exempt for the land and the building she is possessing, application which is going to be submitted to the local counsellors' approval within the assembly of the Local Council from Volovat village.

THE AREA OF ARMY, JUSTICE, POLICE, PENITENTIARIES

In the area of **Army, Justice, Police, Penitentiaries**, there were registered **908 complaints**, in 2006, representing 14,2% of 6407 complaints registered at the People's Advocate institution. The percentage of the complaints registered with the army, justice, police, penitentiaries field where the People's Advocate has made notifications for, was of 5,28 %, 31,25% of the complaints having been solved, 43,75% having been clarified as a consequence of the interference of the People's Advocate institution and the rest of the complaints are to be solved.

I. Army

The People's Advocate Institution was notified related to the right the reserve officers have to medical assistance and the difficulties the complainants encounter in obtaining certain documents from the archive of some military units that are subordinated to the Ministry of Administration and Internal Affairs.

Therefore, the representatives of some reserve officers have asked the People's Advocate Institution to intimate the Constitutional Court, claiming that the providing of art. 218 (3) of the Law no. 95/2006 related to the reform in Health Domain together with subsequent modifications and additions, conditioning the right of the pensioner officers and policemen to benefit of free medical assistance, having no obligation to pay the contribution to Health Social Insurance contrary to the regulations of the special Laws, the art. 26 of the Law no. 80/1995 subsequently modified and added respectively, referring to the status of the military officers and art. 26 of the Law no. 80/1995 subsequently modified and added that stipulate the gratuitousness of medical assistance for these categories of people with no conditioning.

Referring to the aspects that have been specified hereby, the authors of the petition were informed that there is no fundament to justify the notification of the Constitutional Court, the People's Advocate institution should address to, because the legislator may adopt the necessary measures in sanitary domain. In this respect, the Constitutional Court has notified that according to Decision no. 298/2006, the legislator is sovereign in developing the necessary legislative policy in sanitary domain and according to the social relationship evolution, this one may adapt the legislative measure that circumscribe to this domain.

In the context of those presented hereby, the legislator's wish was that this category of people should pay the monthly fee to the Fund of Health Social Insurance too conformably to the general settlements related to the setting up of this fund. Thereby, the Fund of Health Social Insurance that is transferred to the House of Health Insurance of Defending, Public Order, National Security Departments and Legislative Authorities, is also made up of the contribution of the active and retired Military and Civil Staff (art. 3 letter b) of the modified and added Government Ordinance No. 56/1998 related to the foundation, the management and the functioning of the House

of Health Insurance of Defending, Public Order, National Security Departments and Legislative Authorities). In addition, according to art. 213 align. (1) of the Law no. 95/2006 that was subsequently modified and added, it is stipulated that the retired military officers and policemen are not included in the category of the persons that benefit of medical assistance without paying the fee to Health Social Insurance.

At the same time, the Law No. 95/2006, with its subsequent modifications and additions sets out that there are insured persons that pay the fee from other sources; the pensioners are insured for the income provided from their pensions that are up to the limit submitted to the income tax (art. 213, align. (2) Letter h) of Law no. 95/2006 that was subsequently modified and added). It is also specified that the tax is applied only to the pensioners having an income provided from their pensions that overpass the limit submitted to the evaluation on income, the tax being calculated for the difference between the quantum of the pension and this limit (art. 259 align. (2) of the Law no. 95/2006 that was subsequently modified and added).

CASE REPORT

File no. 7713/2006. Eugen (fictive name) has notified the People's Advocate institution about the three applications he has posted U.M. 02405 Pitesti, requiring the delivery of a certificate attesting the period when he had attended the Infantry Officers School. In his respect, the complainant was mentioning that he did not receive the required certificate, U.M. 02405 Pitesti informing him of the fact that they have to face a large amount of applications with various requests whose solving require the analysis of a large number of documents, therefore, the answers to the petitioners cannot be posted in legal terms, and the resolution of the applications is performed in the order of their registering.

As a result of the notification made by the People's Advocate institution, U.M. 02405 Pitesti has informed that the complainant was delivered the required certificate necessary for setting up the years of service. We were also specified that the military units have to face the problems generated by the large number of applications so that they cannot deliver the answers to the petitioners in legal terms, so that, efforts are made and notifications are performed for this activity to be efficient.

II. Justice

As we refer to the art. 21 of the Constitution of Romania related to the free access of justice and to the art. 6 from the European Convention of the Human Rights, **204 complaints** were registered in 2006, representing a percentage of 3,18% from the amount of 6407 complaints registered at the People's Advocate Institution. The complaints had as object: the delay of solving the criminal complaints performed by the authorities in charge with the criminal pursuit; the declining of the competence of solving the criminal complaints performed between the authorities in charge with criminal pursuit; the authorities in charge with criminal pursuit uninforming the interested persons on the stage of solving the formulated complaints; to contest certain

acts of the authorities in charge with criminal pursuit; the refusal of the courts of justice to deliver copies of judgments in civil or criminal matters to the parties implied in trials; the legal executors' refusal as well as that of the public administrative authorities of executing the judgments; the formulation of some exceptions of unconstitutionality.

A series of complaints submitted to the People's Advocate institution, were also referring to the delay of solving the requests of conferring or regaining the Romanian citizenship delivered by the Committee of setting the conditions of conferring the citizenship performed within the Ministry of Justice.

The People's Advocate institution confronted also with requests that did not correspond to its field of activity such as: contesting the measures taken by the authorities in charge with criminal pursuit; the activity performed by certain magistrates; contesting certain judgments having as subject, the litigations among former owners or owners that have bought immobile by purchase- sale contract drawn up with the town halls on the basis of Law no. 112/1995 for the settlement of juridical case certain immobile used as living buildings transferred in the state property; conferring juridical advise and assistance; contesting certain actions performed by public administration authorities within the trials in roll of the courts of justice.

Reported to the constitutional provisions related to the free access of justice, we have in view the provisions of art. 18 of the Law no. 35/1997, as republished, on the organization and functioning of the People's Advocate institution according to which "In case the People's Advocate institution finds out that the resolution of the applications submitted to is of the competence of the juridical authorities, according to the case, this one may address to the minister of Justice, to the Public Ministry or to the presidents of the courts of justice that have to inform at their turn the measures they have taken."

The motivation of the art. 18 of the Law, the possibility to inform the public authorities mentioned above respectively, consists in performing the role of the People's Advocate that of the defender of citizens 'rights and freedoms, reported to the juridical authorities in a democratic way, analyzing the aspects related to the courts of justice and prosecutors' offices management, without a direct interference in the activity of carrying out justice assuring in this way its independence.

Depending on the provisions of the rider mentioned above, we are going to present in the followings, the notifications made by the People's Advocate institution related to the applications that have as subject the actions performed by juridical authorities.

A. The Public Ministry

a) The delay of solving the criminal complaints performed by the authorities in charge with criminal pursuit

CASE REPORTS

File no. 2116/2006. Marian (fictive name) has notified the People's Advocate institution related to the complaints he has submitted to the Public Prosecutor Office near the Court of Justice of Urziceni and to the Public Prosecutor Office near the Court of Justice of Ialomita and said that he has got no answer.

As a result of the notification made by the People's Advocate institution, the Public Prosecutor Office near the Court of Justice of Ialomita informed us that the petitioner asked the Public Prosecutor Office near the Court of Justice of Urziceni to make researches related to an executor for the infringement stipulated by the art. 246 from the Criminal Code (abuse in service against persons interests) and required searches to be made related to another physical person for the infringement stipulated by the art. 208 align. (1) Criminal code (burglary). The petitioner's complaint registered at the Public Prosecutor Office near the Court of Justice of Urziceni was distributed to the Office of the Rural Police within the Municipal Police of Urziceni and a deadline for its solving was settled. Being given the fact that the complainant has submitted to the Public Prosecutor Office near the Court of Justice of Ialomita stating that the searches are delayed with no plausible justification, verifications were performed on what occasion the Public Prosecutor Office near the Court of Justice of Urziceni found out that the petitioner's complaints were well-founded because no search was performed and no plausible explanation from the part of the police officer who was dealing with the case was done. As a result of those found out, on the basis of the provisions of the art. 216 align. (3) and the art. 219 Procedure Criminal Code, where it is stipulated that during the supervision, the prosecutor is taking the necessary steps and gives instructions to the organs in charge with criminal searches to take the necessary measures. The Public Prosecutor Office near the Court of Justice of Urziceni has submitted to the Municipal Police of Urziceni to solve the case and disposed for the necessary steps to be taken in order to avoid the delay with no justification of the searches that are to be performed.

b) The declining of the competence of solving the criminal complaints performed by the organs in charge with criminal pursuit

CASE REPORTS

File no. 1993/2006. Matei (fictive name) has notified the People's Advocate institution referring to the difficulties he has to face related to a criminal complaint he has submitted to the organs in charge with criminal pursuit. In this respect, the petitioner specified that he went to the Public Prosecutor Office near the Court of Justice of Arad and this one refused to register his application of complaint, justifying that it isn't of their competence to do this but it is of the competence of the Public Prosecutor Office near the Court of Justice of Chisinau-Cris (Arad district). Going to the Public Prosecutor Office near the Court of Justice of Chisinau-Cris, according to the petitioner's statements, this one refused at its turn to register his application of

complaint, justifying that it isn't of their competence to do this, but it is of the competence of the Public Prosecutor Office near the Court of Justice of Arad.

Related to the statements of the complainant, the People's Advocate institution submitted to the Public Prosecutor Office near the Court of Justice of Arad and this one informed us that after the verifications that had been performed, it resulted that at the Public Prosecutor Office near the Court of Justice of Arad, the petitioner's criminal complaint application against a lawyer was taken by the Attorney on duty and it was registered in the Audiences Registry. The criminal complaint application has got a unique registration number and was given to an attorney to solve it but afterwards, on the basis of an ordinance it was disposed the declining of the competence of solving it in favour of the Public Prosecutor Office near the Court of Justice of Chisinau-Cris.

After the competence declining, the Court of Appeal of Timisoara county sent a copy of the petitioner's complaint to the Prosecuting Magistracy near the Court of Justice from Arad, copy that was also sent to the Public Prosecutor Office near the Court of Justice of Chisinau-Cris for its competent solving. In order to be given a resolution and according to the information got by the People's Advocate Institution from the Public Prosecutor Office near the Court of Justice of Arad, the petitioner's criminal complaint application was at that time at the Municipal Police of Chisinau-Cris for searches to be performed on the infringement of the Act provided and punished according to the art. 291 from the Criminal Code (use of forgery) and to the art.. 293 from the Criminal Code (forgery of identity).

File No. 7289/2006. Dan (fictive name) was stating that he did not receive any answer to a complaint submitted to the Court of Justice of Sector 1, Bucharest, asking for information concerning the resolution that should have been given to a criminal file having as subject the death of his brother Andrei.

As a result of the notification made by the People's Advocate institution, the Public Prosecutor Office near the Court of Justice of Sector 1, Bucharest informed us that the Public Prosecutor Office near the Court of Justice of Bucharest had sent the observation file of the victim (Andrei), the criminal file having been transferred afterward to the General Directorate of the Municipal Police from Bucharest-Homicides Office-Suspected Death Department for searches to be made related to the circumstances of the death. The petitioner's complaint application laid down to the Public Prosecutor Office near the Court of Justice of Sector 1, Bucharest (registered in the codices of the clerk on duty of the court) was sent to the General Directorate of the Municipal Police from Bucharest- Homicides Office-Suspected Death Department for solving the case in course.

Having in view the petitioner's notification, the Public Prosecutor Office near the Court of Justice of Sector 1, Bucharest has asked for information related to the case the file from the Public Prosecutor Office near the Court of Justice of Bucharest is in, because from the petitioner's application results that it was a murder and in the reports of evidence of the Public Prosecutor Office near the Court of Justice of Bucharest there is already a file registered with this subject. The Public Prosecutor Office near the

Court of Justice of Bucharest informed the Public Prosecutor Office near the Court of Justice of Sector 1, Bucharest that in the two criminal files there were performing searches in view of the infringement provided at art. 183 from the Criminal Code (assaults and batteries causing death) the victim being the petitioner's brother. Having in view these aspects, "the position" of the Public Prosecutor Office near the Court of Justice of Sector 1, Bucharest was closed because the case was transferred to the Public Prosecutor Office near the Court of Justice of Bucharest; the material competence was belonging to this Public Prosecutor Office in the case of this infringement as it is provided in art.183 of Criminal Code.

c) The authorities in charge with criminal pursuit un informing the interested persons on the stage of solving the formulated complaints

CASE REPORTS

File no. 4707/2006. Liviu (fictive name) has notified the People's Advocate institution stating that he has not got any answer to the complaint he has submitted to the Police Inspectorate of Galati county, asking for information related to the stage of solving a criminal file from 2003, the Court of Justice of Galati disposing the beginning of a criminal pursuit against a certain person in this respect, together with the fill in of the file in a reasonable limit of time and information related to the stage of solving a criminal file from 2004 as well.

As a result of the notification made by the People's Advocate institution, the Police Inspectorate of Galati has informed us that the two criminal files were in course of being solved at the Public Prosecutor Office near the Court of Justice of Galati. According to the information transmitted to the People's Advocate institution by the Public Prosecutor Office near the Court of Justice from Galati regarding the two criminal files, the file from 2003 was given a resolution in July 2006 by the ordinance of stopping the criminal pursuit and the file from 2004 was solved in October 2006 by a resolution of non starting of a criminal pursuit.

File no. 3033/2006. Cornel (fictive name) was stating that he has not got any answer from the Public Prosecutor Office near the Court of Justice of Bucharest related to a complaint he had formulated against a commercial company that was the organizer of a contest with prizes by the inter- medium of a review. The People's Advocate institution has submitted to the Public Prosecutor Office near the Court of Justice of Bucharest and informed us that the petitioner's complaint was registered at that Public Prosecutor Office and then it was sent to the General Directorate of the Municipal Police from Bucharest- Frauds Investigation Office- for searches related to the frauds of certain representatives of the commercial company to be made, as it is stipulated in art. 215 of Criminal Code (that is "cheating") and after the searches finalization, the petitioner will be informed on the solution that is to be taken.

d) Contesting certain acts of the authorities in charge with the criminal pursuit

CASE REPORTS

File no.166/2006 Mihai (fictive name) has notified the People's Advocate institution about some aspects, illegal on his opinion, related to preliminary acts performed to a criminal file by the Anti-Corruption National Department (the former Anti-Corruption National Public Prosecutor Office) - Section for fighting against frauds connected to corruption frauds within the Public Prosecutor Office near the High Court of Cassation and Justice.

The petitioner was also retelling that at his request of studying the file, preliminary searches were performing at that time, the former Anti-Corruption National Public Prosecutor Office - Section for fighting against frauds connected to corruption frauds, informed him that, at that stage of the acts that are preliminary to criminal pursuit, his application wasn't admitted. Referring to the petitioner's complaints related to the way of performing criminal searches, the former Anti-Corruption National Public Prosecutor Office specified and informed him that the search is in an incipient stage and the statement of facts related to preliminary acts finalization hasn't been drawn out yet, hence it is premature to contest the activity of investigation developed by the attorneys and the judiciary police of the former Anti-Corruption National Public Prosecutor Office. Moreover, referring to the Decisions no. 141/1999 and no. 124/2001 of the Constitutional Court, the complainant was informed that the performance of the preliminary acts that are anterior to the criminal pursuit that must be achieved by authorities in charge with criminal pursuit in view of gathering the necessary data for the beginning of the trial, does not represent the beginning of a trial and that these preliminary acts are performed just for finding out whether there are fundamentals or not for the trial to start. Therefore, up to the drawing up of the statement of facts on whose basis the performance of the preliminary acts is found out, the right to defence of the accused person cannot be considered to have been violated because this one has the possibility to combat with another proof.

The complainant was stating, at the same time, that he was notified by the former Anti-Corruption National Public Prosecutor Office, and he has appeared together with his lawyers but the public prosecutor couldn't justify his notification, saying that he didn't know the reason why the hierarchically superior public prosecutor, the Chief of the Section for fighting against frauds connected to corruption frauds respectively, had taken this measure. In addition, the complainant was stating that he was shown a statement of facts that had already been written where it was mentioned that he refused to give the statement, thing that was contested by the complainant. At his attorneys' protests, he was brought papers and he was shown "briefly and confusedly" "some aspects related to the performance of the preliminary acts.

The complainant was considering at the same time that the provisions of the art. 16 align. (1) and (4) from the Emergency Government Ordinance no. 43/2002 referring to the Anti-Corruption National Department (former Anti-Corruption National Public Prosecutor Office), with further modifications and additions were violated relatively to the fundamental reasons for performing search actions and to the deadline of their achievement that had over passed 30 days.

Analyzing the aspects specified by the petitioner related to the actions and facts made by the former Anti-Corruption National Department-Section for fighting against frauds connected to corruption frauds and based on the art. 18 from the Law No. 35/1997, as republished, the People's Advocate institution has considered an opportune occasion to send the petitioner's application to be solved in a competent way by the Public Ministry - the General Attorney of the Public Prosecutor Office near the High Court of Cassation and Justice.

B. Ministry of Justice

CASE REPORTS

File no. 811/2006. Andrei (fictive name) required the People's Advocate institution to address to the Ministry of Justice to get an answer related to the application he had submitted to this public authority in December 2005.

As a result of the notification made by the People's Advocate institution, the Directorate for public relations and the report of evidence of the non-governmental organizations within the Ministry of Justice informed us that the complainant had been sent the answer in January 2006, precising at the same time that the delay of its posting was due to the large amount of applications that should have been solved in December 2005 and due to the statutory holidays.

File no. 8437/2006. Alina (fictive name) has informed the People's Advocate institution related to the fact that in spite of the notifications she had made, the Ministry of Justice did not solved up to that time the resolution to her application addressed in 2004, requiring the regaining of the Romanian citizenship. The complainant was stating at the same time that she did not have any answer to the notifications she had made concerning information referring to the stage of solving the petition. In this respect, the complainant was mentioning that the working methods for solving the applications for getting or regaining the citizenship are incorrect, being given the fact that from the date the application was sent (in 2004) up to the date of its publication in the Official Monitor two years had passed and on the site of the Ministry of Justice there were applications of some persons that had asked the citizenship in 2006 and after 2-4 months their applications had already been published in the Official Gazette.

As a result of the notification made by the People's Advocate institution, the Citizenship Service within the Ministry of Justice informed us that in their reports, a large number of applications are registered and the Committee of setting up the

conditions of getting the citizenship was analyzing at that time the applications handed in September 2002. The petitioner's application of regaining the Romanian citizenship had been sent in extras in view of its publication in the Official Gazette - Part III, according to the provisions of the art. 14 from the republished Law no. 21/1991 related to Romanian Citizenship, modified and added afterwards. It was specified at the same time that the petitioner was informed about the stage of solving the application and she was asked to submit certain documents to justify the urgency of prior solving of her application.

File no. 171/2006 Ana (fictive name) has notified the Territorial Office of Brasov of the People's Advocate institution related to the delay of giving a resolution to her application of obtaining the Romanian citizenship, resolution that should have been given by the Committee of setting up the conditions of getting the citizenship, committee that exists within the Ministry of Justice.

The complainant informed us specifying that her application had not been published up to that time, although in the Official Gazette of Romania, applications for obtaining the Romanian citizenship, applications that had a registration number ulterior to that of her application had been published.

As a result of the notification made by the Territorial Office of Brasov of the People's Advocate institution, the Citizenship Service within the Ministry of Justice informed us that the petitioner's application was published in the Official Monitor- Part III and is going to be analyzed by the Committee of setting up the conditions of getting the citizenship.

To those exposed hereby, we mention that the procedure of getting or regaining the citizenship, according to the provisions of the Law No.21/1991 related to the Romanian citizenship, Act that was republished with its further modifications and additions, stipulates only the period of 30 days, calculated from the date of the publication of the application extras in the Official Gazette, followed by its examination performed by the Committee. Accordingly to the normative document mentioned above, the committee draws up a report where it is mentioned whether the legal conditions for getting the citizenship are fulfilled or not, report which is submitted to the minister of justice who, at his turn, is going to present to the Government a project of decision of getting or regaining the citizenship.

C. Courts of justice

CASE REPORTS

File no. 2857/2006. Ovidiu (fictive name) has notified the People's Advocate institution related to the fact that he did not receive any answer to the application registered at the Court of Justice of Suceava county in January 2006, asking to be informed about the judgment in civil matters pronounced by the High Court of Cassation and Justice, in the file he was a part of, file found at the file of the instance of fond, that is the Court of Justice Suceava.

Pursuant the intervention of the People's Advocate institution, the Court of Justice of Suceava has informed us that the complainant was sent the copy of the judgment in civil matters he has required, judgment which was pronounced by the High Court of Cassation and Justice - Civil and Intellectual Property Section-

File no. 6572/2006. Grigore (fictive name) has notified the People's Advocate institution related to the fact that the Court of Justice of Bucharest, Civil Section 5, did not receive an answer to the petition where he was asking to be informed about the judgment in civil matters pronounced in his case.

As a result of the notification made by the People's Advocate institution, the Court of Justice Bucharest has informed us that the petitioner was informed about the judgment he had required, the proof of communicating the decision was the petitioner's signature at its delivery.

➤ In the context of art.21 from the Constitution related to the **free access to justice**, the People's Advocate was informed about the fact that some ultimate and irrevocable enforceable judgments, were not applied either by the refusal of some executors to enforce a judgment on the basis of a verdict or by the refusal of some authorities of public administration to enforce a judgment. The petitioners' complaints had as target litigations with private and public right where the executors, the authorities of the public administration respectively refused or abusively delayed to enforce the judgments, aspect that revealed the existence of a certain malfunctioning of a mechanism created just for the final stage of the act of justice- the **enforcement of a judgment**- to be fulfilled.

Examining the complaints got from physical persons two cases were drawn out.

1. The unenforcement of a judgment due to the refusal of the executors to carry out the enforced execution on the basis of certain final judgments or judgments that are irrevocable and were invested with an enforceable formula

The People's Advocate institution was by individuals who were expressing their discontent related to the refusal or the delay from the part of the bailiffs to enforce a judgment and who were asking for information about the authorities in charge with the control and supervision of the bailiffs' activity.

As part of a civil pursuit where, after getting a favourable sentence, the creditor may efficiently exercise his rights settled by the enforceable title, through the patrimonial constrain of the debtor, the enforced execution taking the form of a jurisdictional activity. The enforced execution ca not be considered an institution which is different from the action of civil matters, on the contrary, it might seem to deprive the civil action of the constraining element necessary for exercising the right in force efficiently. However, the activity performed by the organs in charge with the enforced execution cannot be identified in all its details with the judging activity. Through their particularities, the acts performed during the enforced execution are almost the same with the administrative acts.

In our judiciary system, the main organs in charge with the enforced execution are the bailiffs whose activity is established by the Law no. 188/2000 which was

modified and completed that refers to the executors who carry out the enforced execution of the orders with civil character derived from the enforceable titles if the Act doesn't stipulate anything else.

According to the provisions of the art. 373 align. (1) from the Code of Civil Procedure "The sentences and other executive titles are enforced by the bailiff from the circumscription of the Court of justice where the execution is to be fulfilled or in the case of goods suit, the execution is performed by the executor from the circumscription of the Court of justice he belongs to."

In order to give a resolution to the applications that have as subject the refusal of the executors to carry out the enforcement of a judgment on the basis of a verdict invested with an enforceable title, the petitioners were informed that they may personally or directly notify the authorities or the organisms in charge with the supervision of the executors' activity, the Ministry of Justice respectively, which, according to the provisions of the art. 4 from the Law no. 188/2000, modified and completed, coordinates and supervises the bailiffs' activity or the Director College of the Bailiffs Chamber that exercises the disciplinary action of the bailiffs, conformably to the provisions of the art. 45 align (1) of the same normative act.

2. The unenforcement of a judgment due to the refusal of the authorities of public administration to carry out the obligation settled in a judgment

Per the provisions of the art.6 from the European Convention for of Human Rights and the fundamental freedoms, in the jurisprudence of the European Court of Human Rights, the enforcement of a judgment that was pronounced by any jurisdiction is considered an integrant part of a trial.

The protection itself of the trial party and the reestablishment of the legacy imply the obligation of the state administration to submit to a pronounced ultimate judgment. In this respect, the public administration is an element of the state and its interest is identified in a good administration of justice.

If the administration refuses or skips to enforce a judgment or delays to carry it out, the guaranties provided in art.6 from the Convention, ceases to exist.

In administrative matter, the institution in charge to enforce the ultimate judgments is settled in the art. 23 and in the art. 24 from the Law no. 554/2004 of the administrative contentious, with further modifications and has a general character for all the categories of administrative contentious litigations both for those having in view unilateral acts and litigations having as subject administrative agreements.

Per the provisions of the art. 24 of the Law no. 554/2004, "(1) If the action has been sustained, the public authority has to conclude, to replace or to modify an administrative act, to give a certificate, a receipt or any other document, the enforcement of the ultimate, irrevocable judgment will be carried out in the term provided in its content and when this term is missing, the enforcement should be carried out at the most 30 days since the sentence remains irrevocable.

(2) In case the term is not respected, the leader of the public authority or the person in charge with carrying out the action, will be applied a criminality of 20% of the minimum gross income on economy for each day of delay and the complainant has the right to compensations for the delay.

(3) The unenforcement and the non - observance of the ultimate and irrevocable judgments pronounced by administrative contentious courts and after the criminality is applied according to the (2) align is considered **criminal offence** and is punished with prison from 6 months to 3 years or fine.”

a) In the context of the art. no. 21 and of the art. no. 44 from the Constitution of Romania related to the free access to justice and to the right to a private property, the People’s Advocate intimated about the difficulties that had occurred during the procedure of the enforced execution due to the limitative regulations imposed by the Government Ordinance no. 22/2002 related to the execution of the payment obligations of the institutions established by executive titles with further additions, notifications that were formulated by physical persons who are creditors to certain **payment obligations**, settled through executive title, some public authorities being in charge of.

CASE REPORT

File no. 2982/2006. Petre (fictive name) has notified the People’s Advocate institution about the fact that the Village Hall from Ialomita from Caras-Severin district has not enforced the judgment in civil matters that was pronounced by the Court of Justice from Caransebes, judgment that remained ultimate and irrevocable and invested with an executive title. According to the judgment in civil matters that was mentioned hereby, the Local Council and the mayor from Iablanita village were obliged to the payment of some expenses for the remediation of an immobile found in the petitioner’s property and to the payment of some legal charges as well. In order to be sure that the judgment will be enforced, the Bailiff Office has submitted and has registered the file of enforcement for the recovery of the debit to the Local Council from Iablanita. The petitioner has stated at the same time that he has asked several times for the President of the Local Council and the mayor of Iablanita village in their quality of credit chief accountants, to take the measures that are imposed to assure in the own budget of the necessary credit, the payment of the sum of money set up by the judgment in civil matters, applying the provisions of the Government Ordinance no. 22/2002 related to the execution of the payment obligations of the public institutions that had been set up by executive titles.

As a result of the interference of the People’s Advocate institution, the complainant was informed about the transfer of the sum of money in his account for the payment of the debited sum of money.

Analyzing these aspects, we mention that in the executive matter, there are certain derogative regulations from the common right that are carried out by the provisions of the Government Ordinance no. 22/2002 related to the execution of the

payment obligations of the public institution set up by executive titles approved with additions by the Law no. 288/2002

Thus, per the provisions of the art. 3 of this normative act “In the procedure of the enforced execution of the sum of money debited by the public institutions on the basis of certain executive titles, the treasury of the state may perform operations related only to payments that has been ordered by credit chief accountants in the limit of budgetary credits and of the destination approved according to the law.

The provisions of the Government Ordinance no. 22/2002, approved with additions by the Law no. 288/2002, make the subject of some exceptions of unconstitutionality. The Constitutional Court has constantly pronounced its opinion, in the sense of overruling the exceptions of non constitutionality appealed to, motivating that through the Government Ordinance no. 22/2002, there are settled the conditions, the execution of the payment obligations of the public institutions set up by executive titles, complying with the principles provided in the Constitution of Romania and the Law no. 500/2002 of the public finances (Decisions no. 444/2003, no. 48/2004 and 529/2005)

In the jurisprudence of the Court, it was taken into account the fact that the Government Ordinance no. 22/2002 has as finality the protection of the public institutions patrimony as an indispensable premises of the development of their activities in optimum conditions and through this, the carrying out of the assignments they have as integrant part of the mechanism of the state. The Court has found out at the same time that it would be disproportioned and inequitable to recognize to the creditors of the public institution, the right to enforce claims against these ones in the conditions of the common right having as consequence the severe disturbance of the activity which is the reason itself of the existence of such institutions.

The Government Ordinance no. 22/2002 does not impede the enforced execution of the payment obligations of the public institutions, on the contrary, it makes possible for this execution to be carried out, setting up the task of the credit chief accountants, that of the obligation of taking all the steps that are imposed, the bank transfer of budgetary credits inclusively, for the payment of the sums of money settled by executive titles. However, the normative act institutes certain limits of the execution that is the execution cannot be carried out on any financial resources of the public institutions, but only on those allocated from the budget especially for this purpose. The inclusion of the sums of money in the budget of incomings and outgoing of the public institution is at the will of the budgetary credit main chief accountant, this one being the only person that has the right to order the treasury to make the payment. The Constitutional Court has underlined that this delimitation does not impede the rule of the free access to justice and to the right to an equitable trial. The setting up of certain restrictions in the evaluation of the rights of the creditor imposed by obvious reasons- the finding out of the necessary resources for the execution of the obligations, complying with the exigencies imposed by the formation and the execution of the budget- does not mean the negation of its possibility to create the claiming.

As for the inequality between the institutions of the state and the private persons in the regulation of the system of the enforced execution on financial funds, the jurisprudence of the European Court of the Human Rights is for the elimination of the differences occurred in juridical system between these two categories, reaching to the point to consider that the executive titles against the authorities of the state, incorporating the guarantee of the impartiality and of the independence of the act of justice should be officially enforced.

b) In the context of the art. 21 and of the art. 44 from the Constitution of Romania, referring to the free access to justice and to the right to a decent living standard, People's Advocate institution was notified about the refusal of some pension houses to enforce ultimate and irrevocable judgments.

CASE REPORT

File No. 7414/2006. Irina (fictive name) has notified the People's Advocate institution requiring its interfering to the Local Pension House of Sector 3, Bucharest for the enforcement of a judgment according to which this public authority is obliged to repeal the petitioner's pension decision and to proceed to the emission of another decision of pension. The petitioner was also mentioning that although she had laid down a copy of the judgment in civil matters to the Local Pension House from Sector 3, Bucharest, another decision of pension had not been issued.

As a result of the notifications made by the People's Advocate Institution, the Local Pension House from Sector 3, Bucharest, informed us that the petitioner's application was solved by the issue of a new decision of pension.

D) The Superior Council of Magistracy

Having the quality of guarantor of the independence of justice, the Superior Council of Magistracy was notified by the People's Advocate institution about certain applications formulated by petitioners related to the actions made by some attorneys.

De lege ferenda, a later review of the Law No. 35/1997 by the introduction of a text referring to the possibility of notification of the Superior Council of Magistracy by the People's Advocate Institution is to be considered.

CASE REPORT

File no. 8383/2006. Horia (fictive name) expresses his discontent related to the fact that in spite of the notifications submitted to the Public Prosecutor Office near the Court of Justice from Bucharest in 2003, 2005 and 2006, this public authority hasn't pronounced a resolution related to the cause allotted to the Public Prosecutor Office near the Court of Appeal, Bucharest in 2003 with the objective of verifying a possible transfer through a bank of certain financial fluxes provided from money washing. In this respect, the petitioner has annexed in 2003 the address formulated by the former Public Prosecutor Office near the Supreme Court of Justice that informed him that his complaint was to the Public Prosecutor Office near the Court of Appeal, Bucharest as

well as the address by which the Public Prosecutor Office near the Court of Appeal, Bucharest informed him that his complaint was to be competently analyzed and solved by the Public Prosecutor Office near the Court of Justice from Bucharest.

To those signalled hereby, the People's Advocate institution has submitted the petitioner's application for its competently solving to the Superior Council of Magistracy.

III. Police

The main aspects, the People's Advocate institution has to take into account, related to the police are: the entrance exam to the Schools of Police; the activity of the police as organ of criminal pursuit; the activity of the communitarian public services, section- driving licenses and vehicles in matriculation.

CASE REPORTS

File no. 7027/2006. Iulian (fictive name) has notified the People's Advocate institution, stating that he was considering himself prejudiced in his rights by "Vasile Lascar" Police Agents School from Campina within the General Inspectorate of Police, stating that he was expelled with no justification. The petitioner was mentioning in this respect that the General Inspectorate of Police within the Ministry of Administration and Internal Affairs informed him that he was expelled because in the period his file was drawn up by the staff, he wasn't fulfilling the conditions of becoming a policeman within the Ministry of Administration and Internal Affairs. From the documents annexed by the petitioner, it results that the Prosecuting Magistracy near the Court of Justice Valcea, disposed to stop the criminal pursuit in his case and to apply an administrative criminality for the infringement stipulated at the art. 14 from the Decree no. 466/1979 related to the regime of toxic products and substances in force at that time, reported at art. 312 align. (1) of Criminal Code (traffic of drugs).

To clarify the aspects presented by the complainant, the People's Advocate institution submitted to "Vasile Lascar" Police Agents School from Campina and the latter informed us that the reason the complainant was expelled for (with no charge of paying back the schooling expenses) was that during the drawing up of his file, it was found out that he wasn't fulfilling the conditions necessary to become a policeman within the Ministry of Administration and Internal Affairs. The complainant was selected to participate to the entrance exam, informing him about the conditions of recruiting, selecting and participating to the entrance exam and this one agreed in a statement he dated and signed.

From the verifications that were made, it was found out that at the time the statement was written, the petitioner was under the criminal pursuit, unfulfilling in such a way the conditions provided by art. 10 align. (1) letter b) and c) from the Law no. 360/2002 related to the Policeman Statute. Per the legal provisions mentioned above, at the entrance exam in the institution within the Ministry of Administration Internal Affairs, any person, no matter the race, originality, sex, religion, fortune or

social origin, any person who fulfils besides the general conditions provided for public officers, some special conditions-not to have criminal antecedents or not to be under criminal pursuit or sued for infringements; to have a proper behaviour to the requests of the admitted behaviour practiced in society-, is allowed to. The expel order was approved by the General Inspectorate of the Romanian Police and was applied by order by the headmaster of the school and the petitioner was informed in writing and this one signed for its delivery.

File no. 1140/2006. Emil (fictive name) has notified the People's Advocate Institution about the difficulties he has to face related to the erasure of the car which is his private property.

As a result of the notifications made by the People's Advocate institution, we were informed that the petitioner has not laid down all the necessary documents for the car erasure, as it is seen in the provisions in the art. 47 and 48 from the Government Decision no. 85/2003 related to the approval of the Regulations of application of Emergency Government Ordinance no. 190/2002 related to traffic on public roads which was in force at that time.

In addition, if the petitioner considers that an injustice is made to him, he may address during the days of audience to the Communitarian Public Service-Section-Driving Licenses and Vehicles in matriculation to solve the problem and to take the measures that are imposed to.

File no. 1186/2006. Mihaita (fictive name) has submitted to the People's Advocate institution, stating that he did not receive any answer to the complaints submitted to the Section 4 of the Municipal Police Bucharest, to the General Directorate of the Municipal Police from Bucharest and to the Service of Frauds Investigation within the Police of Sector1, Bucharest, related to the execution of a building work performed by a physical person who had not a building authorization.

As a result of the interference of the People's Advocate institution, the General Directorate of the Municipal Police from Bucharest and the General Inspectorate of the Romanian Police have informed us that the petitioner's complaints were submitted for verification to the Police of Sector 4, Bucharest, the petitioner getting an answer in writing related to the results of the verifications each time. As for the deficiencies that were found out in solving the complaints addressed by the petitioner against the policeman in charge with their solving, measures were taken conformably to the provisions of the Law no. 360/2002 related to the Policeman Statute, Act that was ulterior modified and completed. As for the illegal building work, the petitioner was informed in writing that in order to solve this aspect, he should address to the Municipality of Sector 1, Bucharest- Service- Discipline in building engineering and to the Court of Justice of Sector 1, Bucharest if there were material damages.

File no. 4951/2005. Marin (fictive name) has notified the People's Advocate institution, stating that he did not receive any answer to the application submitted to the Inspectorate of the Police of Vaslui county by which he was claiming the disappearance from the domicile of his wife.

As a result of the interference of the People's Advocate institution, the Inspectorate of the Police of Vaslui county has informed us that the delay of communicating the answer to the petitioner was caused by the complexity of the specific activities that should be made in the case of persons' disappearance. We were specified at the same time that the police worker was informed about the term of solving the petition, term that should be respected and to communicate the answer to the petitioner as well.

File no. 5394 /2006. Jean (fictive name) has notified the People's Advocate institution related to the notifications he has laid down to the Section 21 of the Police Bucharest and to the Public Prosecutor Office near the Court of Justice of Sector 6, Bucharest to get information about the complaint he has formulated for his son's physical aggression, about the registration number of the complaint and the stage of its solving, respectively.

As a result of the notifications made by the People's Advocate institution, Section 21 of the Police Bucharest informed us that the petitioner was sent both the registration number and the fact that the complaint was at that time at the Public Prosecutor Office near the Court of Justice of Sector 6, Bucharest for being given a verdict. We were specified at the same time that the petitioner's son had laid down another complaint at the Public Prosecutor Office near the Court of Justice of Sector 6, Bucharest, complaint which was then sent to the Prosecuting Magistracy near the Court of Justice, Bucharest. This complaint was sent for solving to Section 21 of the Municipal Police Bucharest, searches being performed in its respect, the petitioner being informed about them afterwards.

File no. 7085/2006. Maria (fictive name) has required the support of the People's Advocate institution to get information related to the stage of solving of a complaint submitted to the General Inspectorate of the Police, complaint that was sent for being solved to the General Directorate of the Municipal Police of Bucharest having as subject the burglary, she and her husband were victims of.

As a result of the notifications made by the People's Advocate institution, the General Directorate of the Municipal Police from Bucharest, has informed us that after the searches finalization, the criminal action report, registered at Section 16 of the Police of Bucharest, was laid down to the Public Prosecutor Office near the Court of Justice of Sector 4, Bucharest with the proposal of non starting the criminal pursuit, proposal that was confirmed by the resolution given by the prosecutor. Conformably to the information delivered by the General Directorate of the Municipal Police from Bucharest, from the verifications that had been made, it was found out that the petitioner's husband was informed in writing by the Police of Sector 4 Bucharest about the result of the verifications and on the occasion of the petitioner's coming to the General Directorate of the Municipal Police from Bucharest, she was delivered a copy of the formulated answer, signing for it.

IV. Penitentiaries

In 2006, the People's Advocate institution was notified by persons who were executing punishments deprived of liberty related to: discontents regarding the punishments quantum, juridical counselling; transfers from abroad to expiate the punishments in Romania; drawing up files for appeals to appear in front of committee of the handicapped adult persons, files that should be drawn up by penitentiaries; the right to health protection.

The year 2006 was marked by the entrance in force of the Law no. 275/2006 related to punishments execution and measures that were taken by judiciary organs during the criminal trials, by which both the Law no. 23/1969 related to punishments execution and measures de- privative of liberty and the Emergency Government Ordinance no. 56/2003 related to the rights of some persons who were executing punishments deprived of liberty was abrogated. Among the most important provisions of this Act, we mention that one related to the execution of the punishment under the supervision, the control and the authority of the mandatory judge who assures the legacy of the punishment execution.

According to art. 38 from the Law no. 275/2006, against the measures that were taken by the administration of the penitentiaries related to the rights of practicing, the persons condemned to punishments deprived of liberty may submit complaints to the mandatory judge for the execution of the punishments deprived of liberty within 10 days from the date they were informed about the measure that was taken. The mandatory judge for the execution of the deprived of liberty punishments, solves the complaint by motivated closure within 10 days from the delivery and gives the resolution either for the complaint admission (disposing the annulment, the revocation or the modification of the measure taken by the penitentiary administration) or overrules the complaint if this one has no fundament, informing the condemned person about its closure within 2 days from the day it was pronounced. Against the closure of the complaint closure performed by the mandatory judge for the execution of the deprived of liberty punishments, the condemned person may submit a contest application to the court of justice from the circumscription the penitentiary is in, within 5 days from its delivery.

CASE REPORTS

File no. 78/2006. Raluca (fictive name) has notified the Territorial Office, Brasov of the People's Advocate Institution about the infringement of the right to health protection provided by the art. 34 from the Constitution and the Interior Order Regulation of the Penitentiary with extreme security from Codlea. In this respect, the petitioner was retelling that the prisoners were smoking in the detention room and that she was forced to inhale passively the smoke of tobacco.

As a result of the notifications made by the People's Advocate Institution, the Penitentiary with extreme security from Codlea informed us that the petitioner's

request was solved by putting in practice the Decision no. 436/2006 of the General Director of the National Administration of Penitentiaries referring to the prevention of the extension of tobacco products and of the limitation of their damaging effects and a Plan of Measures having as subject those presented hereby was to be drawn up.

According to the decision that has just been mentioned, measures of setting up, of arrangement, of delimitation and of marking the places provided for smoking that are accessible to prisoners are going to be taken in all penitentiaries. Reported to the number of prisoners and to the space allocated to each criminal category, rooms for non smoker prisoners are going to be arranged and at the repartition of the prisoners in rooms, it would be taken into account as much as possible the freely expressed option of the prisoners that is smoker- non smoker.

File no. 3399/2006. Marian (fictive name), prisoner in the Penitentiary of extreme security from Bucharest- Rahova has notified us about his discontents related to the medical treatment he was benefiting within the penitentiary and about the category he was registered in as prisoner with a high degree of danger.

The petitioner was stating that:

- a) The recommendations of the medical specialists, written in the report of the medico-legal expertise were not respected in the Penitentiary of extreme security from Bucharest- Rahova. According to the Report of the medico-legal expertise, the prisoner was given several medical recommendations among them mentioning: neurosurgical consultation and treatment, to continue the psychiatric treatment prescribed by the current doctor, treatment with Millgama and Thiogamma; kinetic therapy, diet without fats and sweets, motor recuperation if it is possible in detention conditions, neurological observation.
- b) On 10 February 2006, the committee from the penitentiary classified him in the category of prisoners with a high level of danger. Marian was stating that he had a report that had not a registration number and a stamp of the unity and as a result of this measure he couldn't benefit of a series of rights. Contesting the measures that had been taken, the prisoner annexed two copies of the favourable characterization formulated in the years 2004 and 2006 by the Penitentiary of extreme security from Bucharest- Rahova.

Referring to the aspects presented by the prisoner, the People's Advocate Institution has notified the Penitentiary of extreme security from Bucharest- Rahova and the National Administration of Penitentiaries and these ones informed us about the as a result of:

1. Referring to the medical treatment, the Penitentiary of extreme security from Bucharest- Rahova sent us a medical report according to which the prisoner had got medical treatment on compensated receipts. Due to the fact that on the report sent by the Penitentiary of extreme security from Bucharest- Rahova, it was not mentioned the psychiatrically treatment, although according to the report of the committee of medico-legal expertise it is mentioned "the continuation of the psychiatrically treatment prescribed by the current doctor and if the recommendations of the committee of

medico- legal expertise that include: neurosurgical consultation and treatment, kinetic therapy, neurological consultation and observation and diet, are not followed, the People's Advocate institution submitted to the National Administration of Penitentiaries.

According to the information sent by the National Administration of Penitentiaries, the prisoner was presented for medical exams of specialty- of psychiatry, neurosurgery, neurology, echogram, nuclear magnetic resonance and electromyography- exams that were performed within the sanitary network of the Ministry of Public Health. It was specified at the same time that the prisoner was dispensed for the psychical disease he had got treatment for, treatment that was recommended by doctors of specialty, excepting on June 2006. In that month, due to the insufficient funds allocated to the pharmacy of the unit, there were dysfunctional ties in providing medicines for psychiatric diseases but the case was remedied in July 2006 when all the compensated receipts were honored.

The prisoner got at the same time the treatment recommended by the neurologists and neuro-surgery doctors, the medicines being delivered on compensated receipts or from the pharmacy of the unit. For the hepatic disease he has got hepatic protector, bilious treatment and diet and for the vertebral –medullar disease he has got un steroidal anti-inflammatory treatment. As for the kinetic therapy, an appointment of hospitalization in the Penitentiary hospital from Colibasi was made, but the prisoner refused the recommended medical assistance.

2) Referring to his classification in the category of prisoners with a high degree of danger, the Penitentiary of extreme security from Bucharest- Rahova informed us that the prisoner was classified in the category of prisoners with a high degree of danger on 19 July 2004 by the committee of the Penitentiary Hospital Bucharest according to the provisions of the Order no. 383/2003 of the General Director of the former General Directorate of Penitentiaries that refer to the Methodology related to prisoners with a high degree of danger.

At the date the petitioner was referring to, 10 February 2006 respectively, the Penitentiary of extreme security from Bucharest - Rahova mentioned that the prisoner's classification in the category of prisoners with a high degree of danger was made on the basis of the provisions of the art. 1 align. (6) from the Decision no. 379/2005 of the General Director of the National Administration of Penitentiaries and on 5 May 2006 the same committee proceeded to the prisoner's declassification from the category of those with a high degree of danger.

Referring to the information got from the Penitentiary of extreme security from Bucharest-Rahova, we have considered opportune to appeal to the National Administration of Penitentiaries because:

a) according to the documents sent by the Penitentiary of extreme security from Bucharest- Rahova, the report from 5 May 2006 drawn up by the committee within the Penitentiary of extreme security from Bucharest-Rahova respectively, he "was classified in the category of prisoners with a high degree of danger" conformably to the

report from 2nd August 2004 and the Penitentiary of extreme security from Bucharest-Rahova had informed us that the prisoner was classified in the category of prisoners with a high degree of danger on 19 July 2004;

b) although the Penitentiary of extreme security from Bucharest- Rahova had specified to us that in order to sustain the information they sent, they posted a copy of the report drawn by the Committee of classifying the prisoners in the category of those with a high degree of danger on 19 July 2004, in fact we haven't got this report, being annexed instead another report, the report from 16 November 2005 (drawn up by the Penitentiary of extreme security from Bucharest- Rahova related to the maintenance of the prisoner in the category of the prisoners with a high degree of danger) respectively.

c) the reports from 16 November 2005 and 14 February 2006 (the one the prisoner was referring to) drawn up by the committees of classifying the prisoners in the category of prisoners with a high degree of danger within the Penitentiary of extreme security from Bucharest- Rahova had registration numbers but they didn't have the stamp of the penitentiary while the report from 5 May 2006 drawn up by the Committee of classifying the prisoners in the category of prisoners with a high degree of danger within the Penitentiary of extreme security from Bucharest-Rahova was stamped.

At the same time, we have asked information related to the prisoners' information about their classification in the category of prisoners with a high degree of danger as well as information about the possibility of contesting such a classification in the conditions in which the prisoner was referring to two favourable characterizations formulated by the Penitentiary of extreme security from Bucharest- Rahova in 2004 and 2006.

Related to those items that were required, the Penitentiaries National Administration informed us that on 19 July 2004, the Committee of classifying the prisoners in the category of prisoners with a high degree of danger within the Penitentiary Hospital Bucharest- Jilava had analyzed the prisoner's disciplinary antecedents and proposed his classification in the category of prisoners with a high degree of danger. It was specified at the same time that the prisoner had been punished before for the tentative of escaping, and also for his escape from the Municipal Hospital of Timisoara. Conformably to the answer of the Penitentiaries National Administration, in the address laid down at the People's Advocate Institution by the Penitentiary of extreme security from Bucharest- Rahova an error was committed, the prisoner being classified in the category of prisoners with a high degree of danger on 19 July 2004, so that the report from 2nd August 2004 was the one, the prisoner's case was re analyzed and was maintained in the category of those with a high degree of danger.

Referring to the fact that the stamp of the penitentiary wasn't put on the report drawn up by the Committee of classifying in the category of prisoners with a high degree of danger, the Penitentiaries National Administration informed us that this thing

is due to the fact that the report is an internal administrative document and the stamp missing doesn't determine the nullity of the document.

As for the prisoners' informing about their classification in the category of prisoners with a high degree of danger, the Penitentiaries National Administration specified to us that the Order no. 383/2003 of the general director of the former General Directorate of the Penitentiaries wasn't stipulating that the persons deprived of liberty should be informed about the fact that they were classified in this category. However, due to the increased measures that were taken, those ones knew about their classification in this category. The supplementary measures of security disposed in the case of prisoners with a high degree of danger do not affect the rights they have.

Referring to the possibility to contest the way of classification in the category of prisoners with a high degree of danger, according to the Emergency Government Ordinance no. 56/2003 related to the rights of the persons who were executing punishments deprived of liberty that were in force at that time, against the measures that were taken by the penitentiaries administration, the persons who were executing punishments deprived of liberty could formulate complaints at the court of justice from the circumscription the penitentiary is situated in.

THE AREA OF PROPERTY, LABOUR, SOCIAL PROTECTION, DUTIES AND TAXES

The complaints submitted to the People's Advocate institution that were analyzed in the domain of property, labour and social protection were in number of **1929**, representing a percentage of **31%** from the amount of **6407** complaints registered within the institution, that were claiming problems such as: the right to a private property, the right to work and to the social protection of the work., the allocation of social houses and the minimum guaranteed income, the right of setting up fiscal charges, the right to inheritance, the right of the prejudiced person by a public authority. In **247** complaints analyzed within the field of activity, that is in a percentage of **14,20%**, the People's Advocate institution has proceeded to notifications submitted to the authorities of the public administration that were related to the infringement of citizens' rights and liberties. Among them, the problems showed by the petitioners were clarified in a percentage of **49%**. The rest of **1682** complaints, that is a percentage of **85,80%**, that were examined within the field of activity had in view problems that were not of the legal competence of the People's Advocate Institution to be solved. In these cases, the petitioners were informed about the legal remedies they have to solve the problems.

In some cases, due to the fact that the answers got from the authorities that were in charge to do this, were not relevant, the People's Advocate institution approved **2 investigations** to be made to the Municipality of Sector 5 Bucharest and to the municipality of Sector 3 Bucharest related to the distribution of some social houses.

The complainants have also required the People's Advocate institution to give them information about the solutions that were found to litigations occurred between physical persons related to the right to property, the right to inheritance, the amiable solving of the conflicts occurred between individuals and employer related to salary.

A. Property

In 2006, a number of **1100** complaints (709 to the central head office and 391 to the territorial offices) that were related to the fact that the authorities of the public administration did not respect the right to private property guaranteed by art. 44 from the Constitution were registered. During 2006, the People's Advocate institution was notified about the delay of the Local committee of setting up the right to private property on lands with their putting in possession and the delivery of the tiles of property, of drawing up the necessary documentation for the reconstruction of the right of property.

The complaints having as subject the right of property, had as objectives the way of applying certain **normative acts** mainly: Law no. 18/1991 related to the land fund, republished; Law no. 10/2001 related to the juridical regime of certain immobile abusively taken in the period 6 March 1945 - 22 December 1989, republished; Law no. 9/1998 related to the conferring of compensations to Romanian citizens for the goods

that were passed in the property of the Bulgarian state as a result of the application of the Treaty between Romania and Bulgaria, that was signed at Craiova on 7 September 1940, republished; Law no. 247/2005 related to the reform in property and justice domains and some adjacent measures as well.

As for the application of the **Law no. 18/1991, republished**, the petitioners showed to the People's Advocate Institution the followings as a result of the aspects related to the activity of the authorities of the public administration:

- The delay of drawing up the documentation necessary to the right of property reconstruction;
- The delay of drawing up and deliver the tiles of property;
- The refusal of putting in possession;
- The refusal of enforcing the ultimate and irrevocable judgments by which it was disposed the annulment or the modification of the issued tiles of property, with the infringement of the legal provisions.

In these cases, the People's Advocate institution has notified the local and district committees of setting up the right of private property on lands.

Another problem the People's Advocate Institution was informed of by the petitioners was related to the application of the **Law no. 247/2005**, that is the difficulties the persons in right have to face in getting the right of property reconstruction. As a result of the notifications that had been made, the People's Advocate found out that although more than a year had passed since the Law had been enforced, some local committees did not give the final touches in drawing up the necessary documentation and didn't submit them to the district committees for the delivery of the titles of property. The main problems that occurred were related to the following aspects:

- The un solving of the applications that were on the basis of the Act no.247/2005;
- The non-transmission of the applications that were contesting the proposal of validation/invalidation of the reconstruction of the right of property to the district committees for their competent solving;
- The un-solving from the part of the district committees of the legal contests within the term provided by the Regulation regarding the constitution procedure, the committees assignments and functioning for the setting up of the right of private property, of the model and the way of conferring the titles of property and the owners vesting of the property approved by the Decision of the Government no.890/2005.

Another problem brought to the attention of the Advocate of the People was how the **Law no. 10/2001, republished**, was applied, mainly related to the fact that authorities and the competent public institutions were not complying with the term provided by the Act for solving the notifications laid down by the persons by right.

In these cases, the People's Advocate institution required information from competent authorities according to which he found out that some notifications

formulated on the basis of the republished Law no. 10/2001, were not solved within the legal term of 60 days. In these conditions, the fact that the files drawn up on the basis of the republished Law nr. 10/2001 were not solved within the legal term represent a delay in setting up the compensations that should have been given to the persons by right, in case the restoring of the immobile in truck system was not possible.

From the answers got from the notified public authorities related to the overpassing of the legal term of solving the notifications, it was found out that due to the large amount of notifications on the basis of the republished Law no.10/2001, a series of dysfunctions occurred at the level of the public institutions and authorities. The petitioners were also asked to fill in the files formulated on the basis of the republished Law no.10/2001, with documents that had already been at the files due to the faulty cooperation between different departments and services that were competent to solve the notifications.

In some cases, the People's Advocate institution found out that the complainants did not submit to the file all the approbatory documents related to the quality of person by right or their right to property.

In most cases, the petitioners do not address to justice in order to oblige the public authorities to respect the legal term of solving the notifications, but require their solving on administrative way expressively, motivating the absence of financial resources to institute proceedings against

As a result of the notifications made by the People's Advocate institution related to the clarification of the problems pointed out by the petitioners, the competent authorities informed us that in some cases, in order to solve the notifications, the petitioners need to fill in the files formulated on the basis of the republished Law no.10/2001.

The petitioners also complained about problems related to the un-enforcement of judgments pronounced on the basis of the Law no.10/2001, where, in certain circumstances, the public administration authorities had abusively delayed the writ of execution of the judgments.

Having in view the problems the People's Advocate institution had found out in the notifications that were made to public administration authorities, we consider that the attitude of certain authorities is inadmissible because in exercising their legal competences, they have to assure the observance of the Act and the order by right.

As for the application of the **Law no. 9/1998**, the complaints submitted to the People's Advocate Institution raised the problem of the delay of solving the files and that of conferring compensations on the basis of the law.

In 2006, a large number of individuals have submitted to the Service within the National Authority for Properties Retrocession in charge with the application of the Law no. 9/1998, claiming problems related to:

- The analyses of the decisions that were got from the district committees and those from Bucharest;

- The submission of the proposals of validation / invalidation of the decisions that were addressed by district committees and by those from Bucharest to the Chief of the Prime Minister Chancellery.

As the complaints submitted to the National Authority for Properties Retrocession got no answer, the persons who considered that they had been prejudiced in their rights, complained to the People's Advocate Institution. In this respect, the People's Advocate Institution submitted to the National Authority for Properties Retrocession for the clarification of the case that was created.

CASE REPORTS

File no. 4533/2006. Cornel (fictive name) has notified the People's Advocate Institution in the context of a possible infringement of the rights of private property and those of petitioning, related to the delay from the part of the village hall of Trivalea-Mosteni village, Teleorman county. District, in solving the application by which it was required the right of property reconstruction on an area of 4 ha of land.

The authority that had been notified, informed us that as a result of the notification made by the People's Advocate Institution, it was found out that the employer of the village hall hadn't fulfilled his charges on duty, meaning that he had not submitted the petitioner's documentation to the District Office of Cadastre and Immobile Advertisement /Publicity for drawing up the title of property.

In these circumstances, as a result of the interference of the People's Advocate institution, the village hall of Trivalea-Mosteni village, Teleorman. District informed us that the petitioner was invited to the centre of the authority to take the title of property that had been issued.

File no. 4260/2006. Floarea (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the rights of private property and that of petitioning, stating that she has difficulties referring to the right of property reconstruction on an area of 3,60 ha of land.

As a result of the interference of the People's Advocate institution, we were informed that the procedures of reconstructing the title of property are enrol. The District Committee of setting up the titles of private property on the lands from Bacau asked for the District Office of Cadastre and Immobile Advertisement and the Directorate of Forests Bacau to express their point of view on the placement that had been proposed for validation by the Local Committee of setting up the titles of private property on the lands from Pancesti. On the basis of the address got from the Office of Cadastre and Immobile Advertisement, Bacau, according to which the area of land claimed by the petitioner wasn't situated on the placement proposed by the local committee, the District Committee of setting up the titles of private property on the lands from Bacau resent the entire documentation to the local committee for the identification of the old placement of the petitioners' petition.

File no. 5002/2006. Valentina (fictive name), in the petition submitted to the People's Advocate institution, she was stating that she had submitted to the National

Authority for Properties Retrocession with an application by which she was requiring information about the modification of a title of property issued on the basis of the Law no. 18/1991 related to the land fund and which was republished, because the placement of the lands that had been conferred, was modified due to several retro cessions that were made in the area.

As the petitioner was stating that the intimated authority had not done anything related to her requests, we considered an opportune occasion to address to the National Authority for Properties Retrocession and the latter informed us that the petitioner's complaint is of the competence of the Directorate for the coordination and control in applying the legislation in the domain of the retro cession of land properties.

In this case, we submitted to the Directorate for the coordination and control in applying the legislation in the domain of land properties retro cession and this one informed us that the petitioner's memoriam was sent for competent solving to the District Committee of setting up the titles of private property on the lands from Bacau.

As a result of the interference of the People's Advocate institution to the District Committee of setting up the titles of private property on the lands, we were informed that the petitioner was allocated the area of 3,54 ha arable land on the field no. 5 that was belonging to Mara village, Buzau District and the area of 9,26 ha forest was to be physically conferred after the measurement works were to be made in hill area, on the available lands of the Local Committee.

File no. 4046/2006. Mihnea (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the rights of private property and of the right of the prejudiced person by a public authority related to the delay of solving the application of reconstruction of the right of private property on an area of 1,53 ha land.

As a result of the interference of the People's Advocate institution, the District Committee of setting up the titles of private property on the lands from Neamt validated by decision, the proposal of reconstruction that was to the local committee, a title of property being issued afterwards. We were also informed that the petitioner's request related to the reconstruction of the right of private property on another area of land would be analyzed.

File no. 4191/2006. Marcel (fictive name) has notified the People's Advocate institution related to the fact that he had formulated a contest application to the District Committee of setting up the title of private property on the lands from Constanta, application he had to the Local Committee from Ciocarlia de Jos, Constanta District, getting no answer in legal term to.

As a result of the notifications made by the People's Advocate institution to the District Committee of setting up the titles of private property on the lands from Constanta, we were informed that this one validated the proposal of the Local Committee of setting up the titles of private property on the lands from Ciocarlia de Jos, Constanta District, by adding Annex 30 for the area of 25 ha land, conformably to the Decision no.429/01.09.2006. Related to the answer from the District committee, the

petitioner was informed by the fact that he had the possibility to formulate a complaint to the Court of Justice if he is discontent by the decision that was taken by the committee.

File no. 2491/2006. George (fictive name) has formulated a petition to the People's Advocate Institution, stating that he has made several complaints to the District Committee of setting up the titles of private property on the lands from Ialomita in view of drawing up the title of property of an area of 1 ha extra venous land and 1425 square meters of intravenous land, lands he has been possessing since 1992.

As a result of the notifications made by the People's Advocate Institution both to the District Committee of setting up the titles of private property on the lands from Ialomita and to the Local Committee of setting up the titles of private property on the lands from Sinesti, we were informed that the petitioner's problem was solved. So, the petitioner was conferred the right of property on the area of 1 ha extra venous land and he was reconstructed the right of property on the area of 1425 square meters of intravenous land, the Title of Property no. 112054/56141/22.11.2006 being issued in this respect.

File no. 3511/2006. Petre (fictive name) has notified the People's Advocate Institution related to the fact that he had addressed a petition to the village hall from Magurele village, Ilfov county asking for information about the documents that are at the basis of drawing up and reconstructing the title of property on an agrarian land, getting no answer to it.

As a result of the notifications made by the People's Advocate Institution to the village hall from Magurele village, Ilfov county, we were informed that the complainant was notified related to the information he had required.

File no. 4158/2006. Angela (fictive name) has notified the People's Advocate institution related to the delay from the part of the City Hall from Campulung, Arges District, of solving the application of reconstruction of a title of private property on an area of 0, 5 ha land.

The aspects claimed by the petitioner were analyzed in the context of a possible infringement by the Municipal Committee for setting up the titles of private property on the lands from Campulung and the rights of petitioning and private property.

As a result of the notifications made by the People's Advocate institution, the public authority informed us that the petitioner had also applications on the basis of the anterior laws related to the land fund, applications that were over ruled. As for the last application by the petitioner on the basis of Law no. 247/2005, Municipal Committee for setting up the titles of private property on the lands from Campulung informed us that they decided to propose to the District Committee of setting up the titles of private property on the lands Arges, the validation, in the petitioner's case, of the area of land she had required.

File no. 13/2006. Felicia (fictive name) has notified the Territorial Office, Constanta of the People's Advocate Institution related to the unenforcement of the

Civil Decision no.194/2005 pronounced by the Court of Appeal from Constanta by the Municipal Town hall Constanta, Constanta county. The complainant is stating that she has formulated several applications to the mentioned public authority, but she has got no answer and that she has asked the support of the Prefect's Office from Constanta county that has guided her to address to the City Hall.

Taking into account the aspects claimed by the complainant, the People's Advocate has disposed for an investigation to be made to the Municipal City Hall Constanta, Constanta county, according to which she was informed that after getting the solution of the juridical service within the town hall, the entire documentation will be to the Prefect's Office from Constanta county with the proposal of retro cession the land.

File no. 1881/2006. Emanuel (fictive name) has notified the People's Advocate institution related to the fact that he addressed a petition to the village hall from Ciurea village, Iasi county, asking for the reconstruction of the right of property for a difference of land of an area of 2,4 ha, on the basis of the Law no. 247/2005 but he got no answer to it.

As a result of the notifications made by the People's Advocate institution to the Village Hall from Ciurea village, Iasi county, we were informed that for the area of 2,09 ha, the petitioner had the title of property, this one having the possibility of asking on the basis of the Law no. 247/2005, for the reconstruction of the title of property of an area of 0, 24 ha land only, because the area 1,5 ha land was confiscated by judgment as the result of his conviction for burglary and as a result, that area couldn't be the subject of the reconstruction of the title of property.

File no. 1444/2006. Elena and Viorica (fictive name) have notified the People's Advocate institution related to the delay from the part of the City Hall of Barlad, Vaslui county, in solving the Notifications no. 99/2001, no. 100/2001, no. 101/2001 and no. 102/2001, although the files formulated on their basis were filled in with the entire documentation that was necessary to.

The created case was analyzed in the context of a possible infringement from the part of a public authority, of the right of the prejudiced person and of the right to private property, the City Hall of Barlad, Vaslui county being acknowledged of.

As a result of the interference of the People's Advocate institution, the public authority that was notified, informed us that according to the Notifications no. 99/2001, no. 100/2001, no. 101/2001 and no. 102/2001, formulated on the basis of the Laws no. 10/2001, The Mayor's Decisions no. 791/2006, no. 792/2006, no. 793/2006 and no. 794/2006 were issued for the claimed immobile in 2006, restoring measures being taken conformably to the Law no. 247/2005.

File no. 2401/2006. Viorel (fictive name) has addressed an application to the People's Advocate institution, stating that he had addressed an application to the National Authority of Property Retrocession, informing them about the fact that the City Hall from Constanta, Constanta county delays to solve the notifications formulated by the former.

Following the notifications that had been made to the National Authority of Properties Retrocession informed us that the prefect acted per the provisions of the art. 38 align. (5) of the Law no. 10/2001, republished, applying a conventional criminality of 500 lei to the Mayor of Constanta, Constanta county for the unjustified delay of solving the petitioner's notification.

The public authority also informed us about the fact that the Legislative Body of Control of the National Authority of Properties Retrocession went on 22 June 2006 to the City Hall from Constanta, Constanta county to undertake the administrative control provided by the Law no. 10/2001, that was republished as a result of the numerous notifications related to the unjustified delay of solving the notifications.

Related to the case that had been created, the public authority informed us that per the provisions of the art. 38 align. (2¹) of the Emergency Government Ordinance no. 209/2005, criminalities were applied.

File no. 5445/2006. Ioana (fictive name) has notified the People's Advocate institution related to the fact that she has several times required, on the basis of the Law no. 10/2001, to be informed about the stage of solving the notifications no.79 and no. 80 on 28 May 2001, by the City Hall of Mangalia, Constanta county, asking for a compensation by equivalent to be conferred.

As a result of the notifications made by Advocate of the People institution to the City hall of Mangalia, Constanta county, we were informed that the complainant had several times laid down the necessary documentation for solving the notification as they were getting the approbatory papers, this thing being the reason of the delay of solving the two notifications. Due to the fact that the file formulated on the basis of Law no. 10/2001 was filled in, the public authority informed us that the Decisions for solving the notifications were drawn up, these ones going to be signed by the mayor and communicated to the petitioner afterwards.

File no. 1644/2006. Ovidiu (fictive name) has notified the People's Advocate institution near the Territorial Office of Alba Iulia in the context of the Constitutional Decisions related to the right of private property. The complainant was stating that in 2005, the City Hall of Alba Iulia had informed him that for the order of retrocession by truck system to be issued on the basis of the Law no. 10/2001, he had to pay 355 lei.

On 20 January 2006, the complainant formulated an application asking for hastening the drawing up of the retro cession Decision but the City Hall of Alba Iulia had not made anything related to his request.

As a result of the address of the People's Advocate Institution to the City Hall of Alba Iulia, we were informed that the notification the petitioner had laid down to was analyzed and solved by drawing up the Decision no. 313/13.03.2006.

File no. 4648/2006. Oana (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of property and of the right of the person prejudiced by a public authority, stating that the Municipality of Bucharest- Juridical, Contentious and Legislation Department- delayed to solve the File no. 706/2001 that was drawn up on the basis of the Law no. 10/2001, republished.

The complainant was expressing at the same time his discontent related to the address no. 3793/2006, on what occasion the Municipality of Bucharest- Juridical, Contentious and Legislation Department informed her that the File no. 706/2001 was sent to be analyzed and solved by the Committee in charge with the application of the Law no. 10/2001, without specifying however the date, because per the provisions of the art. align. (1) of the Law no. 10/2001, the legal term of solving is of 60 days.

As a result of the address of the People's Advocate institution to the Municipality of Bucharest- Juridical, Contentious and Legislation Department, we were informed that the petitioner was informed that the Decision was drawn up on 12 July 2006 and is going to be signed by the General Mayor of Bucharest.

File no. 7624/2006. Georgiana (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of property and of the right of the person prejudiced by a public authority, stating that the Municipality of Bucharest delays to solve the Notification no. 16538/2006, drawn up on the basis of the Law no. 10/2001, as republished. Therefore, the complainant was stating that although the file was filled in with the necessary documentation, the Municipality of Bucharest asked the same papers again.

As a result of the address of the People's Advocate institution to the Municipality of Bucharest, we were informed that the petitioner's file was submitted to the Directorate of the Immobile Evidence and Cadastre for drawing up the notice of reconstruction that would be submitted to the Committee for analyzing the notifications submitted on the basis of the Law no.10/2001, republished.

File no. 12/2006. George (fictive name) has notified the People's Advocate institution related to his discontent due to the fact that although he had made several notifications to the Juridical, Contentious and Legislation Department within the Municipality of Bucharest, the problem he was confronting with was not solved.

As a result of the notifications made by the People's Advocate institution to the Juridical, Contentious and Legislation Department within the Municipality of Bucharest, we were informed that the petitioner's files issued on the basis of the Law no.10/2001, republished, were solved by drawing up the Decisions no. 3936/2005 and no. 4165/2005 of the General Mayor.

File no. 1118/2006. Raluca (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of property and of the right of the person aggrieved by a public authority, claiming the delay of solving the file no. 782/2001 by the Committee in charge with the application of the republished Law no. 10/2001, related to the juridical regime of some immobile that had been taken abusively within the period of time between 6 March 1945 – 22 December 1989.

As a result of the notifications of the People's Advocate institution to the Committee in charge with the application of the Law no. 10/2001, from Braila, we were informed that from the area of 1024 square meters of land that were making the subject of the notification, the petitioner will be given back on the old placement, the areas of 704 square meters and 224 square meters of land by truck system.

File no. 6093/2006. Tatiana (fictive name) in the petition submitted to the People's Advocate institution, was specifying that she had addressed to the City Hall of Barlad asking to be informed about the date the Decisions no.791/2006, no. 792/2006, no. 793/2006, no. 794/2006 had been submitted to the Secretariat Office of the Central Committee, but she did not receive any answer.

By the notification of the People's Advocate Institution to the City Hall of Barlad, we were informed that the Decisions no.791/2006, no. 792/2006, no. 793/2006, no. 794/2006 were submitted to the District Office of supervision of the application of the republished Act no. 10/2001. within the Prefect's Institution of Vaslui county, by the address no. 11796 that was issued on 29 May 2006

File no. 5033/2006. Viorel (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of private property and of the right of petitioning. The complainant was stating that he had submitted to the National Authority of Properties Retrocession a memoriam asking for being granted some reparatory measures on the basis of the republished Law no. 10/2001, petition that was sent to be competently solved by the District Office of supervision of the unitary application of the Acts related to properties retrocession from Alba, but he had got no answer from that institution.

As a result of the notification of the People's Advocate institution to the District Office of supervising the unitary application of the Laws related to properties retrocession, we were informed that the Prefect from Alba District asked the Mayor of Alba-Iulia to modify the Decision no. 216/2006 as it was stipulated in the Judgement in Civil affairs no. 16/2005 pronounced by the Court of Justice Alba in the File no. 3402/2004, judgments that remained ultimate and enforceable, by no appealing afterwards and to deliver a new Decision according to the provisions provided in this sentence.

As a result of the notifications made to the City Hall of Alba-Iulia, we were informed that the Mayor delivered the Decision no. 601/2006 by which the Decision no. 216/2006 was modified and completed according to the provisions of the Judgment in Civil affairs no. 16/2005 pronounced by the Court of Justice Alba, Decision that was communicated to the petitioner and that was submitted to the Central Committee for setting up the compensations.

File no. 3936/2006. Sandu (fictive name) has notified the People's Advocate institution related to the fact that he had submitted to the National Authority of Properties Retrocession a petition asking for some information about the Notification no.25583/2001 that was laid down on the basis of the Law no.10/2001, republished, but he had got no answer.

As a result of the notifications made by the People's Advocate institution to the National Authority of Properties Retrocession, we were informed that the petition was solved by the Village Hall from Mihaileni village by the Decision no. 117/30.11.2005, and the petitioner was sent the answer by the address no. 675585/17.11.2005.

File no. 7477/2006. Robert (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of private property and of the right of petitioning, stating that the Municipality of Bucharest delays to solve the notifications laid down on the basis of the Law no. 10/2001 republished, as well as related to the application no. 538907 from 25 May 2006 by which he was asking for information related to the stage of solving these notifications he had got no answer at.

As a result of the notifications made by the People's Advocate institution to the Municipality of Bucharest - the Juridical, Contentious and Legislation Department, we were informed that the petitioner's files drawn up on the basis of the Law no.10/2001 republished, were submitted to the Directorate of the Immobile Evidence and Cadastre for drawing up the notice of reconstruction and the juridical case.

File no. 74/2006. Ingrid (fictive name) has notified the Territorial Office, Constanta of the People's Advocate institution related to the fact that she has laid down at the City Hall of Constanta all the necessary documents for vesting property of an area of 673 square meter land according to an ultimate and irrevocable judgment that wasn't enforced. The complainant was stating in this respect that she had several times appealed to the town hall asking for vesting property with no result.

As a result of the notification of the People's Advocate institution, we were informed that in order to sign the report of vesting property of the land the complainant had claimed, the filling in of the file with the Expertise Report and the annexed Plan that laid down at the basis of the pronouncement of the Judgment in Civil affairs No. 833/1999 is needed.

File no. 5122/2006. Catalin (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of private property and of the right of the prejudiced person by a public authority from the part of the Municipality of Bucharest; he was stating that this one refuses to enforce the Judgment in Civil affairs no. 2434/2003, invested with an enforceable formula that was pronounced by the Court of Justice of Sector 3, Bucharest in the File no. 10145/2002, by which the Municipality of Bucharest is obliged to conclude a purchase-sale agreement for 1/3 of the area of a commercial space.

As a result of the interference of the People's Advocate institution to the Municipality of Bucharest, we were informed that after the petitioner had the Decision no. 827A/2006 of the final judgement in civil matters that was delivered by the Court of Justice Bucharest- Section III Civil Affairs, by which it was disposed the correction of a material error occurred at the decision in civil matters no. 24345/2004 that was pronounced by the Court of Justice from Sector 3, Bucharest, the purchase-sales agreement having as subject the rate of a commercial space was concluded.

File no. 14/2006. Angela (fictive name) has notified the Territorial Office, Constanta of the People's Advocate institution related to the fact that according to the Decision no. 3965 /2004 of the judgment on civil matters pronounced by the Court of Justice from Constanta and the Decisions no. 556/2005 and no. 470/2005 of the Judgment on Civil matters pronounced by the Court of Appeal Constanta, the General

Directorate of Public Finances within the Ministry of Public Finances, was obliged to pay the complainant a sum of money of 23.681 lei. The complainant was also stating that, till the moment the notification was made to the People's Advocate institution, this thing did not happen, although she had submitted several notifications in this respect.

As a result of the notifications made by the People's Advocate institution to the General Directorate of Public Finances, we were informed that after the Ministry of Public Finances had approved the Notice of enforcing the judgment drawn up by the General Directorate of Public Finances, the petitioner was to get the sum of money, this institution is debited to.

File no. 223/2006. Antonela (fictive name) has notified the People's Advocate Institution related to the delivery from the part of the Urbanism and Territory Arrangement Service within the City Hall of Miercurea Ciuc of a certificate of Urbanism corresponding to the Plan of Placement and Delimitation of the body of the property.

As a result of the notifications made by the People's Advocate institution to the City Hall of Miercurea Ciuc, we were informed that the Zone Town Planning ((P.U.Z= Z.T. P), approved by a decision of the local council, was drawn up on the basis of the designing theme, achieved and financed by the owners of the land from the area, conformably to the legal norms in force. The intimated public authority has also specified that the petitioner's request related to the derogation of the building placement related to the provisions of the approved ((P.U.Z= Z.T. P), was debated within the assembly of the urban organization and development Committee within the Local Council of Miercurea Ciuc that have unanimously pronounced to respect unconditionally the provisions of the regulation that had been approved.

As an alternative solution, by the owners concern, it was also proposed the redesigning of ((P.U.Z= Z.T.P), the new documentation going to be approved by the local council accordingly to the legislation in force afterwards.

B. Work and the Social protection of the work

In 2006, **96 complaints** (66 complaints to the central head office and 30 complaints to the territorial offices) that were related to the fact that the authorities of the public administration didn't respect the right to work and the right to work social protection guaranteed by art. 44 from the Constitution were analyzed.

In most cases intimated by complainants, pretended abuses done by the employers and juridical persons in charge, notifications related to the conferring of the financial rights and of the over passing of the legal hours of schedule, without the delivery of the compensations they had the right to, were invoked. As the People's Advocate institution, in exercising the assignments conferred by the Law no. 35/1997, as republished, may take action only in the cases where the physical persons are prejudiced by the public administration authorities in their rights and in their

citizenship liberties, the petitioners were guided to address in legal terms either to the territorial inspectorate of work or to the competent courts of justice.

The persons that were guided to address to the territorial inspectorate of work were informed at the same time that they may address to the People's Advocate institution, in case difficulties occur in solving the problems.

CASE REPORTS

File no. 19570/2005 (finished in 2006). Maria (fictive name) has notified the People's Advocate institution in the context of a possible infringement of the right of petition and the right to work and to the social protection of the work. The complainant has been stating that she has to face difficulties related to the drawing up of an order delivered by the Mayor of Sector 3 Bucharest that is to attest the suspension of the report of service for a period of 13 months as she is going to participate to a program of professional training organized by the National Institute of Administration.

Due to the fact that up to 18 December 2005, the Municipality of Sector 3 Bucharest had not solved her request, the complainant formulated and laid down an application but she did not receive any answer either.

As a result of the notifications made by the People's Advocate institution, the Mayor of Sector 3 Bucharest informed us that the decision, necessary for the petitioner to participate to the training program, had been issued on 21 November 2006, and the document was taken by the petitioner.

C. Social Protection

A series of complaints submitted to the People's Advocate institution related to the social protection domain signalled problems related to the allocation of social houses and the conferring of the minimum guaranteed income. From the answers we have got from the public administration authorities, it has been revealed the fact that in most cases they are in the impossibility of solving in a favourable way the solicitations for social houses because of their absence.

CASE REPORTS

File no. 18775/2005 (finalized in 2006). Vasile (fictive name) notified the People's Advocate Institution in the context of the constitutional provisions regarding the right of the person aggrieved by a public authority and the right to a decent living standard because at an anterior notification made by the People's Advocate institution, the complainant was given a social residence (a room) in a flat with three rooms. As the complainant did not manage to enter the room because that one was abusively occupied by the family who was living in the other two rooms, he addressed again to our institution.

In these circumstances, the People's Advocate notified the Municipality of Sector 5, Bucharest that informed us that the petitioner's application by which he was requiring the allocation of a social house was in the evidence of the town hall.

In this respect, the People's Advocate approved an investigation to be made to the mayor of Sector 5, Bucharest and to the Service of Inhabitancy Spaces and Spaces for other destinations found within the Town hall of Sector 5, Bucharest.

Although Mr. Daniel Marian Vanghelie, who was mayor of Sector 5 Bucharest, at that time, was informed by two addresses about the date when the investigation was going to be made, on 2 March 2006, this one was not at the institution and did not invest another person to give us information about the petitioner's application either.

Because the investigation had to be made to the Service of Inhabitancy Spaces and Spaces for other destinations within the Municipality of Sector 5, Bucharest too, the Chief of the Service was contacted and this one expressed his regrets for the created case and he informed us that he was not investigated to discuss with the representatives of the People's Advocate Institution about the complainant's case although he had informed the mayor about the investigation that was going to be made.

Having in view the attitude of the clerks from the Municipality of Sector 5, Bucharest, the People's Advocate informed the Prefect of Bucharest about the case that was created and this one informed us at his turn that in order to clarify the problems met by the petitioner, notifications were made to the authorities of the local public administration from Sector 5, and the petitioner was to be informed about the measures that were to be taken in solving the case afterwards.

File no. 4432/2006. Ion (fictive name) has notified the People's Advocate institution related to the difficulties he has met referring to the allocation of a social house.

To clarify the case, the Advocate of the People has disposed for an investigation to be made at the Municipality of Sector 3, Bucharest and after that the public authority has informed us that the possibility of the allocation of a social house in the complainant's benefit will be analyzed by the committee of specialty but only after the complainant has completed the file. The complainant will be informed about the result of the investigation afterwards.

File no. 8102/2006, File nr. 8103/2006. Two complainants have submitted to the People's Advocate institution, expressing their discontent related to the answer they have got from the Municipality of Sector 4, Bucharest in view of the allocation of a social house. Therefore, the complainants were stating that although they had asked the authorities for the allocation of a social house, in the answer formulated by the Municipality of Sector 4, Bucharest, they were referring to the social houses of the National Authority for Lodges (ANL).

As a result of the notifications of the People's Advocate institution, the public authority that had been intimated, informed us that the two petitioners are both in the evidence of the allocation of an ANL house and in the evidence of the allocation of a social house.

In this respect, the Municipality of Sector 4, Bucharest was stating that due to the fact that in 2006, ANL planned no allocation of houses for young people in Sector 4, the list related to the order of priority of the 1200 applications that have been

registered in the report of evidence, would be submitted to the analysis and approval of the Local Council as early in February 2007.

As for the social houses, the public authority that had been intimated was specifying to us that the list of priorities that would include over 850 applications was to be submitted to the approval of the Local Council at the end of November 2006.

File no. 88/2006. Gabriela (fictive name) has submitted to the Territorial Office of Constanta of the People's Advocate institution, related to the fact that she has required to the Village Hall of Lipnita, Constanta county, the allocation of a social security benefit but up to the date she has notified the People's Advocate institution, she has got no support. The complainant was stating that she is severely ill and in the impossibility to move, her husband's pension being small and that the social security benefit has been cut off for two years by the Village Hall of Lipnita, Constanta county.

As a result of the interference of the People's Advocate institution, the Village Hall of Lipnita, Constanta county, has sent us the social investigation made at the petitioner's residence according to which, conformably to Government Decision no.1010/2006, the petitioner's family will benefit of the minimum guaranteed income, beginning with November 2006.

D. Duties and taxes

In 2006, the complaints related to the fact that the public authorities did not respect the **right settlement of the fiscal charges**, provided by art. 56 align. (2) of the Constitution of Romania were also registered at the People's Advocate institution.

The problems mentioned by the complainants were referring to the unjustified refusal of registering or delivery of certain documents or the delay of their delivery, the faulty way of calculating the taxes of any kind that are gathered by the central and local public administration authorities, the delay of drawing up taxing decisions, the compensation of some debits.

In order to clarify the aspects mentioned by the petitioners, the People's Advocate institution has submitted to the Directorates of local taxes and fees and to the public finances administrations as well.

Case REPORT

File no. 4201/2006. Barbu (fictive name) has sent to the People's Advocate Institution an application expressing his discontent referring to the answer he had from the part of Public Service of Public Finances, Ploiesti, related to the erasure of a car. The complainant was stating that although he had to the competent public authority a copy of the judgment by which the validity of purchase- sales contract was found out, this one having the right to erase the car from the fiscal reports of evidence, the Public Service Public Finances, Ploiesti did not take into account this thing.

As a result of the notification of the People's Advocate institution, the Public Service of Public Finances, Ploiesti informed us that the service of specialty within the authority had no knowledge of it.

As for the judgment the complainant was invoking, this one was informed to present himself to the authority for the clarification of the fiscal case.

File no. 3196/2006. Alin (fictive name) notified the People's Advocate institution related to the fact that he had submitted to the Public Service of Local Public Finances, within the Municipality of Sector 6 Bucharest, with a petition by which he was claiming the sum of money he had paid as title of matriculation tax of a personal property car to be retrieved.

As a result of the notifications made by the People's Advocate institution to the Public Service of Local Public Finances, within the Municipality of Sector 6 Bucharest, we were informed that in order to get the tax, the petitioner needs to present the approbatory document from the Romanian Police that the service this sum of money was paid for, was not carried out.

File no. 771/2006. Ana (fictive name) submitted to the People's Advocate institution, claiming that she did not receive any answer from the part of the Village Hall from Nuci, Ilfov county to an application by which she was asking the drawing up of a fiscal certificate she needed for the debate of the succession left after her father's death.

As a result of the notifications made by the People's Advocate institution to the Village Hall from Nuci, Ilfov county, we were informed that the complainant would be informed to present herself to the centre of the public authority to pay the taxes and fees for the land she has in possession and she would be delivered the fiscal certificate she had required.

File no. 18531/2006. Marian (fictive name) is stating that he has sent two recommended letters with delivery confirmation, informing the National Agency of Fiscal Administration about the carelessness of the activity of the Public Financial Administration of Sector 6, Bucharest related to the delivery of certain payment notes without the approbatory documents and the afferent money. The complainant was also denouncing the way of compensating certain debits that have not been totally refunded.

To those signalled hereby, the People's Advocate Institution has made notifications to the National Agency of Fiscal Administration, the latter should analyze presenting the created case that.

As a result of the notification of the People's Advocate Institution, we were informed that verifications were made and some debits of the petitioner were compensated, the petitioner being invited to the office of the public authority to take the money he had paid in addition.

THE ACTIVITY OF THE TERRITORIAL OFFICES OF THE PEOPLE'S ADVOCATE INSTITUTION

The law no. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, establishes the territorial offices of the People's Advocate Institution and counties under their jurisdiction, thus achieving coverage of all geographic areas.

The establishment of the People's Advocate territorial offices is aimed at satisfying a major need, respectively that of allowing easy access of citizens to the People's Advocate services.

Through its territorial offices, the People's Advocate is permanently in touch with the problems the citizens face, and especially with the maladministration of the local public administrative authorities in the areas where the respective offices operate.

In order to facilitate citizens' access to the People's Advocate services and accomplish its duties by continuing the efforts started in 2003, another five territorial offices in Craiova, Iasi, Galati, Oradea and Pitesti were established in 2006. These efforts will continue in 2007 as well, two offices in Timisoara and Ploiesti being under establishment procedure.

The activity carried out by the People's Advocate territorial offices consists in the settlement of complaints through actions and interventions submitted to the local public administrative authorities, by granting hearings and answering telephone calls.

In the course of 2006, at the People's Advocate territorial offices (Alba-Iulia, Bacau, Brasov, Constanta, Cluj-Napoca, Suceava, Targu-Mures, Craiova, Iasi, Galati, Oradea and Pitesti) a total of **7303 hearings** were granted, **1585 complaints** were registered and **2178 telephone calls** were received. In 2006, the territorial offices carried out **160 informative activities** consisting in broad mediation through mass media means of information with regard to the People's Advocate duties (Annex no.5).

Alba-Iulia: 740 audiences and 138 complaints, leading to 64 files, 163 telephone calls and 16 informative activities.

Bacau: 666 audiences and 97 complaints, leading to 56 files, 147 telephone calls and 11 informative activities.

Brasov: 865 audiences and 104 complaints, leading to 55 files, 165 telephone calls and 9 informative activities.

Constanta: 890 audiences and 182 complaints, leading to 108 files, 179 telephone calls, 14 informative activities and 3 investigations.

Suceava: 400 audiences and 57 complaints, leading to 35 files and 143 telephone calls.

Targu-Mures: 902 audiences and 212 complaints, leading to 95 files, 73 telephone calls and 20 informative activities.

Cluj-Napoca: 817 audiences and 169 complaints, leading to 150 files, 423 telephone calls and 11 informative activities.

Craiova (established in February 2006): **539** audiences and **78** complaints, leading to **38** files, **190** telephone calls and **11** informative activities.

Iasi (established in February 2006): **510** audiences and **243** complaints, leading to **137** files, **276** telephone calls and **12** informative activities.

Galati (established in February 2006): **303** audiences and **78** complaints, leading to **20** files, **78** telephone calls and **11** informative activities.

Oradea (established in March 2006): **310** audiences and **80** complaints, leading to **60** files, **287** telephone calls and **20** informative activities.

Pitesti (established in September 2006): **307** audiences and **147** complaints, leading to **65** files, **54** telephone calls and **25** informative activities.

In 2006, together with the logistic actions to providing equipment and institutional support, the **training** of the coordinators and experts of the People's Advocate territorial offices was carried out. We mention in this regard the information activities carried out at the territorial offices headquarters in Cluj-Napoca and Oradea on March 15, 2006, respectively March 31, 2006 (attended: Magda Stefanescu, counsellor) and the training of the territorial offices' coordinators, held in Bucharest on June 27, 2006 (attended: the territorial offices' coordinators, Ioan Muraru Ph.D., People's Advocate, counsellors, experts of the institution).

During 2006, the collaboration of the People's Advocate institution with the National Ombudsman of the Netherlands within the MATRA Program continued. On this occasion, the **Ambassador of the Netherlands** in Bucharest and two representatives of the Netherlands Foreign Affairs Ministry visited two of the People's Advocate territorial offices.

In March 2006, the Ambassador of the Netherlands in Bucharest together with the counsellor on economical problems within the Embassy made an official visit to Cluj-Napoca. On this occasion, the representatives of the Netherlands Embassy in Bucharest were also interested to visit the People's Advocate Territorial Office in Cluj-Napoca.

In June 2006, a representative of the Netherlands Foreign Affairs Ministry together with two representatives of Netherlands Embassy in Bucharest made an official visit in Suceava. On this occasion, the delegation had also an assembly at the People's Advocate Territorial Office in Suceava.

We mention as well, the participation of the territorial offices representatives to scientific workshops, their involvement in organizing scientific sessions on the People's Advocate Territorial Offices presence and activity.

With a view to collaborating fruitfully with the counties under the territorial offices' jurisdiction, **Collaboration Protocols** have been concluded as follows: between Cluj-Napoca Territorial Office and the Prefect's Office in Cluj County, between Craiova Territorial Office and Craiova Faculty of Act „Nicolae Titulescu” and between Constanta Territorial Office and Prefect's Office in Constanta County

Following the Collaboration Protocol concluded between People's Advocate Territorial Office in Cluj-Napoca and the Prefect's Office in Cluj County, in October

2006, the public debate “Together on the Law Scent” took place, whereat the People’s Advocate, the Prefect and Sub-Prefect of Cluj County, the Mayor of Cluj-Napoca Municipality, the teachers of the „Babes-Bolyai” University, Faculty of Political, Administrative and Communication Sciences, the Territorial Office coordinator in Cluj-Napoca and the mass-media representatives attended.

At the same time, the collaboration of the Territorial Offices of the Institution with the counties under their jurisdiction was improved a lot thanks to the support afforded by the Prefect’s Offices and County Counsels through the allocation of spaces in order to grant audiences.

By these interventions, ones aimed the local promotion of the Institution, increase of the citizens` accessibility to the services of the territorial offices, extension of the information area, and familiarization of all the counties citizens with the Institution’s work methods, tasks and liabilities.

Despite of all the progresses regarding the media presence of the Institution, not all the citizens perceive the facility to defence their rights and freedoms by the People’s Advocate institution support.

THE PEOPLE`S ADVOCATE ACTIVITY IN THE FIELD OF CONSTITUTIONALITY CONTROL OF ACTS AND ORDINANCES

The People's Advocate activity in the field of control of constitutionality of laws and ordinances carried out by the Romanian Constitutional Court came out to a concrete form by expressing its points of view on the exceptions of unconstitutionality of laws and ordinances that refer to the citizens' rights and freedoms and by direct notification of the court of constitutional disputes, by means of exceptions of unconstitutionality.

I. Opinions

The People's Advocate drafted **1375 opinions** on the exceptions of unconstitutionality, a progress in this field, as compared to 180 in 2002, 386 in 2003, **621** in 2004 and 1005 in 2005.

The 1375 causes where the People's Advocate opinion was requested in 2006 referred mainly to alleged violations of: free access to justice, including the right to a fair trial (457), the right of property (195), equality of rights (194), the right to defence (67), the principle of non-retroactivity of laws and the principle of more favourable criminal or administrative law (65). (Annex no. 6).

It comes out that approx. 33% of the cases referred to the constitutional principle of free access to justice, the right to a fair trial and to resolving a cause in a reasonable period of time and by an independent court, impartial and instituted by law.

The lowest percentage (below 1%) in the timeframe studied, referred to opinions relating to art. 28 of the Constitution (secret of correspondence), to art.31 of the Constitution (the right to information), to art.32 of the Constitution (the right to education).

The object of the exceptions of unconstitutionality for which the Constitutional Court requested the People's Advocate opinion proves that they mainly referred to: the art. 720¹ of the Civil Procedures Code, the art.278 and those to follow this art. of the Criminal Procedures Code, some provisions of the Governmental Ordinance no. 102/2002 regarding the status of refugees in Romania, at present abrogated by the law no. 122/2005 regarding the political asylum in Romania, the law no. 219/2005 on the passing of Emergency Governmental Ordinance no. 138/2000 with regard to the modification and completion of Civil Procedures Code, the law no. 10/2001 with regard to the legal status of some estates abusively undertaken by the state between March 6, 1945 and December 22, 1989, republished.

Examining the exceptions of unconstitutionality in respect of which the Constitutional Court requested the People's Advocate opinion, it has been found out that the resolution for the notification of the constitutional procedure court does not comprise the **court's opinion** with regard to the objection invoked by the author. In such circumstances, the People's Advocate considered that the notification of the Constitutional Court is not legal, as it does not comply with the imperative provisions of the art. 29, paragraph (4) of the law no. 47/1992 on the organization and functioning

of the Constitutional Court, according to which “The notification of the Constitutional Court is ordered by the court before which the unconstitutionality exception has been initiated, through a resolution that shall include the opinions of the parties, the court opinion on the exception and shall be accompanied by the parties evidences. If the exception has been initiated ex officio, the resolution must be justified, containing both the parties’ supports and the required evidences”

At the same time, in the Constitutional Court resolution, the Court noticed that in some cases, by alleging the exceptions of unconstitutionality, its author has aimed nothing but the tergiversation of the trial resolving.

In some exceptions of unconstitutionality regarding the art. 1 and 3 of the **Government Ordinance no. 22/2002 on the financial liabilities of the public institutions, established by executor titles**, the People’s Advocate has expressed its opinion towards the unconstitutionality of the aforementioned legal provisions. Thus, the People Advocate pointed out that the provisions of the art. 1 and 3 of the Government Ordinance no.22/2002, established by executor titles and by which the paying conditions of the public institutions financial liabilities are regulated give birth to an impossibility state for the creditors to enforce a judgement pronounced against the public institutions in case these institutions do not pay willingly, violating the right to a fair trial.

In its opinion, the People’s Advocate showed that, according to the European Court jurisdiction, the right to a fair trial covers the procedure not only until the judgement pronouncement but also until its enforcement, the State having the obligation to subject to an order pronounced against it. Thus, order enforcement, irrespective of the court where from it comes, is considered to be part and parcel of the “trial” according to art.6 of the Convention for defence of rights and fundamental freedoms of individuals (case Di Pede against Italy).

Moreover, the guarantees of a fair trial that ones benefited in the course of the judicial phase of the procedure leave their senses if the administration refuses, omits or impedes the order enforcement.

People’s Advocate has also affirmed that by instituting, through the so criticised norms, certain limits on the enforcement of the orders pronounced against public institutions, namely that the order cannot be applied on any funds of the public institutions but only on those funds that were especially allocated from the budget in this respect, ones creates an excess of protection for the public institutions in their relations with the private creditor, which violates the right of private property.

It is true that art.44, paragraph (1) of the Constitution guarantees the debts on the State without mentioning that it means their immediate enforcement, but when, for many sequential years, the public institution does not allocate sources for the payment of the amounts resulted from the executor titles and the term of the forced enforcement is subject to prescription, then the right fulfilment becomes illusory.

It is the Court of Constitutional Disputes to pronounce by order on the above exceptions

II. Exceptions of unconstitutionality

In 2006, in the performance of its duties, the People's Advocate directly brought to the Constitutional Court **3 exceptions of unconstitutionality:**

- the exception of unconstitutionality of the thesis of art. 14 paragraph (1), letter b) and c), art. 28, paragraph (1), art. 32, art.33, art. 35 of the Act no. 115/1996 on the statement and control of the properties owned by officials, magistrates, by some persons with high positions and by public officers, amended and supplemented;
- the exception of unconstitutionality regarding the thesis of Government Emergency Ordinance no. 43/2006 on the organization and functioning of the Court of Accounts;
- the exception of unconstitutionality on some provisions of Act no.3/2000 on the organization and holding of referendum.

1. By the address no. 2412 on March 29, 2006, submitted to the Constitutional Court, on the grounds of the provisions of art 146, letter d), the final thesis of the Constitution, People's Advocate directly brought the unconstitutionality exception of the thesis of art. 14 paragraph (1), letter b) and c), art.18, art. 28, paragraph (1), art. 32, 33 and of the art. 35 of **the Law no. 115/1996 on the statement and control of the properties owned by officials, magistrates, by some persons with high positions, by public officers, amended,** and supplemented.

In the justification of the unconstitutionality exception, the People's Advocate stated that the provisions of the above law do not comply with the constitutional provisions of art.44, paragraph (8) and (9), because they infringe terminologically the uniformity of the regulation included in the other thirty-four riders. The lack of clarity and uniformity of the aforementioned provisions of Act, compared with the constitutional provisions would generate such misinterpretations and confusions in their enforcement that they should prejudice the guarantee of property right.

Thus, regarding the acquirement or origin of goods, the concepts of origin of goods – acquirement of goods and licit/illicit – justified/unjustified character are alternatively used; the formulation „origin of goods” is justified because it is not the synonym of the formulation „the legal acquirement or origin is licit”. “The justification” cannot be certain evidence, according to the meaning of the Rider 1 of the Act no. 115-1996, and it cannot be recognised and accepted as evidence before the judicial courts. The use of such formulation leads to the obliteration from the constitutional norm established by the paragraph (8) of the Art 44 on the licit character presumption of the fortune acquirement, correlated with the guarantee of the right to private property that ceases to act only under the Act provisions.

In such a context, the People's Advocate considered that the criticised Act works by different measures, which can alter the justice balance, that is to say that the judicial courts can not apply the above terminology because it thwarts with the terminology sanctioned by Constitution and by the Criminal and Civil Procedures Codes.

By the decision no. 599/2006, published in the Romania Official Gazette no. 839 on October 11, 2006, Part I, the **Constitutional Court has dismissed the exception of**

unconstitutionality directly brought by the People's Advocate and established the constitutionality of the provisions of the art. 14, paragraph (1), letter b) and c), art. 18, art. 28, paragraph (1), art. 32, art. 33 and of the art. 35 of the Law no. 115/1996.

2. By the address no. 6516 on June 26, 2006, the People's Advocate directly brought to the Constitutional Court the unconstitutionality exception of the Government Emergency Ordinance no.43/2006 regarding the organization and functioning of the Court of Accounts, published in the Romania Official Gazette no. 525 on June 19, 2006, Part I.

The People's Advocate brought out that the criticised emergency ordinance has been enacted by violating the constitutional provisions of the Art 115, regarding "Legislative Delegation", mentioning mainly the violation of the stipulations under paragraph (4), (5), and (6). In the justification of the exception of unconstitutionality, the People's Advocate stated that, according to its legal status, the Constitutional Court acts as a fundamental institution of the State, and the aforementioned emergency ordinance alters its judicial status, which contravenes with the art. 73, paragraph (3), letter l) of the Constitution, according to which the organization and functioning of the Constitutional Court is regulated by Constitution.

In the People's Advocate opinion, the provisions of the aforementioned Governmental decree are also in opposition to the constitutional provisions of the art. 1, paragraph (4), which sanctions the principle of separation and equilibrium of the powers in the State, within the constitutional democracy of the provisions under paragraph (5) regarding the observance of the law and Constitution of the country, of the art. 61, paragraph (1), according to which "The Parliament is the supreme representative body of the Romanian people and the unique law maker authority of the country" as well as of the art. 140, named "Court of Accounts".

By the decision no. 544/2006, published in the Romania Official Gazette no. 568 on June 30, 2006, Part I, the **Constitutional Court has conceded the exception of unconstitutionality** directly brought by the People's Advocate and established that the Government Emergency Ordinance no.43/2006 is unconstitutional.

3. By the address no. 5.321 on June 28, 2006, the People's Advocate directly brought to the Constitutional Court the exception of unconstitutionality of the provisions of the Art 12, paragraph (1) of **the law no.3/2000 on the organization and holding of referendum.**

In the justification of the exceptions of unconstitutionality, the People's Advocate stated that the prerogatives conferred to the President of Romania are included under the art. 80, art. 85-90 and under the art. 91-94 of the Constitution and that the President exerts certain prerogatives without the assistance of other state authorities, while others imply such participation.

By analysing, the prerogative provided for under art. 90 of the Constitution, according to which "The President of Romania can ask the people to express by referendum its will on the matters of National Interest", comes out that this prerogative consists two elements: consultation and decision.

Parliament consultation is a pre-condition to the decision, which must be obligatorily accomplished, that is to say that the president can not proceed to the referendum without such consultation; it acts as a binding endorsement, namely, it must be accomplished but the President of Romania has the freedom of making a decision.

Thereby: a) only the President of Romania can decide whether to ask or not the people expressing its will by referendum, which are the matters of National Interest and which certain actual matter shall be subjected to referendum; b) no Public Authority can decide the list of matters of National Interest, according to art. 90 of the Constitution, this being exclusively the prerogative of the President of Romania.

Consequently, according to the People's Advocate opinion, the provisions of art. 12, paragraph (1) of the Law no.3/2006 were considered as being unconstitutional not only because they supplemented the Constitution but also because they restrained a constitutional power of the President of Romania and thus they constituted an obvious case where the Parliament acted beyond its constitutional competence; in principle, the Parliament has indeed unlimited competence but only within the limits established by Constitution. Moreover, the art. 73, paragraph (3), letter d) of the Constitution, according to which the organization and holding of referendum is regulated by Constitution, refers to a procedural law, especially that according to our constitutional system, a referendum can be organized under multiple circumstances set forth: by art. 2 and art. 95, paragraph (3) for the President dismissal; by art. 151, paragraph (3) for the Constitution reappraisal. The right of the President to ask the people expressing its will by referendum on the matters of National Interest, as an exclusive right, grounds not only on the provisions of the art. 80 of the Constitution but also on other constitutional provisions, namely: by the Elective legitimacy that is equal to the Parliament legitimacy – art. 81, paragraph (1) and by the election of the President who identifies oneself with the category of the authorities' representatives by which the people exerts its national sovereignty – art. 2, paragraph (1), which confers to the President of Romania a constitutional status that legitimates the exercise of its prerogatives without the need of intervention from other authorities, the President himself being the Romanian State.

The presence of some exclusive prerogatives of the President of Romania, to whose exercising the Parliament cannot imply, expresses clearly the principle of separation and equilibrium of the powers, within the constitutional democracy, sanctioned by the art. 1, paragraph (4) of the Constitution.

Conclusively, only the President of Romania has the right to establish which matters are exactly of National Interest or to state if and when the people can be asked to express by referendum its will regarding these matters.

By the Decision no. 567/2006, published in the Romania Official Gazette no. 613 on July 14, 2006, Part I, the **Constitutional Court has conceded the exception unconstitutionality** directly brought by the People's Advocate and established that the provisions of the Art 12, paragraph (1) of the Act no. 3/2006 are unconstitutional.

MATERIALS AND BUDGET RESOURCES USED IN 2006

The Budget of the People's Advocate Institution for 2006 is as follows:

	Initial Budget	Extra Budget Nov 2006	Withdrawal of Credit Dec 2006	Final Budget -lei-	Used Budget	Accomplished %
Total, out of which:	2.920.000	710.000	258.000	3.372.000	3.363.066	99.74
Staff Costs	2.011.000	710.000	156.000	2.565.000	2.563.984	99.96
Goods and Services	804.000	-3.000	92.000	709.000	706.932	99.71
Transfers	5.000	+3.000	0	8.000	7.345	91.81
Capital	100.000	0	10.000	90.000	84.805	91.81

The Budget Discharge as of 31.12.2006 is of 99.74% and we consider it as being a very good discharge compared with the actual, particular conditions of work during 2006.

For the year 2006, **the Initial Budget showed a deficit** regarding staff costs, so that, back to June 2006 we made the necessary interventions to get the required extra budget in order to cover such costs. Despite of all our pressings, the extra budget of 710.000 lei was allotted to us only in November 2006, for which reason, the amount of 156.000 lei could not be used. This withdrawal of credit would have not been possible if the authorities had allotted to us the extra budget for this section in due time so that the vacant jobs to be made public and occupied and salary premiums to be offered to our employees for the second trimester of 2006, as well.

Also, in December, we asked the authorities to allow us to use this amount for the payment of the salaries for the last month of the year. The Ministry of Public Finances considered none of our demands.

On the budget elaboration for 2006, the Ministry of Public Finances stated expenses limits on budgetary sections, which led both to a deficit for the staff costs and to the over sizing of the expenses for the section Goods and Services.

The eventuality of using all of these amounts was reduced a lot because of the provisions under art. 18, paragraph (1) of the Government Emergency Ordinance no. 52/2006 that came into effect in June 2006, which provisions stipulated that “for the remanent period of time till the end of 2006, the public institution, regardless of the financing and subordination system, **are interdicted to procure** furniture and cars”

Following our interventions, in October 2006, the institution got the approval of the Ministry of Public Finances for the furniture procurement, which led to the non-use of the amount of 92.000 lei and therefore the same amount was made available to the State Budget.

The same Government Emergency Ordinance no. 52/2006 limited the spending of the amounts prefigured under the Investment Section. Although our institution would need to buy a vehicle, it was forced to change its sequence of priorities at this budgetary section.

In 2006, the endowments at this section used 92% of the budgetary credit, making available the amount of 10.000 lei.

With a view to improving the activity of the institution regarding the spending of the funds allotted in order to be used during 2007, we propose that no restriction measures on the staff costs (by staffing obstruction) and on the expenses for goods and services and capital (by interdicting the procurement of furniture, cars or other goods) should be taken by the Ministry of Public Finances.

COOPERATION WITH SIMILAR INTERNATIONAL INSTITUTIONS AND AUTHORITIES

1. Cooperation with similar institutions (Ombudsmen) of other countries

The external manifestations led both to the promotion of the institution in mass media and to the increase of the People's Advocate role and reputation among the European Ombudsman institutions.

During 2006, the People's Advocate institution became an internationally forceful presence both at the meetings where it attended as a member of the Ombudsman European Institute and of the Ombudsman International Institute and at the round table symposia and conferences organized by the European Union, the European Counsel and by the National Institutions for the Protection of Human Rights acting in the European Union Member States.

The Policy of the Institution on International Relations mainly aimed to improve the relations with similar institutions in the European countries, as well to establish new cooperation partnerships.

During the visits to Romania of the Ombudsmen delegations from various countries, as well as with the occasion of the People's Advocate representatives' participation to conferences, symposia, workshops, etc., the ones entitled acted in the respect of achieving a proper presentation of the relations between the People's Advocate and the Romanian Parliament, other state institutions, civil society, while stressing on the efforts undertaken for a better information of citizens regarding the issues pertaining to the People's Advocate competence.

In this respect, we have to **mention**:

- the official visit to Romania of the representatives of the National Ombudsman of the Netherlands (Stephan Sjouke, senior counsellor, Jos de Bruijn, manager, and Marcel Haddink, Sandra Loois, and Barthy Vegter, experts) within the MATRA program, in February and March;

- the visit of Mr. Toni Lloret, expert within the consultancy firm „Transtec”, which was selected for the evaluation of PHARE Program „Children First”, on March 16, 2006;

- the conference on „Judiciary Power and the Democratic Rule of Law State: exchanging of professional experience between Spain and Romania” at the headquarters of the Army Central Military District (attended Professor Ioan Muraru, The People's Advocate), 9 to 11 of October, 2006;

- the meeting with the representatives of the Konrad Adenauer Foundation within the program „Rule of Law in South-East Europe”, on November 2, 2006;

- the visit of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); at the request of the Ministry of Justice, this meeting took place at the headquarters of the People's Advocate; the discussions aimed the debating on: the organization and functioning of the People's Advocate institution; the activity regarding the compliance with the

provisions of the art. 22 of the Constitution on the right to life, to physical and mental integrity by forbidding the torture, the inhuman and abase treatment; the reforms in the Penitentiary System; the procedure of addressing to the People's Advocate institution; the main rights violated by the public administrative authorities; the especially issued recommendations and reports; the People's Advocate investigations as well on the presentation of cases about detained persons;

- the visit of Mr. Alex Brenninkmeijer, the National Ombudsman of the Netherlands, in November;
- the visit of Mr. Ulco van de Pol, the Ombudsman of Amsterdam, in December;

The intensive program of contacts with the State Institutions also emphasized the significance awarded by the People's Advocate to such visits. Mr. Brenninkmeijer, the National Ombudsman of the Netherlands together with Mr. Ioan Muraru PhD – the People's Advocate of Romania had a meeting with Mr. Traian Basescu, the President of Romania. The Netherlands delegations had also discussions at the headquarters of the People's Advocate Institution, at The Constitutional Court and at the territorial offices in Brasov and Alba Iulia. The events were amply presented in local and central mass media.

The guests attended the working meetings with the People Advocate as well as with its experts and counsellors. The exchange of opinions focused on joint interest problems, the Romanian party being interested mainly in real action methods to lead to the increase of efficiency of the People's Advocate activity.

During 2006, **Matra Program** "Strengthening the administrative and institutional capacity of the People's Advocate" was being carried further. The main program activities are: preparatory study, choosing a public image and increase of public awareness, analysis of the opportunity to use an efficient informal procedure for the settlement of complaints, improving professional experience for hearings, assessment and improvement of the People's Advocate inquiries and special reports, improvement of the complaint registration system.

In February and May 2006, within the activity of the program "Matra", meetings were carried out regarding: "Examination of the possibilities to use more efficient procedures of resolving the complaints" and "Evaluation and improvement of the People's Advocate Special Reports".

In September, within the same program "Matra", a very efficient activity was developed by the participation of 5 counsellors and experts of the People's Advocate Institution to a **professional perfectioning workshop** regarding the granting of hearings, organized by The Police Academy and the National Ombudsman of Netherlands, in Zutphen.

The theoretical and working knowledge acquired along with the workshop were debated with the People's Advocate counsellors and experts.

By an efficient exchange of professional experience, the completion of the Program will lead to the strengthening of the People's Advocate capacity to act to the

accomplishment of its legal and constitutional competences, in the context of various changes in Romania's political, social and economic life, but also in the perspective of Romania's accession to the European Union on January 1st, 2007.

2. Participation of the People's Advocate representatives to meetings, conferences, symposia and international reunions on human rights

The year 2006 meant an increase of the participation of the People's Advocate representatives to international reunions and this activity comprised meetings about improving the relations with similar institutions of the European countries as well as establishing new connections in terms of collaborating with some other Ombudsman-type institutions.

The People's Advocate specialists attended some meetings organized by the International Bodies representatives, namely the European Counsel, European Union as well by the representatives of some international non-governmental organizations concerned about the human rights.

Here **we mention** some:

- Opening of Judicial Year of European Court for Human Rights, in Strasbourg, (attended: Ioan MURARU, the People's Advocate);
- General Assembly of the European Ombudsman, April 2006, in Innsbruck, (attended: Simina Popescu and Andreea Abrudan, counsellors);
- the visit of The People's Advocate to The National Ombudsman of the Netherlands, in Hague, in April 2006 (attended: Professor Ioan MURARU, the People's Advocate, Simina Popescu and Eugen Dinu counsellors);
- the Conference of the Ombudsmen of the BSEC State Members (The Parliamentary Assembly of Black Sea Economical Cooperation) Istanbul, April 2006 (attended: Mihaela Enache and Magda Stefanescu, counsellors);
- the European Ombudsman Meeting - General Assembly of the International Ombudsman Institute – European Area, Vienna, June 2006 (attended: Simina Popescu and Andreea Abrudan, counsellors);
- the Liaison Officers Seminary – Fundamental rights observance; sharing of the best practices – organized by the European Mediator, in Strasbourg, June 2006 (attended: Simina Popescu, counsellor);
- professional improving of The People's Advocate experts and counsellors under the development of the Matra Program from Zutphen, in September 2006 (attended: Simina Gagu, Mihaela Enache, Emma Turtoi, counsellors and Irina Sandu and Dorina David, experts);
- the 4th Round Table of the European National Institutions for the Promotion and Protection of Human Rights, Athena, September 2006 (attended: Eugen Dinu and Andreea Baicoianu, counsellors and Alina Dinu, expert);
- the Conference – The Activity of the Ombudsman for children - Athena, September 2006 (attended: Laura Chiscop, expert);

- The Round Table on „The Role of the National Institutions in the Treaty Body Process”, Berlin, November 2006 (attended: Alina Dinu, expert).

The thesis discussed during these meetings are not only an essential source of information but also a fruitful exchange of professional experience for the People's Advocate Institution with the Ombudsman Institutions or the Institutions for the Protection of Human Rights acting in the European Union State Members.

During these meetings, the People's Advocate representatives actively participated to the debates by underling the Romanian People's Advocate activities for the protection of citizens' rights and freedoms and came out in favour of the intensification of the dialogue both regionally and internationally among the Ombudsman Institutions of various country and for more implication in the efforts of promoting the Ombudsman institutions tasks.

In 2006, the People's Advocate institution continued its collaboration with the **European Ombudsman Institution**. In this respect, we mention the contributions of the People's Advocate as published in the European Ombudsman Informative Bulletin: „Ioan Muraru re-elected as The People's Advocate in Romania” and “The Implication of the People's Advocate for the protection of the children's rights”.

Concomitantly, taking into account Romania's accession to the European Union Institution and its new status as a State Member, the European Ombudsman elaborated both a **presentation leaflet in Romanian** including a summary presentation of its prerogatives and a Request Form to be used by the Romanian citizens when addressing the European Institution after January 1, 2007.

Moreover, we have to mention that those 7 letters addressed by applicants to the European Ombudsman in order their complaints to be resolved have been redirected to a competent settlement by the Romania People's Advocate.

Within the cooperation with the Ombudsmen in other countries, we mention the cooperation with the Public Defender of Spain. To this effect, a student of a Master Program regarding the Protection of the Human Rights initiated by the University of Alcala in Madrid has attended a practical program at the People's Advocate for a period of 3 months, starting with January 2006.

In the context of collaboration with other institutions, it is worth mentioning the collaboration of the Institution of the People's Advocate with the Faculty of Act at University of Bucharest – within the ELSA Program for the realization of practical programs of the students at the Institution of the People's Advocate (for the period covering April 10-14, 2006, May 22-26, 2006 and, November, 20-30, 2006). Furthermore, for the period covering February 27 – March 10, 2006, we have to mention the practical programs developed in collaboration with the College of Political Science and Communication Sciences, at the University of Oradea and for the period covering March 13-17, 2006, the practical program at the Institution of the People's Advocate attended by 10 Justice Auditors of the National Institute of Magistracy.

CIVIL CASES, JURIDICAL PROBLEMS OF THE INSTITUTION
Cases in which the People's Advocate Institution was a party during the judicial year of 2006

In 2006, the People's Advocate Institution was involved in a number of 18 cases, out of which six referred to labour litigation (actions initiated by former or present employees) and 12 cases were addressed by petitioners who were dissatisfied with the actions carried out by the experts and counsellors of the Institution.

Out of these cases, six have been definitely settled, while the rest of 12 have been and still are under various procedural stages, on the trial courts list. The People's Advocate opinion on the cases against the persons dissatisfied with the legal solutions that they received, emphasized the prerogatives of the Institution, namely: because of its Ombudsman nature, the People's Advocate contributes to the settlement of the disputes between citizens and public administrative authorities only amicable, mediating and by dialogue.

We must take into consideration the prerogatives of the Institution. It acts as a supervision authority, having no legal means of coercion, forcing or punishing, which fact clearly arises from the provisions of the art. 13, letter (c) of the Law no. 35/1997, republished, which states that „ The People's Advocate follows up the legal solution of the complaints received and requests from the public administration authorities or civil servants concerned to put an end to the respective violation of civic rights and freedoms, to reinstate the complainant in his rights and to redress for the damages thus caused”, as well from the provisions of the art. 21, paragraph (1) and (2) stating that “in the exercise of his duties, the Advocate of the People **issues recommendations that cannot be subjected to either parliamentary or judicial control.** Through his recommendations, the Advocate of the People **notifies** the public administrative authorities about the illegality of the administrative acts or facts.”

The People's Advocate Institution is an autonomous public authority, independent of any public authority; no one can compel the People's Advocate to obey any instructions or orders.

Undoubtly, such peculiar procedures specific to the Ombudsman do not always bring the expected results, especially when the partners show no interest towards dialogue and no flexibility, and, which is more, they do not reveal a normal legal conduct, frequently making use of the so called „misuse of right”, as the doctrine and procedure state.

Even so, the People's Advocate must always be an institution of mediation and dialogue not a coercion power authority, as maybe many discontented citizens would like.

MEDIA PRESENCE, BULLETIN, RADIO, ROMANIAN ACTUALITY

By its constitutional role, the People's Advocate Institution is a material guarantee to the observance of the human fundamental rights and freedoms. This component has been a prominent part in order for Romania to meet the political criteria imposed for the European Union accession.

That is why, more than ever, 2006 represented a huge challenge for the People's Advocate Institution, caused both by the considerable increase of the citizens' interest towards the activity of the institution and by the factual modalities for supporting the settlement of the cases regarding violation of the citizens' fundamental rights and freedoms.

Consequently, the People's Advocate Institution intensified its efforts for the increase of citizens' awareness with regard both to the constitutional role and to the methods by which the People's Advocate can promptly and proficiently intervene to the citizens' assistance.

Therefore, in 2006, the People's Advocate called more intensely upon the **TV and Radio Stations** help, as being the most efficient means of national publicity, and which is very important, the only means that reach the Romanians homes from within and outside the country.

In this respect, the TV shows from: Romania de Maine, B1TV, and Flux TV stations, with the participation of Mr. Ioan Muraru, Ph.D., the People's Advocate, were very illustrative. They represented an eloquent evidence of the citizens' increased interest in finding more information on the role of People's Advocate for the defence of their rights and freedoms.

All important it was the thematic of some TV shows addressing to some issues of first interest, as family and the protection of children, pensioners, etc.

The great number of questions addressed by citizens within the TV shows, as well their answers proved that television transmissions is doubtlessly a powerful media force, watched with great interest by citizens.

Under these circumstances, we do express our great astonishment that solely the **public television**, paid from the citizen's money, has showed no interest in arranging some thematic telecasts regarding some stringent issues of the citizens that are of high priority for the People's Advocate Institution.

No commercial argument can be invoked when the public television, by its function, must set its huge media potential in the service of the citizens and be responsive to their needs in order to facilitate a higher understanding between citizens and the defender of their rights – The People's Advocate.

As concerns the **public radio**, we reveal with satisfaction the proper cooperation with the Romanian Company of the Radio-Broadcasting – Romania Radio Actualities Department, by the radio broadcasting „Open Studio – We answer to the Listeners”, which has facilitated an open and live dialogue on the citizens' stringent

problems and emphasized the recognition of the People's Advocate professionalism in involving in the defence of the citizens' rights.

In May 2006, this radio broadcasting, which proved to be a strong connection between the citizen and the People's Advocate institution, has been drawn out from the grid of the radio programs.

Despite all our understanding towards the managerial politics, we still express our astonishment that the public radio, whose first and supreme interlocutor must be the common citizen, deems right to draw out from the grid of programs such a radio broadcasting that has just won the citizens attention solely because its essence responds to the unfairness or, much more, to the injustice caused to the citizens by some State Institutions.

In 2006, **the written press** continued to treat responsibly the citizen's problems that come under the People's Advocate competence.

Firstly, we have to mention „Actualitatea Romaneasca – Ziarul romanilor de pretutindeni” that published a number of reference riders written by Mr. Ioan Muraru Ph.D., the People's Advocate and his collaborators, mainly with regard to the examination of the complaints submitted to the People's Advocate, its involvement in the Acts constitutionality control, legal procedures for the settlement of the problems raised by the citizens and, all important, with regard to the process for defending the rights of the Romanians working legally abroad.

„Cronica Romana” published many riders strictly on the People's Advocate activity, on issues of first interest: “The right to a decent living standard”, “The Mediator between those powerful and those powerless” “The friend next to you”, etc.

Simultaneously, the People's Advocate prerogatives and the factual process of serving the citizens' interest have been clearly reflected by the riders published in „Romania Libera”, „Curierul National”, and „Dimineata” newspapers.

Despite all of these positive results, we cannot ignore the flagrant and profoundly detrimental aspects that violate the fundamental human rights and freedoms.

Moreover, these severe violations concern the young generation, particularly the minors who undergo constantly through an aggressive media pressure, affronting not only the Acts but also the common sense, traumatizing their growth and education.

Under these circumstances, the People's Advocate has always and strongly emphasized the importance of the constitutional provisions regarding the freedom of expression, which can be exerted only by the strictly observance of the other constitutional rights, especially the right to intimate life, familial and private. In this respect, we mention that the TV – radio shows disseminating violence, discrimination of any kind, exploitation of minors under various forms, contravene to the spirit of the Romania Constitution regarding the protection of children and youth.

In the shape of the freedom of expression elaborated by the constituent legislative, a lot of detrimental information is transmitted by mass-media means, harming the minors' health and morality and endangering their life and normal growth,

The public TV and radio stations must strictly observe the citizens' rights and freedoms, inclusive by the elaboration of their grid and the content of their programs, without violating the normal good manners, social and family relations in a democratic society.

These are the only terms the right to free expression must be perceived and not in terms of violating any of the cultural and civilization norms on conduct and morality.

Under the enforcement of the People's Advocate prerogatives, the concern for the children and youth rights protection is primordial for the institution; therefore, the People's Advocate advises the public TV and radio stations to promote only those informational broadcastings that ensure the protection of the children, family and all the citizens' rights.

Year 2006 meant a significant increase of the interest of **the local press** towards the People's Advocate activity. Starting from Oradea to Constanta and from Iasi to Craiova, all the local daily papers informed the public opinion not only generally about the People's Advocate activity but also particularly about the involvement for resolving the citizens complaints by the People's Advocate territorial offices from Alba Iulia, Bacau, Brasov, Cluj, Craiova, Constanta, Galati, Iasi, Oradea, Pitesti, Targu-Mures and Suceava.

The local and national press mirrored distinctively the stage of implementation of **Matra Program** regarding both the collaboration between the People's Advocate of Romania and the Ombudsman of Netherlands in the field of human rights and its benefits reflected in the People's Advocate activity.

The fruitful collaboration between the People's Advocate Institution and the European Ombudsman, as well the specific problems faced by the People's Advocate of Romania have been amply presented by riders published in The European Ombudsman Bulletin by the experts and counsellors of the People's Advocate Institution.

The **Quarterly Informational Bulletin** issued by the People's Advocate institution is a wide mean of information on the institution's activity, its competences and on the intervention instruments owned by the institution in order to be sure that the citizen is not subjected to any injustice or bad treatment by the public authority.

Simultaneously, the People's Advocate presentation leaflet was published on the institution's own expenses. These information materials were distributed free of charge to individuals and local and central public administration authorities (ministries, prefectures, county councils and local administrations).

The press releases on the institution's activity or on any special internally or externally event are quarterly diffused through the press agencies and published on the People's Advocate Institution site.

Thus, on June 1 Day, the International Day of the Child, the People's Advocate granted **social aid** to the children of the Placement centre of Constanta.

Similarly, in the interest of coming to the aid of children who are confronted with special problems, social services were accorded on behalf of the People's Advocate Institution at the Placement Centre no. 5 – “The Placement Centre for the child of 0-2 years with physical disabilities” and at the Placement Centre no. 6 - “The Complex of communitarian services for infants with sever disability” in Craiova.

These activities have been accurately presented in the riders published by the daily paper of opinion and information „Cuget Liber”, in Constanta and by the daily papers „Gazeta de Sud” and „Cuvantul libertatii”, in Craiova.

Simultaneously, Radio Oltenia Craiova, TVR Craiova and Teleuniversitaria were present at these events.

Conclusively, in 2006 the People's Advocate perceptibility and transparency increased a lot, its role and reputation as a defender of the citizens' rights strengthened more and more and the citizen's interest to make appeal to the People's Advocate in order to defence its constitutional rights and freedoms got higher and higher. In 2007, all these aspects will be attentively considered by the People's Advocate for the elaboration and implementation of a modern and aggressive publicity politics for the benefit of the citizen.

*ANNEX No. 1***GENERAL VOLUME OF ACTIVITY**

No.	Indicator	Overall works
1.	Hearings at the People's Advocate head office and territorial offices	11961
2.	Complaints submitted to the People's Advocate head office and territorial offices referring to the violation of the citizens' rights and freedoms	6407
3.	Telephone calls received at the People's Advocate reception office and territorial offices	4729
4.	Investigations conducted by the People's Advocate Institution	10
5.	Recommendations drafted by the People's Advocate	2
6.	Opinions on exceptions of unconstitutionality of laws and ordinances referring to citizens' rights and freedoms, expressed on the Constitutional Court's request	1375
7.	Exceptions of unconstitutionality directly raised by the People's Advocate	3

ANNEX No. 2

STATISTICS OF THE COMPLAINTS REGISTERED WITH THE PEOPLE'S ADVOCATE, PER INFRINGED RIGHTS AND FREEDOMS

No.	Name of the Right (art of Constitution)	Number of Complaints
1	Equality of rights (Art. 16)	78
2	Aliens and stateless persons (Art. 18)	4
3	Extradition and expulsion (Art 19)	-
4	Free access to justice (Art 21)	195
5	Right to life, to physical and mental integrity (Art 22)	16
6	Individual freedom (Art 23)	8
7	Right to defence (Art 24)	23
8	Right to freedom of movement (Art 25)	12
9	Right to intimate, family and private life (Art 26)	7
10	Inviolability of domicile (Art 27)	4
11	Secrecy of correspondence (Art 28)	2
12	Freedom of conscience (Art 29)	4
13	Freedom of expression (Art 30)	1
14	Right to information (Art 31)	1226
15	Right to education (Art 32)	14
16	Access to culture (Art 33)	-
17	Right to protection of health (Art 34)	27
18	Right to a healthy environment (Art 35)	23
19	Right to vote (Art 36)	2
20	Right to be elected (Art 37)	1
21	Right to be elected in the European Parliament (Art 38)	2
22	Freedom of meetings (Art 39)	-
23	Right to association (Art 40)	2
24	Right to labour and social protection of labour (Art 41)	96
25	Right to strike (Art 43)	-
26	Right to private property (Art 44)	1100
27	Right to economic freedom (Art 45)	4
28	Right of inheritance (Art 46)	30
29	Right to a decent living standard (Art 47)	1272
30	Family and the right to marriage (Art 48)	7
31	Protection of children and young people (Art 49)	53
32	Protection of the disabled persons (Art 50)	96
33	Right of petition (Art 51)	998
34	Right of a person aggrieved by a public authority (Art 52)	630
35	Restriction of certain rights or freedoms (Art 53)	2
36	The right to a fair trial (Art 6 of CEDO)	9
37	Other rights	190
38	Complaints not referring to the infringement of rights or freedoms	269
	TOTAL	6407

ANNEX No. 3

STATISTICS OF COMPLAINTS PER COUNTY

-Submitted in hardcopy-

No.	COUNTY	No. of COMPLAINTS
1.	Alba	146
2.	Arad	45
3.	Arges	285
4.	Bacau	173
5.	Bihor	111
6.	Bistrita-Nasaud	17
7.	Botosani	60
8.	Braila	62
9.	Brasov	194
10.	Bucuresti	1705
11.	Buzau	102
12.	Caras-Severin	50
12.	Calarasi	40
14.	Cluj	235
15.	Constanta	272
16.	Covasna	29
17.	Dambovita	72
18.	Dolj	164
19.	Galati	132
20.	Giurgiu	45
21.	Gorj	75
22.	Harghita	109
23.	Hunedoara	84
24.	Ialomita	31
25.	Iasi	309
26.	Ilfov	85
27.	Maramures	72
28.	Mehedinti	53
29.	Mures	164
30.	Neamt	60
31.	Olt	79
32.	Prahova	159
33.	Salaj	20
34.	Satu Mare	34
35.	Sibiu	69
36.	Suceava	129
37.	Teleorman	49
38.	Timis	120
39.	Tulcea	38
40.	Vaslui	67
41.	Valcea	103
42.	Vrancea	64
	TOTAL*	5912

**Observation: Besides the total number of complaints submitted to the People's Advocate from outside and within the country on hardcopy, a number of 63 complaints submitted by electronic mail is added.*

*ANNEX No. 4***STATISTICS OF COMPLAINTS RECEIVED FROM ABROAD**

No.	COUNTRY	No. of Complaints
1.	UNITED KINGDOM	1
2.	ARGENTINA	1
3.	AUSTRIA	4
4.	BELGIUM	1
5.	GERMANY	26
6.	CANADA	4
7.	HUNGARY	1
8.	GREECE	1
9.	USA	4
10.	SWEDEN	1
11.	FRANCE	3
12.	ITALY	3
13.	SERBIA	1
14.	SPAIN	3
15.	ISRAEL	8
16.	NETHERLANDS	1
17.	REPUBLIC OF MOLDAVIA	2
	TOTAL	65

*ANNEX No. 5***THE ACTIVITY OF THE PEOPLE'S ADVOCATE TERRITORIAL OFFICES**

No.	TERRITORIAL OFFICE	HEARINGS	COMPLAINTS REGISTERED	TELEPHONE CALLS	INFORMATION ACTIVITIES
1.	Alba-Iulia	740	138	163	- 2 radio-TV shows; - 7 press riders; - 7 actions in cooperation with NGOs and other authorities.
2.	Bacau	666	97	147	- 3 radio-TV shows; - 6 press riders; - 2 actions in cooperation with NGOs and other authorities.
3.	Brasov	865	104	165	- 6 radio-TV shows; - 3 press riders;
4.	Cluj-Napoca	871	169	423	- 3 radio-TV shows; - 4 press riders; - 4 actions in cooperation with NGOs and other authorities.
5.	Constanta	890	182	179	- 13 press riders; - one action in cooperation with NGOs and other authorities.
6.	Craiova	539	78	190	- 4 radio-TV shows; - 4 press riders; - 3 actions in cooperation with NGOs and other authorities.

7.	Galati	303	78	78	- 4 radio-TV shows; - 7 press riders.
8.	Iasi	510	243	276	- 5 radio-TV shows; - 6 press riders; - one action in cooperation with NGOs and other authorities.
9.	Oradea	310	80	287	- 8 radio-TV shows; - 11 press riders; - one action in cooperation with NGOs and other authorities.
10.	Pitesti	307	147	54	- 3 radio-TV shows; - 19 press riders; - 3 actions in cooperation with NGOs and other authorities.
11.	Suceava	400	57	143	-
12.	Targu-Mures	902	212	73	- 6 radio-TV shows; - 4 press riders; - 10 actions in cooperation with NGOs and other authorities.
TOTAL		7303	1585	2178	160

ANNEX No. 6

**STATISTICS OF THE OPINIONS EXPRESSED BY THE PEOPLE'S
ADVOCATE ON THE EXCEPTIONS OF UNCONSTITUTIONALITY**

NO.	FIELD	NO. OF OPINIONS
1.	State governed by the rule of law (art 1)	12
2.	Universality; Principle of non-retroactivity of Law; more favourable criminal or administrative Law (Art 15)	65
3.	Principle of equality of rights (Art 4)	194
4.	Aliens and stateless persons (Art 18)	5
5.	Priority of international regulations (Arts 11, 20)	11
6.	Free access to justice and a fair trial (Art 21)	457
7.	Right to life, to physical and mental integrity (Art 22)	48
8.	Right to individual freedom (Art 23)	28
9.	Right to defence (Art 24)	67
10.	Right to freedom of movement (Art 25)	4
11.	Right to intimate, family and private life (Art 26)	6
12.	Right to freedom of opinion (art 29, art. 30, and art. 40)	20
13.	Correspondence Secret (art. 28)	1
14.	Right to information (Art 31)	1
15.	Right to education (Art 32)	1
16.	Right to Health Protection (Art 34)	2
17.	Right to labour and social protection of labour and prohibition of forced labour (Art 41 and Art 42); Right to strike (Art 43)	42
18.	Right to property (Art 44, 136)	195
19.	Right to inheritance (Art 46)	3
20.	Right to a decent living standard (Art 47)	1
21.	Family (Art 48)	22
22.	Protection of children and youth (Art 49)	4
23.	Right to petition (Art 51)	2
24.	Right of a person aggrieved by a public authority (Art 52)	14
25.	Restriction of certain rights or freedoms (Art 53)	9
26.	Public administrative authorities (Art 61-Art 72)	1
27.	Categories of Laws (Art 73); Enforcing the Law (Art 78)	4
28.	Legislative delegation (Art115)	15
29.	Local public administration (Art 120-Art123)	5
30.	The execution of a court decision (art. 124)	14
31.	Courts of Law (Art126- Art127)	21
32.	Use of appeal (Art 129)	14
33.	Statute of Public Prosecutors (Art 131-Art 132)	5
34.	Superior Council of Magistracy (Art 133, Art134)	1
35.	Economic freedom (Art 45)	28

36.	Economy (Art 135)	17
37.	Financial contributions (Art 56); Taxes, duties and other contributions (Art 139)	11
38.	Assignments of the Constitutional Court (Art 146)	3
39.	Exceptions invoking the non-compliance with the Laws, not with the Constitution	8
40.	Exceptions where the infringed constitutional text was not specified	14
	TOTAL	1375

**879 opinions concern several areas, and only the significant areas were taken into consideration for the drafting of these statistics*

*ANNEX No.7***I N V E S T I G A T I O N S**

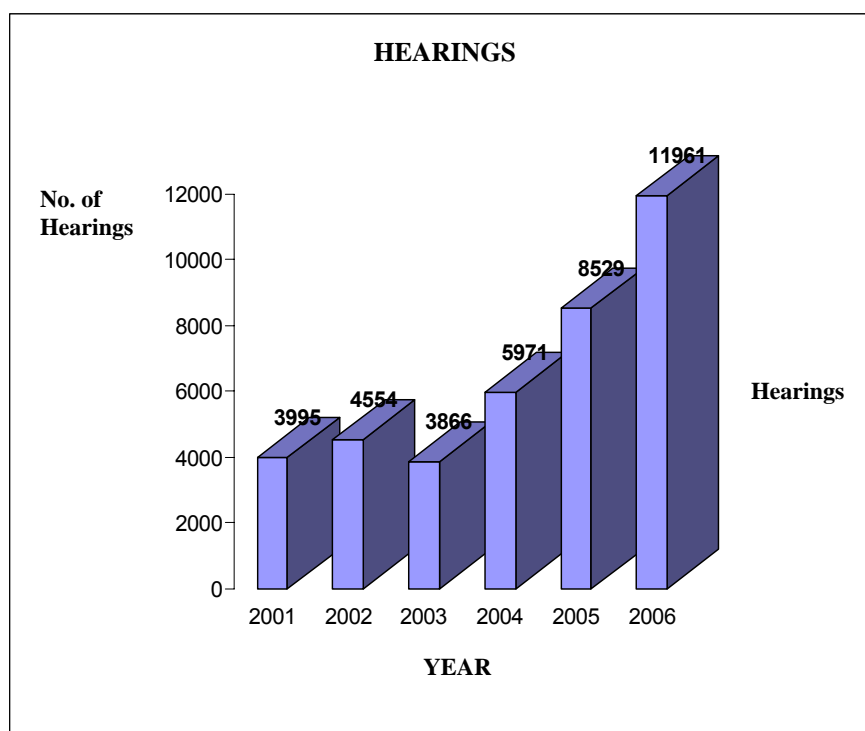
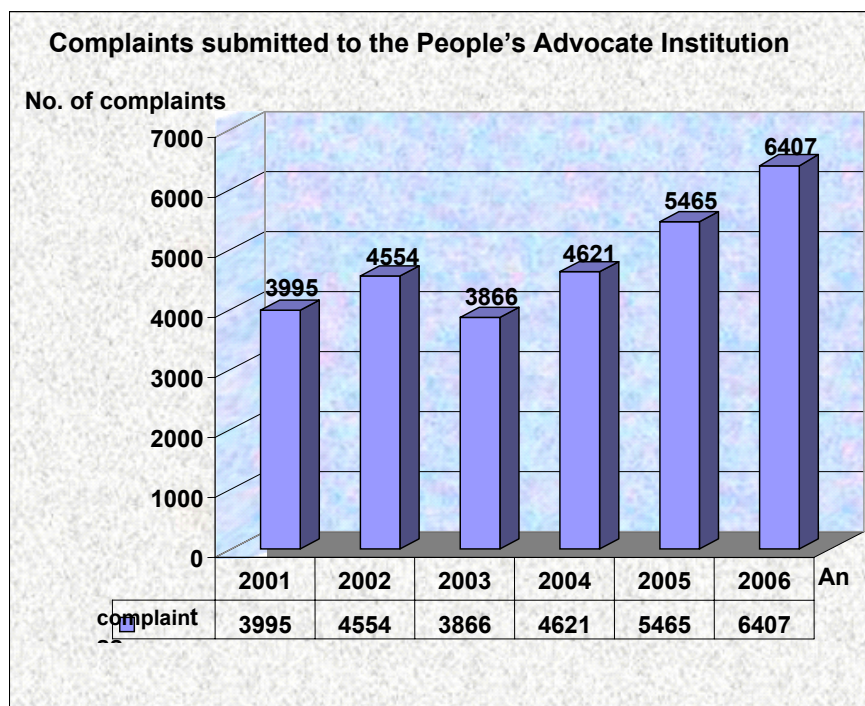
No.	Object of the investigation	Number of investigations	Public administration authority where the investigation was conducted	Results of the investigations
1.	Observance of the right to protection of children and youth and the right to life and to physical and mental integrity	1	- The Placement Centre for the Child under Difficulty, Priboieni, Arges County	Settlement of complaints, issuance of recommendations
2.	Observance of the right to petition and the right to a decent living standard	3	- The Pension House of Bucharest	Settlement of complaints, issuance of recommendations
		1	- The National House of Pensions and other Social Security Rights;	Settlement of complaints
3.	Observance of the right of the person aggrieved by a public authority and the right to a decent living standard	2	- City Hall of Sector 5, Bucharest; - City Hall of Sector 3, Bucharest;	Settlement of complaints
4.	Observance of the right to private property	3	- City Hall of Constanta	Settlement of complaints
	TOTAL	10		

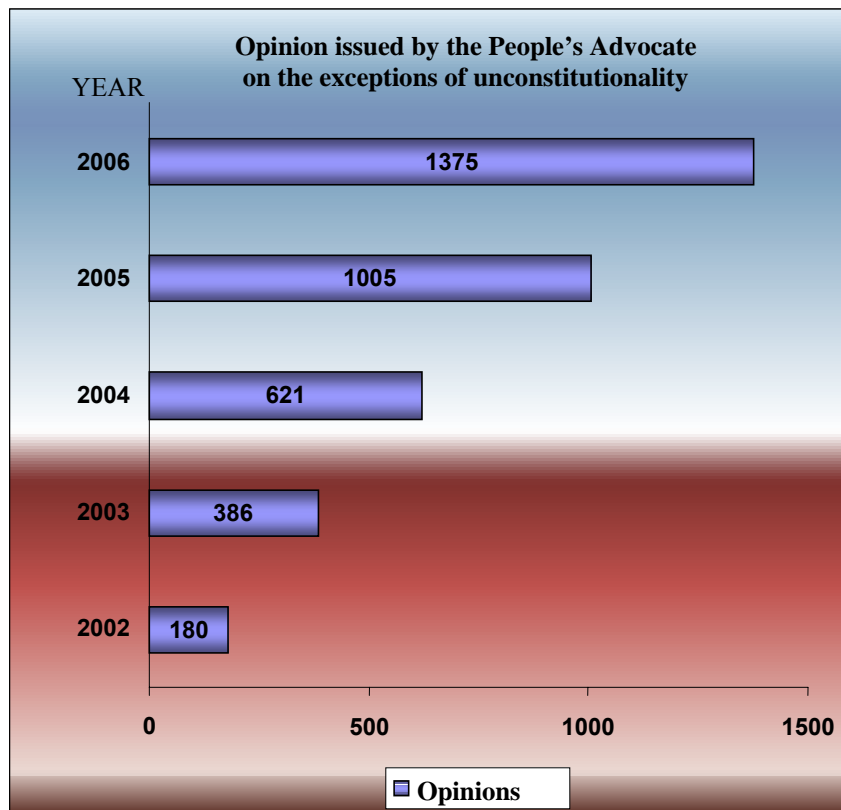
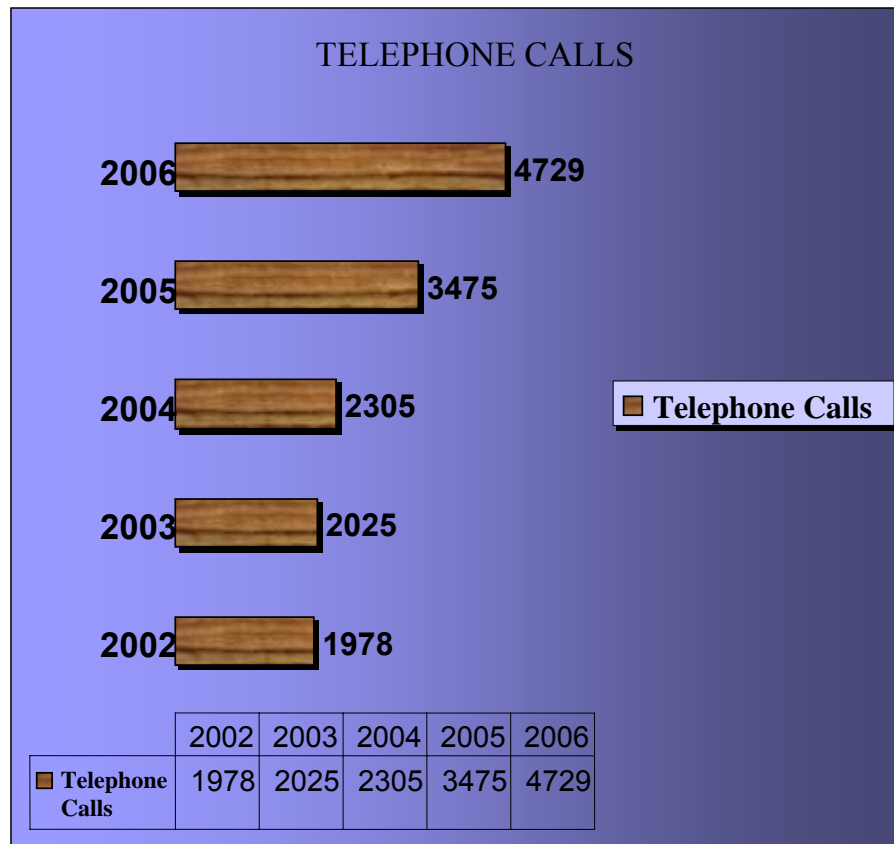
ANNEX No. 8

DRAFT RECOMMENDATIONS MADE BY THE PEOPLE'S ADVOCATE

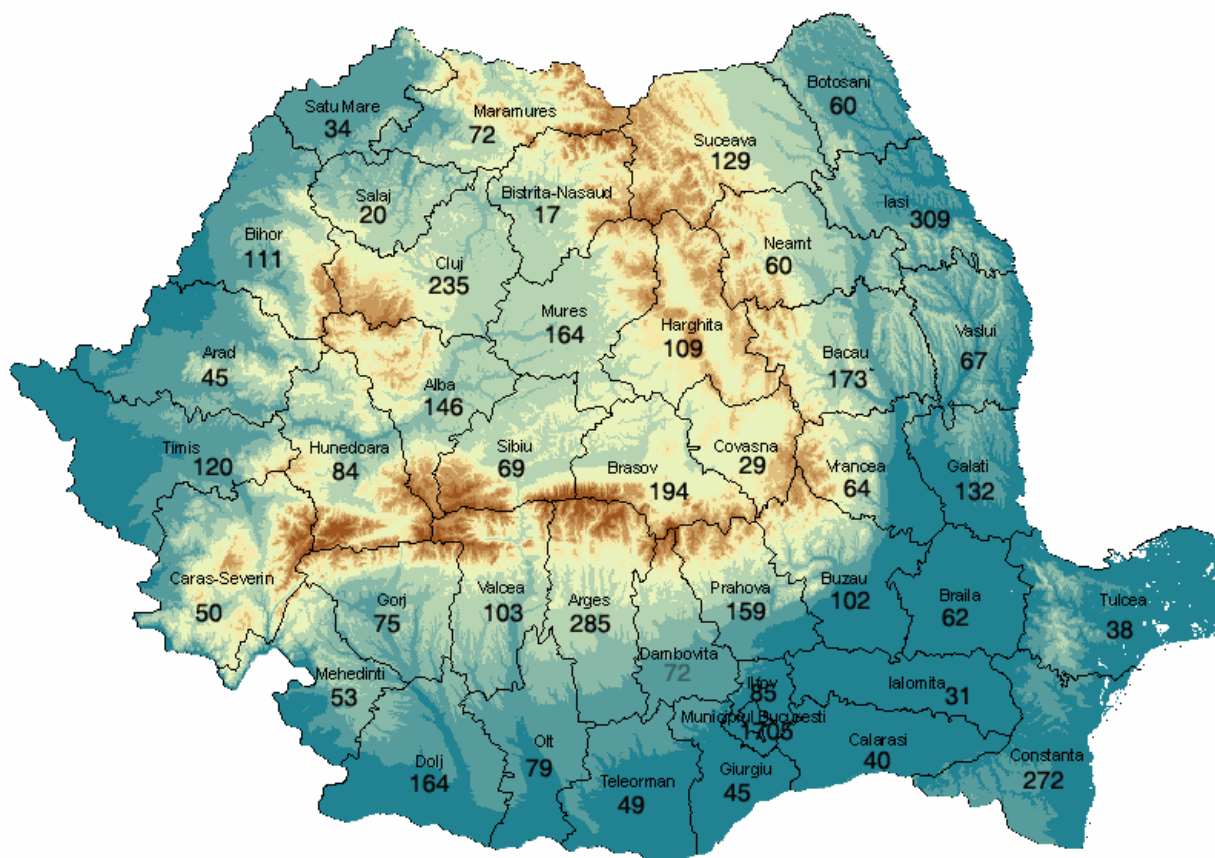
No.	No. and issue date of drafting. Object of the recommendation	Public authority to which the recommendation was made	Short content of the recommendation
1.	<p>1/3 February 2006</p> <p>Violation of the right to a decent living standard and of the right to petition prescribed by art. 47 and art. 51 of the Constitution, in the case of settlement of the applications under the Government Emergency Ordinance no. 4/2005 on the recalculation of the pensions of the public system, proceeded from the former state social insurance system</p>	<p>- The Pension House of Bucharest</p>	<p>- examining the case caused by the failure to settle the applications submitted under the Government Emergency Ordinance no. 4/2005, within the legal time limit;</p> <p>- taking the required legal measures as to:</p> <p>timely answer to the applications whereby applicants request information;</p> <p>*urgent issuance of the retirement decisions and payment of the pensions in accordance with retirement decisions issued as a result of the pensions recalculation;</p> <p>*inform the People's Advocate on the taken measures.</p>
2.	<p>2/24 May 2006</p> <p>Violation of the right to protection of children and youth and the right to life and to physical and mental integrity, prescribed by the Art 49 and Art 22 of the Romania Constitution, in the case of ex officio notification, according to the provisions of the Art 22 of the Law no. 35/1997, republished and corroborated with the Art 101 of the Law no.272/2004 concerning the protection and promotion of the child's rights, with reference to the case of the children from the Placement Centre for the Child under Difficulty, Priboieni, Arges County</p>	<p>- The General Manager of the Directorate for the Social Security and Child Protection within the Arges County</p>	<p>- examining the case made public by the mass-media, concerning the compelling of the children to sexual abuses, corporal punishments and other abuse treatments, constraining to a labour with potential risk for health and growth, as well to starvation, in the Placement Centre for the Child under Difficulty, Priboieni, Arges County</p> <p>- taking the required legal measures as to: *</p> <p>observe the constitutional and legal provisions regarding the protection of children and youth and the right to life and to physical and mental integrity;</p> <p>* inform the People's Advocate on the taken measures.</p>

CHARTS REGARDING THE INDICATORS OF PEOPLE'S ADVOCATE ACTIVITY





STATISTICS ON COMPLAINTS BY COUNTIES



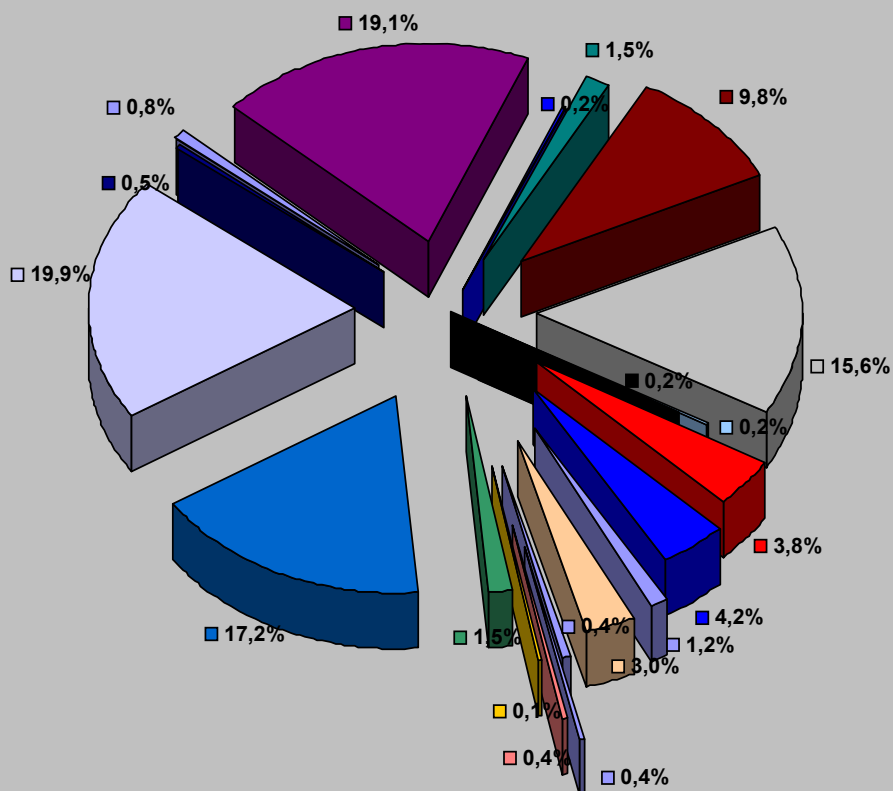
Complaints received from within the country by post mail (in hardcopy): 5912

Complaints received by e-mail: 430

Complaints received from outside the country: 65

Total complaints: 6407

STATISTICS OF COMPLAINTS REGISTERED WITH THE PEOPLE'S ADVOCATE, PER INFRINGED RIGHTS



- | | |
|---|--|
| Equality of rights | Free access to justice |
| Right to protection of health | Right to a healthy environment |
| Right to defense | Right to intimate, family and private life |
| Right to labor and social protection of labor | Right to private property |
| Right to a decent living standard | Right to inheritance |
| Protection of children and youth | Right to information |
| Right to life, to physical and mental integrity | Protection of the disabled persons |
| Right of a person aggrieved by a public authority | Right to petition |
| Right to education | Freedom of movement |
| Other rights | Complaints not referring to rights or freedoms |

SUMMARY

THE PEOPLE'S ADVOCATE FOREWORD,
Professor Ioan Muraru, Ph. D.....

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THE INSTITUTION OF THE PEOPLE'S ADVOCATE.....

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THE ORGANIZATIONAL STRUCTURE AND THE SCHEME OF PERSONNEL
.....

THE GENERAL VOLUME OF ACTIVITY.....

PROCEDURES AND MEANS OF INTERVENTION SPECIFIC
TO THE PEOPLE'S ADVOCATE INSTITUTION.....

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WOMEN, RELIGIOUS CULTS AND NATIONAL MINORITIES.....

THE AREA OF THE RIGHTS OF CHILDREN, FAMILY, YOUTH, PENSIONERS
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THE AREA OF ARMY, JUSTICE, POLICE AND PENITENTIARIES.....

THE AREA OF PROPERTY, LABOUR, SOCIAL SECURITY, DUTIES AND
TAXES.....

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THE PEOPLE'S ADVOCATE ACTIVITY IN THE FIELD OF CONSTITUTIONALITY
CONTROL OF ACTS AND
ORDINANCES.....

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2006.....

COOPERATION WITH SIMILAR INTERNATIONAL INSTITUTIONS

**AND
AUTHORITIES.....**

**TRIALS AND JUDICIAL ISSUES OF THE
INSTITUTION.....**

**MEDIA PRESENCE, BULLETIN, RADIO, ROMANIAN
ACTUALITY.....**

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ACTIVITY.....**

**ANNEX NO. 2 STATISTICS OF THE COMPLAINTS REGISTERED WITH THE
PEOPLE'S ADVOCATE PER INFRINGED
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**ANNEX NO. 3 STATISTICS OF COMPLAINTS PER COUNTY.....
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**ANNEX NO. 4 STATISTICS OF COMPLAINTS RECEIVED FROM
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**ANNEX NO. 5 THE ACTIVITY OF THE PEOPLE'S ADVOCATE TERRITORIAL OFFICES
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**ANNEX NO. 6 STATISTICS OF THE OPINIONS ISSUED BY THE PEOPLE'S
ADVOCATE ON THE EXCEPTIONS OF UNCONSTITUTIONALITY
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**ANNEX NO. 7
INVESTIGATIONS.....**

**ANNEX NO. 8 DRAFT RECOMMENDATIONS ISSUED BY THE PEOPLE'S
ADVOCATE.....**

**ANNEX NO. 9 CHARTS REGARDING THE INDICATORS OF PEOPLE'S ADVOCATE
ACTIVITY.....**

REMARK:

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